



Folsom City Council Staff Report

MEETING DATE:	7/14/2026
AGENDA SECTION:	Public Hearing
SUBJECT:	Ordinance No. 1375 - An Ordinance of the City of Folsom Re-Adopting Ordinance 1353 To Amend Chapter 17.52 of the <u>Folsom Municipal Code</u> for the Historic District Relating to Design Review, Sign Permits, Demolitions, and Accessory Buildings (Introduction and First Reading) and Determination that the Action is Not Subject to CEQA
FROM:	Community Development Department

RECOMMENDATION / CITY COUNCIL ACTION

Conduct the first reading of Ordinance No. 1375 - An Ordinance of the City of Folsom Re-Adopting Ordinance 1353 to Amend Chapter 17.52 of the Folsom Municipal Code for the Historic District Relating to Design Review, Sign Permits, Demolitions, and Accessory Buildings.

BACKGROUND / ISSUE

On October 28, 2025, the Folsom City Council approved modifications to Folsom Municipal Code Chapter 17.52 to move design review of smaller projects to Director-level review, to exempt certain projects from design review (except when a building or site is considered a historic resource), to move sign permit review to Director-level review, to move non-historic demolitions to Director-level review, to further limit the height, size, and setback requirements for accessory buildings, and to modify historic district entitlement expirations and extensions to be consistent with regulations outside of the Historic District. As part of that action, City Council determined that the code amendments were exempt from environmental review under the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) (“Review for Exemption”), which is the “common sense exemption” that states that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

While the code changes went into effect and are applicable to projects in the Historic District now, the CEQA determination was legally challenged in April of 2026. At their June 17, 2026 meeting, the Planning Commission voted unanimously (5-0-2) to recommend that City Council re-adopt the

amendments with the expanded CEQA discussion and findings. As part of that recommendation, the Planning Commission also recommended that City Council consider instructing staff to reconsider as part of the readoption process excluding all fencing types except chain link (which is not allowed) from Design Review in the Historic District and instead include the list of inappropriate fencing styles listed in the Historic District Design and Development Guidelines (DDGs) as prohibited fence styles in the ordinance instead.. In addition, the Planning Commission, as part of their recommendation to the City Council, also recommended that the Council instruct staff to modify FMC Chapter 17.52 as a whole as part of the overall zoning code update process rather than doing that as part of a second phase.

The Historic District Commission (HDC) at their June 24, 2026 meeting also voted (4-1-2) to recommend that City Council re-adopt the amendments with modified CEQA discussion and findings. However, as part of that recommendation, the Historic District Commission recommended that additional changes not be recommended as part of the re-adoption, and instead, the HDC recommended that the City Council instruct staff to prepare objective design standards for the Historic District.

Please note that this item was presented to the Planning Commission as well as the Historic District Commission even though it only relates to the Historic District. This is because of language in the State Government Code Section 65854 that states the Planning Commission shall hold a public hearing on any change to a zoning ordinance.

POLICY / RULE

Under Section 2.12 of the City Charter, amendments to the Folsom Municipal Code require review and approval by the City Council.

There are four policies from the City's 2035 General Plan that relate directly to the Historic District. These policies are:

- LU 1.1.9: Preserve Historic Resources: Recognize the importance of history in the City of Folsom, and preserve historic and cultural resources throughout the city, to the extent feasible.
- LU 6.1.2: Historic Folsom Residential Areas: Preserve and protect the residential character of Historic Folsom's residential areas.
- NCR 5.1.4: Applicable Laws and Regulations: Ensure compliance with City, State, and Federal historic preservation laws, regulations, and codes to protect and assist in the preservation of historic and archeological resources, as listed in the City of Folsom Historic Preservation Master Plan, including the use of the California Historical Building Code as applicable, including, but not limited to, Senate Bill 18, Assembly Bill 52, Appendix G to the CEQA Guidelines, and, where applicable, Section 106 of the National Historic Preservation Act.
- NCR 5.1.6: Historic District Standards: Maintain and implement design and development

standards for the Historic District

In addition, the Historic District chapter of the Zoning Code provides the intent behind the chapter:

- 17.52.010 Purpose and intent.
 - A. The city council intends to actively promote the purposes of this chapter by (1) creating incentives for residents, property owners and businesses, (2) encouraging cooperation in attaining the purposes set forth in this chapter, and (3) providing a simple, fair and effective system of enforcement of the regulations contained in this chapter.
 - B. The purposes of this chapter are:
 1. To preserve and enhance the historic, small-town atmosphere of the historic district as it developed between the years 1850 and 1950;
 2. To maintain, restore, and reconstruct historic structures and sites within the historic district;
 3. To encourage an active business climate which promotes the development of a diverse range of businesses compatible with the historic district as it developed between the years 1850 and 1950;
 4. To retain the residential areas within the historic district;
 5. To ensure that new residential and commercial development is consistent with the historical character of the historic district as it developed between the years 1850 and 1950;
 6. To increase the awareness, understanding, and appreciation of the history of the city; and
 7. To preserve and enhance open space areas.

ANALYSIS

No changes are proposed to the Zoning Code beyond what was previously approved by City Council on October 28, 2025. A copy of the staff report associated with those changes is provided in Attachment 1. As shown in the General Plan and Folsom Municipal Code Consistency section of Attachment 1, the Zoning Code update is consistent with the policies of the City's 2035 General Plan as well as the Intent sections of Chapter 17.52 of the Folsom Municipal Code. In conducting subsequent review, staff found that the Environmental Review section provided in the original staff report lacked detail to sufficiently explain why the amendments are not subject to CEQA. In the updated Environmental Review section of this report, staff provides more comprehensive analysis in support of CEQA Guidelines Section 15061(b)(3) that determined that the ordinance is not subject to CEQA, as well as analysis in support of additional CEQA exemptions applicable to this action. This additional analysis provides a more comprehensive Environmental Review section as part of the public record and in support of staff's recommendation that the modifications to FMC Chapter 17.52 are not subject to CEQA and that the City Council re-adopt the previously enacted modifications to Folsom Municipal Code Chapter 17.52.

FINANCIAL IMPACT

Staff anticipates that re-adoption of the code changes will continue to lead to fewer staff resources being spent on preparing staff reports and meeting materials for HDC meetings, freeing up limited

existing staff resources for larger-scale efforts such as completing the Zoning Code update and preparing objective design standards. Re-adoption would also result in fewer (or shorter) HDC meetings, which reduces the amount of compensatory time used by staff attending those meetings. As such, staff anticipates that the proposed re-adoption would have a positive financial impact on City funds.

ENVIRONMENTAL REVIEW

The amendments to the Folsom Municipal Code discussed in this report are not a project for purposes of CEQA because CEQA only applies to activities that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Because changing which body (HDC or City staff) will process the minor approvals covered by these amendments does not have the potential to cause a physical change in the environment directly or indirectly, the amendments are not a project subject to CEQA. (Public Resources Code §§ 21065; 21080(b)(1), (9); CEQA Guidelines §§ 15060(c), (2), (3); 15378(b)(2), (5).) If for any reason these amendments are considered a project, they are exempt from CEQA review. (See Pub. Resources Code, § 21000 et seq; Cal. Code Regs., tit. 14, div. 6, ch. 3.) Specifically, the amendments are exempt under the Common Sense exemption (Section 15061(b)(3)), the Ministerial exemption (Section 15268), the Existing Facilities exemption (Section 15301), the Small Structures exemption (Section 15303), and the Installation of Solar Energy System Exemption (Public Resources Code section 21080.35). None of the exceptions to exemptions contained in Section 15300.2 of the CEQA Guidelines are present. Finally, the code amendments are exempt under Public Resources Code section 21080.1. (*See also Cal. Farm Bureau Federation v. Cal. Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173, 191 [permitting application of several exemptions from CEQA for a single project].) Each of the exemptions are discussed below.

Common Sense Exemption – As explained in section 15061 of the CEQA Guidelines, the Common Sense exemption acknowledges that “CEQA applies only to projects which have the potential for causing a significant effect on the environment” and thus exempts activities “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” (14 CCR § 15061(b)(3).) The ordinance amendments discussed in this report do not have the potential to cause a significant effect on the environment. As described in greater detail above, the modifications largely change the administrative process for design review in the Folsom Historic District. They do not affect allowed uses for affected properties. The administrative changes that merely modify applicable reviewing bodies will not result in any significant impact to the environment. The applications for design review will be held to the same existing standards, but under these amendments, may be subject to review or approval by a different reviewing body. Thus, the applications will be subject to the existing design standards, which will not result in any significant environmental impacts.

Nor will the ordinance amendment’s exemption of certain very small projects from design review have potential to cause any significant impacts on the environment. These exemptions include replacement of existing roof materials, replacement of existing windows and doors, changes to exterior building colors, certain patio covers and trellises, certain privacy fencing and walls, aboveground spas and hot tubs, and outdoor cooking facilities not visible from the street. In the

case of replacements, the materials would need to be aesthetically similar to the original to remain exempt. These types of modifications, all to existing developed properties, will not cause significant effects on the environment. The modifications will be minimal and aesthetically similar to existing conditions, and several of the project types exempted from design review are required to be located in side or rear yards for the exemption to apply. Several of the very small projects, including like-for-like structural replacements, residential re-painting, privacy walls/fences, and solar panels were already not going through design review based on the City's consistent past practice and thus, would not result in any change from baseline conditions for those projects. A majority of those projects do not require a building permit or other entitlement from the City. When a permit is required, it is ministerial. As a result, formally exempting these projects from design review simply conforms the FMC to existing practice with no change to operations. Additionally, the ordinance amendments specifically exclude from the design review exemption any project involving buildings or properties in the City's Cultural Resources Inventory or located on an existing or potentially eligible historical resource. This will further ensure that there are no significant impacts to the environment, including historical resources. Given each of these considerations, the ordinance amendments could not have a significant effect on the environment. Accordingly, the Common Sense exemption applies to the ordinance amendments.

Ministerial Exemption – “Ministerial projects are exempt from the requirements of CEQA.” (14 CCR § 15268.) Ministerial projects are those “governmental decision[s] involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision.” (CEQA Guidelines, § 15369.)

The ordinance amendment's inclusion of solar panel installation in the design review exemption is ministerial. Under state law, the City's review of solar panel permits is limited to health and safety considerations. (Gov. Code, § 65850.5); therefore, the City has no discretion to impose design review restrictions. As such, the solar panel exemption from design review is ministerial and exempt from the requirements of CEQA. Similarly, Government Code section 66321 restricts the City from imposing design review on certain Accessory Dwelling Units (ADU). The City does not have discretion to impose design review, and thus, the design review exemption for certain ADUs is ministerial and exempt from the requirements of CEQA. In addition, to the extent that a building permit is required for installation of a fence or any of the other minor modifications exempt from design review under FMC Section 17.52.300(C)(1), such approvals are ministerial in nature and as such are exempt from the requirements of CEQA.

Class 1 Categorical Exemption – Under Section 15301 of the CEQA Guidelines, the Class 1 exemption “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” (14 CCR § 15301.) Categorical exemptions are those “classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.” ((14 CCR § 15300.) This ordinance amendment's exemption for very small

projects falls under this Class 1 CEQA exemption. The very small projects under this ordinance would allow for “repairs,” “maintenance,” and “minor alterations” to existing developed structures, such as the ordinance amendment’s exemption from design review for roof replacements, doors and windows replacements, and other minor alterations to existing structures allowed under the proposed ordinance. The projects exempt from design review under the new ordinance would not allow for any expansion of existing uses. As such, in addition to falling under the Common Sense exemption, several amendment components would also qualify for the Class 1 Categorical Exemption under CEQA.

Class 3 Categorical Exemption – The Class 3 Categorical Exemption for New Construction or Conversion of Small Structures also applies to the ordinance amendments. Under section 15303 of the CEQA Guidelines, projects consisting of “construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures...” (14 CCR § 15303.) This includes, “accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.” (14 CCR § 15300(e).) Accordingly, the ordinance amendment’s exemption of fences, hot tubs, outdoor kitchens, and patios qualify for the Class 3 Categorical Exemption under CEQA, in addition to the Common Sense exemption.

Exceptions to Categorical Exemptions – Section 15300.2 of the CEQA Guidelines sets forth exceptions to the categorical exemptions. None of these exceptions apply. The ordinance amendments would not result in any significant cumulative environmental impact, because there is no substantial evidence in the City’s record demonstrating that the amendments would result in any significant increase in impacts in the Historic District by virtue of just changing the design review process, which still protects listed and potentially eligible historic resources. It is important to note that the Historic District as a whole is not listed as a historic resource on the federal, state, or local registry. Rather, individual properties within the Historic District are listed on one or more registries. Other properties within the Historic District may be eligible for listing as a historic resource, as defined by CEQA Guidelines Section 15064.5 or the adopted City of Folsom historic preservation master plan. Staff recognizes the potential for development projects within the Historic District to impact historic resources. To address that possibility, staff specifically included within the ordinance amendments a provision that projects involving buildings or properties on the City’s cultural resources inventory as well as properties located on an existing or potentially eligible historic resource are subject to design review and Historic District Commission approval. (See FMC section 17.52.300(C)(1)(i).)

Additionally, the ordinance amendments do not involve any unusual circumstances, because creating different levels of design review within a municipality’s administrative processes is a common-place feature of municipal government, and as explained above, these changes will not have any significant effects on the environment. And lastly, there is no reasonable possibility that the ordinance amendments will cause any significant impacts on scenic highways, hazardous waste sites, or historical resources.

As explained, certain of the ordinance amendments are statutorily exempt from CEQA review under CEQA Guidelines Section 15282(h), which includes “the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city to implement provisions of Sections 65852.1 and 65852.2 of the Government Code, as set forth in 21080.17 of the Public Resources Code.” Under California Public Resources Code Section 21080.17, CEQA “does not apply to the adoption of an ordinance by a city or county to implement Section 65852.1 of, or Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of, the Government Code,” which is California's ADU and JADU law. Therefore, the adoption of the proposed ordinance is statutorily exempt from CEQA in that it implements State ADU and JADU law.

Public Resources Code section 21080.35 – The ordinance amendments are statutorily exempt from CEQA review under Public Resources Code section 21080.35, which states in pertinent part that CEQA “...does not apply to the installation of a solar energy system on the roof of an existing building or at an existing parking lot.” The statute defines “solar energy system” to include all associated equipment. Associated equipment necessary to connect the energy generated to the electrical grid may be located immediately adjacent to the parcel of the building or immediately adjacent to the parcel of the building and separated by an improved right-of-way. To the extent the ordinance amendments apply to solar panels on the roof of an existing building or at an existing parking lot, they are exempt from CEQA under this statute. Staff has not seen and does not anticipate receiving applications for the installation of solar panels on property within the Historic District that include a proposal to install solar panels anywhere other than the roof of an existing building or at an existing parking lot.

ATTACHMENTS

1. Ordinance No. 1375 – An Ordinance of the City of Folsom Re-Adopting Ordinance 1353 To Amend Chapter 17.52 of the Folsom Municipal Code for the Historic District Relating to Design Review, Sign Permits, Demolitions, and Accessory Buildings
2. Previously Approved Modifications to FMC Chapter 17.52 (Strikethrough/Underline Version)
3. Public Comments Received

Submitted,



PAM JOHNS
Community Development Director

Attachment 1

ORDINANCE NO. 1375

AN ORDINANCE OF THE CITY OF FOLSOM RE-ADOPTING ORDINANCE 1353 TO AMEND CHAPTER 17.52 OF THE FOLSOM MUNICIPAL CODE FOR THE HISTORIC DISTRICT RELATING TO DESIGN REVIEW, SIGN PERMITS, DEMOLITIONS, AND ACCESSORY BUILDINGS

The City Council of the City of Folsom does hereby ordain as follows:

SECTION 1 PURPOSE

The purpose of this ordinance is to re-adopt amendments to certain sections of Chapter 17.52 in the Folsom Municipal Code to move design review of small projects to director-level approval, to exempt certain projects from design review, to move sign permit review to director-level approval, to move non-historic demolitions to director-level approval, to further limit the height, size, and setback requirements for accessory buildings, and to modify historic district entitlement expirations and extensions to be consistent with regulations outside of the historic district.

SECTION 2

Section 17.52.130 of the Folsom Municipal Code is hereby re-adopted to read as follows:

17.52.130 Administrative Support

The community development director, previously referred to as the planning, inspections and permitting director, shall be responsible for the administration of this chapter and shall assist the historic district commission in performing its functions. The director shall carry out those additional duties delegated by the historic district commission.

SECTION 3

Sections 17.52.300 through 17.52.390 of the Folsom Municipal Code are hereby re-adopted to read as follows:

17.52.300 Design review.

A. Except as otherwise provided in subsection (B), the design and architecture of the following projects shall be submitted to the historic district commission for review and approval under the provisions of this chapter:

1. All new office, industrial, commercial and residential buildings, excluding accessory buildings as defined in Section 17.02.020 and accessory dwelling units as regulated by Section 17.52.300(D);
2. All exterior renovation, remodeling, modification or addition to existing buildings located on properties listed in the City's Cultural Resources Inventory or located on an existing or potentially eligible historic resource, as defined by the California

Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan;

3. All additions to existing buildings over twenty-five percent of the total square footage of the existing building or over 500 square feet, whichever is less, except additions to accessory buildings, as regulated by Section 17.52.300(B)(3) and additions to accessory dwelling units as regulated by Section 17.52.300(D)

4. Projects which are part of a planned development or a tentative map.

5. Proposed project design guidelines and standards and revisions to existing design guidelines and standards.

B. The design and architecture of the following projects shall be submitted to the community development director for review and approval under the provisions of this chapter:

1. All exterior renovation, remodeling, or modification to existing buildings, except those exempted under section 17.52.300(C), and those regulated under 17.52.300(A)(2);

2. All additions to existing buildings under twenty-five percent of the total square footage of the existing building or under 500 square feet, whichever is less, except additions to accessory buildings, as regulated by Section 17.52.300(B)(3) and additions to accessory dwelling units, as regulated by Section 17.52.300(D);

3. All new accessory buildings, including but not limited to garages and sheds, and any addition to such buildings, except those regulated under 17.52.300(A)(2) and 17.52.300(D)(1).

C. The following types of projects are exempt from the design review process under this chapter:

1. Minor modifications including:

a. replacement of existing building and roof materials with similar materials,

b. replacement of existing windows and doors with similar windows and doors,

c. changes to exterior colors on residential buildings,

d. patio covers, gazebos, pergolas and trellises under 200 square feet in size and located outside of the front, side, and street side yards,

e. privacy walls and fencing, excluding chain link, which is not allowed,

f. aboveground spas and hot tubs located outside of the front and street side yards,

g. solar panels,

h. outdoor cooking facilities located outside of the front and street side yards, and

i. other projects that the director deems similar in material, design, and scope to those listed, except projects involving buildings or properties on the City's Cultural Resources Inventory or located on an existing or potentially eligible historic resource, as defined by the California Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan, which are subject to historic district commission approval.

D. Final approval authority relating to the design and architecture of accessory dwelling units and additions to such buildings within the historic district boundaries shall be as follows:

1. The historic district commission shall have final approval authority relating to the design and architecture of proposed attached or detached accessory dwelling units not exempt from design review by California Government Code Section 66321 based on height, and any new garage or other attached conditioned or unconditioned space proposed along with such an accessory dwelling unit.
2. The historic district commission shall have final approval authority relating to the design and architecture of proposed additions to existing accessory dwelling units that result in the unit no longer being exempt from design review by California Government Code Section 66321 based on height.
3. The community development director shall have final approval authority relating to the design and architecture of proposed attached or detached accessory dwelling units not exempt from design review by California Government Code Section 66321 based on square footage, and any other attached space proposed along with such an accessory dwelling unit.
4. The community development director shall have final approval authority relating to the design and architecture of proposed additions to existing accessory dwelling units that result in the unit no longer being exempt from design review by California Government Code Section 66321 based on square footage.

17.52.310 Design review submittal requirements.

The applicant shall file the following information with the community development director for design review:

- A. Completed and signed application form including name, address, email address, telephone number of the applicant, and agent authorization from the property owner if the applicant is not the property owner;
- B. Application fee as established by resolution of the city council;

- C. A copy of all entitlements granted for the property by the city, including conditions of approval and the environmental documentation;
- D. A copy of all required state and federal permits;
- E. Site plan;
- F. Building design plans/elevations;
- G. Material samples and color board;
- H. Project narrative describing the proposed project and how it is consistent with the requirements of Section 17.52 and any applicable design guidelines;
- I. Recent photographs of the project site taken within 30 days prior to the submittal which accurately depict the project location; and
- J. Other material and information as requested by the commission or community development director.

17.52.320 Notice and posting of site for design review.

The provisions of Section 17.06.070 A and B shall apply within the historic district. In addition, a notice containing the project description and the time and place of the meeting for design review of a proposed project shall be posted on the City website and mailed to property owners directly adjacent to the project site at a time reasonably expected to give at least five days before the commission meeting or director level meeting. As used in this section, “directly adjacent to the project site” also includes properties located directly across an alley, street or public right-of-way from the project site.

17.52.330 Plan evaluation for design review.

In reviewing projects for design review, the historic district commission or community development director shall consider the following criteria:

- A. Project compliance with the General Plan and any applicable zoning ordinances;
- B. Conformance with any city-wide design guidelines and historic district design and development guidelines adopted by the city council;
- C. Conformance with any project-specific design standards approved through the planned development permit process or similar review process; and
- D. Compatibility of building materials, textures and colors with surrounding development and consistency with the general design theme of the neighborhood.

17.52.340 Approval process for design review.

A. The community development director or the historic district commission, in exercising design review authority under this chapter, shall make the decision to approve, conditionally approve or deny the design review application with findings based on the criteria established in Section [17.52.330](#). A copy of the decision, findings and any applicable conditions shall be provided in writing to the applicant.

B. Projects that are subject to director-level review may be elevated to the historic district commission for review at the discretion of the community development director. The applicant may request to elevate a director-level design review to the historic district commission. The request shall be granted upon payment of the commission-level design review application fee established by resolution of the city council and any other applicable fees.

C. The community development department shall provide a summary to the historic district commission of all design review projects within the historic district approved at the director level. Such review will allow the commission to provide input to the department concerning the appropriateness of the approvals and help the commission and the department develop a consistent approach to design review. The historic district commission may not overturn the decision of the community development department unless an appeal has been filed pursuant to Section 17.52.700.

17.52.350 Design Review expiration and extension of approval.

A. A design review approval shall be null and void unless the applicant submits a complete application for a building permit within two years from the date of approval.

B. The community development director or the historic district commission, in exercising design review authority under this chapter, may extend an approval for an additional 1 year upon receipt of a written request accompanied by a fee, as may be established by resolution of the city council, and other information deemed necessary by the community development director. Requests for approval extension must be received before the original approval expires.

17.52.360 Conditional use permit review.

A. The historic district commission shall have final authority relating to the issuance of conditional use permits for any of the uses or purposes for which such permits are required or permitted by the terms of this title, as well as the expiration and extension of such permits, within the boundaries of the historic district.

B. In acting upon applications for conditional use permits, the historic district commission shall adhere to the procedural requirements set forth in Chapter [17.60](#), except for matters of appeal, which shall be governed by this chapter.

17.52.370 Variance review.

A. The historic district commission shall have final authority relating to application for variances from any of the provisions of this title, as well as the expiration and extension of such requests, within the boundaries of the historic district.

B. In acting upon applications for variances, the historic district commission shall adhere to the procedural requirements set forth in Chapter [17.62](#), except for matters of appeal, which shall be governed by this chapter.

17.52.380 Sign permit review.

A. The community development director shall have final approval authority relating to the issuance of sign permits for any signs for which such permits are required by this title, within the boundaries of the historic district.

B. The provisions of Chapter [17.59](#) are applicable in the historic district as modified by this chapter and any adopted design and development guidelines. In acting upon applications for sign permits, the community development director shall adhere to the procedural requirements set forth in Chapter [17.59](#), except for matters of appeal, which shall be governed by this chapter.

C. Any sign permit application may be elevated to the historic district commission for review at the director's discretion. The applicant may also request to elevate a director-level sign permit review to the historic district commission upon payment of the commission-level sign permit review application fee established by resolution of the city council. Notice and posting shall be required for all sign permits elevated to the historic district commission, consistent with section 17.52.320.

D. Buildings with multiple tenants shall be required to submit a uniform signage program (USP) for historic district commission approval, as described in Sections 17.52.510 through 17.52.560. Notice and posting shall be required, consistent with section 17.52.320.

17.52.390 Environmental review.

Review by the community development director and historic district commission of applications for conditional use permits, sign permits, variances, design review, and other entitlements is subject to the requirements of the California Environmental Quality Act (CEQA). The historic district commission, in exercising its review authorities under this chapter, is authorized to hold public hearings on negative declarations, mitigated negative declarations, draft environmental impact reports and final environmental impact reports prepared on applications for the above permits or for design review. The community development director and historic district commission shall not approve applications prior to considering the applicable environmental document or exemption and complying with the requirements of CEQA and any city procedures for preparation and processing of environmental documents.

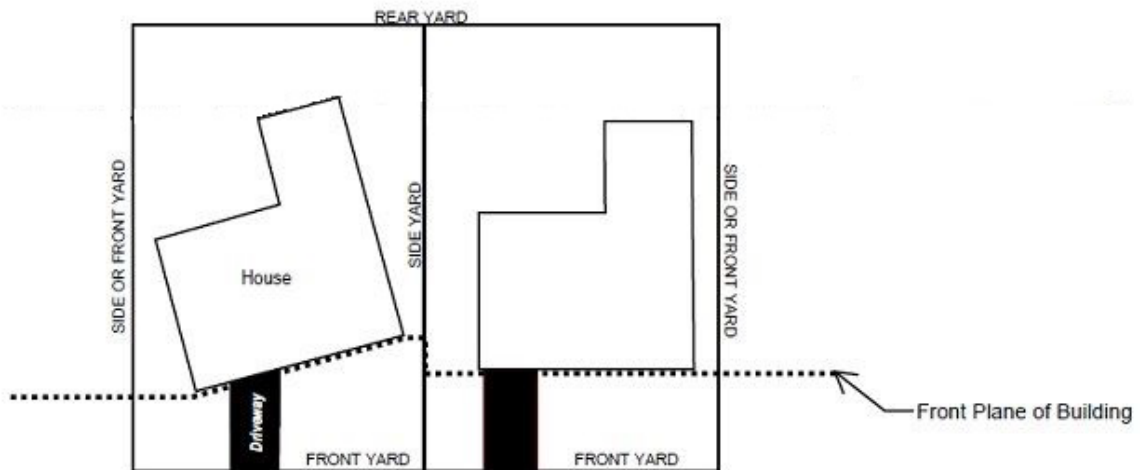
SECTION 4

Section 17.52.480 of the Folsom Municipal Code is hereby re-adopted to read as follows:

17.52.480 Accessory buildings.

A. Accessory buildings, as defined in Section 17.02.020, are subject to the following development standards within the historic district (with the exception of accessory dwelling units):

1. Height. Accessory buildings shall not exceed fifteen feet in height, as measured using the methodology in Section 17.02.110. An accessory building shall not be taller than the primary building on the lot as measured from finished grade of each building.
2. Setbacks. Accessory buildings shall be set back a minimum of twenty feet from the front yard lot line, five feet from the rear yard lot line, five feet from the interior side-yard lot line, ten feet from the street side-yard lot line and five feet from all other buildings on the property. In no instance shall any portion of an accessory building be located in front of the front plane of the primary building. In the case of a corner lot abutting upon two streets, no detached accessory building shall be erected, altered or moved so as to occupy any part of the front half of such lot.



3. Size. Detached accessory buildings (with the exception of accessory dwelling units) may occupy a maximum of fifty percent of the area of a required rear yard. The total square footage of all accessory buildings on a single parcel, excluding residential accessory dwelling units, shall not exceed 50 percent of the total square footage of the primary building on the same parcel.

SECTION 5

Section 17.52.660 of the Folsom Municipal Code is hereby re-adopted to read as follows:

17.52.660 Demolition review.

A. The demolition of a building originally constructed less than 50 years before submittal of a demolition permit application that is located in the historic district is exempt from review under this Chapter.

B. Review and approval of a Historic District Demolition application is required before the demolition of a building originally constructed 50 or more years prior to submittal of a demolition permit that is located in the historic district.

1. The applicant shall file the following information with the community development director:
 - a. Completed and signed application form including name, address, email address, and telephone number of the applicant;
 - b. An application fee as established by resolution of the city council;
 - c. All available information related to the age of the structure.
 - d. Other material and information as requested by the director.
2. Prior to a decision by the community development director to approve a Historic District Demolition application, notice and posting shall be required, consistent with section 17.52.320.
3. The historic district commission shall have final authority relating to the review and approval of Historic District Demolition applications involving existing or potentially eligible historic resources, as defined by the California Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan.
 - a. Upon determination by the community development director that the building proposed for demolition is an existing or potentially eligible historic resource, notice and posting shall be required, consistent with section 17.52.320.
 - b. Before authorizing the demolition of a building determined by the community development director to be an existing or a potentially eligible historic resource, the historic district commission shall consider the following factors:
 - i. Whether the public health, safety and/or welfare warrant the demolition;

- ii. What accommodations can be provided to the owner of the property to make it feasible for the owner to preserve the property;
 - iii. Whether the owner of the property is willing to sell the property to a buyer who wishes to preserve the property;
 - iv. Whether a public entity wishes to acquire the property through exercise of the power of eminent domain in order to preserve the property.
4. The community development director shall have final authority relating to the review and approval of all Historic District Demolition applications not involving an existing or potentially eligible historic resource, as defined by the California Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan.
5. Prior to approval of a Historic District Demolition application, the applicant shall provide documentation of the structure for the historical record. Documentation shall include photographs of all sides of the structure, details of unique or representative construction features, and any history of the structure known to, or reasonably obtainable by, the applicant.
6. If the community development director cannot determine whether the building proposed for demolition was originally constructed more than 50 years prior to application for a demolition permit based on permitting files or other provided information, the proposed demolition will be subject to the Historic District Demolition process described in Section 17.52.660(B).

SECTION 6 SCOPE

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

SECTION 7 SEVERABILITY

If any section, subsection, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council declares that it would have passed each section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

SECTION 8 NO MANDATORY DUTY

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards

persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 9 EFFECTIVE DATE

This ordinance shall become effective on September 11, 2026, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on July 14, 2026 and the second reading occurred at the regular meeting of the City Council on August 11, 2026.

On a motion by Councilmember _____ seconded by Councilmember _____, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 11th day of August, 2026, by the following roll-call vote:

AYES: Councilmember(s):
NOES: Councilmember(s):
ABSENT: Councilmember(s):
ABSTAIN: Councilmember(s):

Justin Raithel, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

Attachment 2

Modifications to FMC Chapter 17.52 (Strikethrough/Underline Version)

Section 17.52.130 of the Folsom Municipal Code is amended to read as follows:

17.52.130 Administrative Support

The community development director, previously referred to as the planning, inspections and permitting director, shall be responsible for the administration of this chapter and shall assist the historic district commission in performing its functions. The director shall carry out those additional duties delegated by the historic district commission.

Sections 17.52.300 through 17.52.390 of the Folsom Municipal Code are amended to read as follows:

17.52.300 Design review.

A. Except as otherwise provided in subsection (B), the design and architecture of the following projects shall be submitted to the historic district commission for review and approval under the provisions of this chapter:

A1. All new office, industrial, commercial and residential ~~structures~~buildings, excluding accessory buildings as defined in Section 17.02.020 and accessory dwelling units as regulated by Section 17.52.300(D);

and

B2. All exterior renovations, remodeling, modification or addition to existing ~~structures~~buildings located on properties listed in the City's Cultural Resources Inventory or located on an existing or potentially eligible historic resource, as defined by the California Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan;-

3. All additions to existing buildings over twenty-five percent of the total square footage of the existing building or over 500 square feet, whichever is less, except additions to accessory buildings, as regulated by Section 17.52.300(B)(3) and additions to accessory dwelling units as regulated by Section 17.52.300(D)

4. Projects which are part of a planned development or a tentative map.

5. Proposed project design guidelines and standards and revisions to existing design guidelines and standards.

B. The design and architecture of the following projects shall be submitted to the community development director for review and approval under the provisions of this chapter:

1. All exterior renovation, remodeling, or modification to existing buildings, except those exempted under section 17.52.300(C), and those regulated under 17.52.300(A)(2);

2. All additions to existing buildings under twenty-five percent of the total square footage of the existing building or under 500 square feet, whichever is less, except additions to accessory buildings, as regulated by Section 17.52.300(B)(3) and additions to accessory dwelling units, as regulated by Section 17.52.300(D);

3. All new accessory buildings, including but not limited to garages and sheds, and any addition to such buildings, except those regulated under 17.52.300(A)(2) and 17.52.300(D)(1).

C. The following types of projects are exempt from the design review process under this chapter:

1. Minor modifications including:

a. replacement of existing building and roof materials with similar materials,

b. replacement of existing windows and doors with similar windows and doors,

c. changes to exterior colors on residential buildings,

d. patio covers, gazebos, pergolas and trellises under 200 square feet in size and located outside of the front, side, and street side yards,

e. privacy walls and fencing, excluding chain link, which is not allowed,

f. aboveground spas and hot tubs located outside of the front and street side yards,

g. solar panels,

h. outdoor cooking facilities located outside of the front and street side yards, and

i. other projects that the director deems similar in material, design, and scope to those listed, except projects involving buildings or properties on the City's Cultural Resources Inventory or located on an existing or potentially eligible historic resource, as defined by the California Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan, which are subject to historic district commission approval.

D. Final approval authority relating to the design and architecture of accessory dwelling units and additions to such buildings within the historic district boundaries shall be as follows:

1. The historic district commission shall have final approval authority relating to the design and architecture of proposed attached or detached accessory dwelling units not exempt from design review by California Government Code Section 66321 based on height, and any new garage or other attached conditioned or unconditioned space proposed along with such an accessory dwelling unit.
2. The historic district commission shall have final approval authority relating to the design and architecture of proposed additions to existing accessory dwelling units that result in the unit no longer being exempt from design review by California Government Code Section 66321 based on height.
3. The community development director shall have final approval authority relating to the design and architecture of proposed attached or detached accessory dwelling units not exempt from design review by California Government Code Section 66321 based on square footage, and any other attached space proposed along with such an accessory dwelling unit.
4. The community development director shall have final approval authority relating to the design and architecture of proposed additions to existing accessory dwelling units that result in the unit no longer being exempt from design review by California Government Code Section 66321 based on square footage.

17.52.310 Design review submittal requirements.

The applicant shall file the following information with the ~~planning, inspections and permitting~~community development director for design review:

- A. Completed and signed application form including name, address, ~~email address, and~~ telephone number of the applicant, ~~and agent authorization from the property owner if the applicant is not the property owner;~~
- B. Application fee as established by resolution of the city council;
- C. A copy of all entitlements granted for the property by the city, including conditions of approval and the environmental documentation;

D. A copy of all required state and federal permits;

E. Site plan;

F. Building design plans/elevations;

G. Material samples and color board;

H. Project narrative describing the proposed project and how it is consistent with the requirements of Section 17.52 and any applicable design guidelines;

I. Recent photographs of the project site taken within 30 days prior to the submittal which accurately depict the project location; and

HJ. Other material and information as requested by the commission or community development director.

17.52.320 Notice and Posting of site for design review.

Upon application for design review of a project by the historic district commission, the project site shall be posted by the applicant 5 days prior to the commission hearing, with a notice 11 inches by 17 inches in size, facing the street frontage, and indicating the project description and the place and time of the hearing. (Ord. 890 § 2 (part), 1998) The provisions of Section 17.06.070 A and B shall apply within the historic district. In addition, a notice containing the project description and the time and place of the meeting for design review of a proposed project shall be posted on the City website and mailed to property owners directly adjacent to the project site at a time reasonably expected to give at least five days before the commission meeting or director level meeting. As used in this section, “directly adjacent to the project site” also includes properties located directly across an alley, street or public right-of-way from the project site.

17.52.330 Plan evaluation for design review.

In reviewing projects for design review, the historic district commission or community development director shall consider the following criteria:

A. Project compliance with the General Plan and any applicable zoning ordinances;

B. Conformance with any city-wide design guidelines and historic district design and development guidelines adopted by the city council;

C. Conformance with any project-specific design standards approved through the planned development permit process or similar review process; and

D. Compatibility of building materials, textures and colors with surrounding development and consistency with the general design theme of the neighborhood.

17.52.340 Approval process for design review.

A. The community development director or the historic district commission, in exercising design review authority under this chapter, shall make ~~its~~ the decision to approve, conditionally approve or deny the design review application with findings based on the criteria established in Section 17.52.330 of this chapter. A copy of the decision, findings and any applicable conditions shall be provided in writing to the applicant.

B. Projects that are subject to director-level review may be elevated to the historic district commission for review at the discretion of the community development director. The applicant may request to elevate a director-level design review to the historic district commission upon payment of the commission-level design review application fee established by resolution of the city council and any other applicable fees.

C. The community development department shall provide a summary to the historic district commission of all design review projects within the historic district approved at the director level. Such review will allow the commission to provide input to the department concerning the appropriateness of the approvals and help the commission and the department develop a consistent approach to design review. The historic district commission may not overturn the decision of the community development department unless an appeal has been filed pursuant to Section 17.52.700.

17.52.350 ~~Expiration~~ Design Review expiration and extension of approval.

A. ~~An~~ design review approval ~~by the historic district commission~~ shall be null and void unless the applicant submits a complete application for a building permit within ~~one~~ two years ~~from the date of approval~~.

B. The community development director or the historic district commission, in exercising design review authority under this chapter, may extend an approval for an additional 1 year upon receipt of a written request accompanied by a fee, as may be established by resolution of the city council, and other information deemed necessary by the community development director ~~of the department of planning, inspections and permitting~~. Requests

for approval extension must be received before the original approval expires. 60 days prior to the expiration of the original approval.

17.52.360 Conditional use permit review.

A. The historic district commission shall have final authority relating to the issuance of conditional use permits for any of the uses or purposes for which such permits are required or permitted by the terms of this title, as well as the expiration and extension of such permits, within the boundaries of the historic district.

B. In acting upon applications for conditional use permits, the historic district commission shall adhere to the procedural requirements set forth in Chapter 17.60, except for matters of appeal, which shall be governed by this chapter.

17.52.370 Variance review.

A. The historic district commission shall have final authority relating to application for variances from any of the provisions of this title, as well as the expiration and extension of such requests, within the boundaries of the historic district.

B. In acting upon applications for variances, the historic district commission shall adhere to the procedural requirements set forth in Chapter 17.62, except for matters of appeal, which shall be governed by this chapter.

17.52.380 Sign permit review.

A. The ~~historic district commission~~community development director shall have final approval authority relating to the issuance of sign permits for any signs for which such permits are required by this title, within the boundaries of the historic district.

B. The provisions of Chapter 17.59 are applicable in the historic district as modified ~~in~~by this chapter and any adopted design and development guidelines. In acting upon applications for sign permits, the ~~historic district commission~~community development director shall adhere to the procedural requirements set forth in Chapter 17.59, except for matters of appeal, which shall be governed by this chapter.

C. Any sign permit application may be elevated to the historic district commission for review at the director's discretion. The applicant may also request to elevate a director-level sign permit review to the historic district commission. The request shall be granted

upon payment of the commission-level sign permit review application fee established by resolution of the city council. Notice and posting shall be required for all sign permits elevated to the historic district commission, consistent with section 17.52.320.

D. Buildings with multiple tenants shall be required to submit a uniform signage program (USP) for historic district commission approval, as described in Sections 17.52.510 through 17.52.560. Notice and posting shall be required, consistent with section 17.52.320.

17.52.390 Environmental review.

Review by the community development director and historic district commission of applications for conditional use permits, sign permits, variances, ~~and~~ design review, and other entitlements is subject to the requirements of the California Environmental Quality Act (CEQA). The historic district commission, in exercising its review authorities under this chapter, is authorized to hold public hearings on negative declarations, mitigated negative declarations, draft environmental impact reports and final environmental impact reports prepared on applications for the above permits or for design review. The community development director and historic district commission shall not approve applications prior to considering the applicable environmental document or exemption and complying with the requirements of CEQA and any city procedures for preparation and processing of environmental documents.

Section 17.52.480 of the Folsom Municipal Code is amended to read as follows:

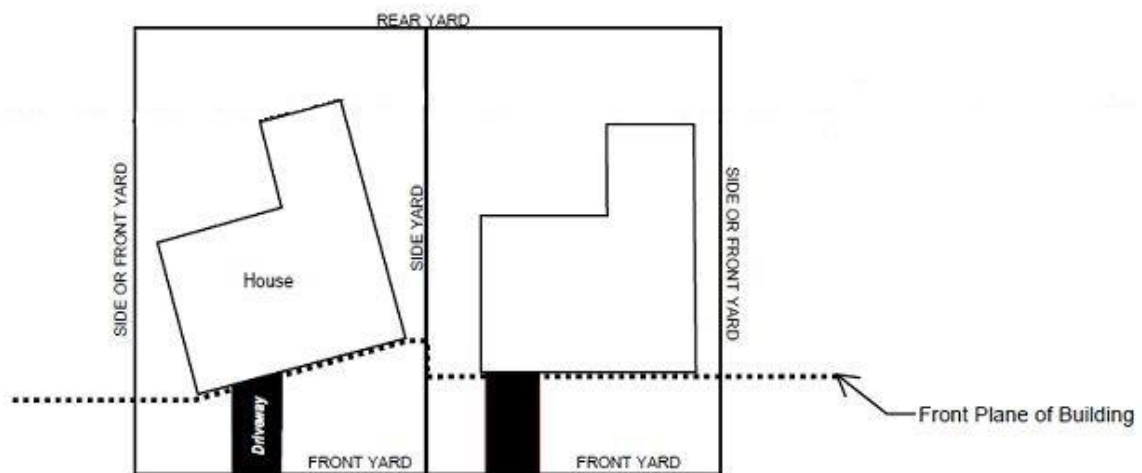
17.52.480 Accessory ~~structures~~buildings.

~~For the purposes of this chapter, an accessory structure is any freestanding roofed structure located on a parcel on which another larger structure (main structure) has been constructed. Accessory structures shall be setback 20 feet from the front property line of the main structure, 5 feet from any other property line, and 6 feet from all other structures on the property. An accessory structure shall not be larger than the main structure in square footage or height. Design review is not required for accessory structures smaller than 60 square feet or which are below required fence height. (Ord. 890 § 2 (part), 1998)~~

A. Accessory buildings, as defined in Section 17.02.020, are subject to the following development standards within the historic district (with the exception of accessory dwelling units):

1. Height. Accessory buildings shall not exceed fifteen feet in height, as measured using the methodology in Section 17.02.110. An accessory building shall not be taller than the primary building on the lot as measured from finished grade of each building.

2. Setbacks. Accessory buildings shall be set back a minimum of twenty feet from the front yard lot line, five feet from the rear yard lot line, five feet from the interior side-yard lot line, ten feet from the street side-yard lot line and five feet from all other buildings on the property. In no instance shall any portion of an accessory building be located in front of the front plane of the primary building. In the case of a corner lot abutting upon two streets, no detached accessory building shall be erected, altered or moved so as to occupy any part of the front half of such lot.



3. Size. Detached accessory buildings (with the exception of accessory dwelling units) may occupy a maximum of fifty percent of the area of a required rear yard. The total square footage of all accessory buildings on a single parcel, excluding residential accessory dwelling units, shall not exceed 50 percent of the total square footage of the primary building on the same parcel.

Section 17.52.660 of the Folsom Municipal Code is amended to read as follows:

17.52.660 Demolition review.

A. The demolition of a building originally constructed less than 50 years before submittal of a demolition permit application that is located in the historic district is exempt from review under this Chapter.

B. Review and approval of a Historic District Demolition application is required before t~~The demolition of a structure-building originally constructed 50 or more years prior to submittal of a demolition permit that is~~ located in the historic district. is subject to the review and approval by the historic district commission

1. The applicant shall file the following information with the community development director:

a. Completed and signed application form including name, address, email address, and telephone number of the applicant;

b. An application fee as established by resolution of the city council;

c. All available information related to the age of the structure.

d. Other material and information as requested by the director.

2. Prior to a decision by the community development director to approve a Historic District Demolition application, notice and posting shall be required, consistent with section 17.52.320.

3. The historic district commission shall have final authority relating to the review and approval of Historic District Demolition applications involving existing or potentially eligible historic resources, as defined by the California Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan.

a. Upon determination by the community development director that the building proposed for demolition is an existing or potentially eligible historic resource, notice and posting shall be required, consistent with section 17.52.320.

b. Before ~~Prior to authorizing the demolition of a structure-building determined by the community development director considered to be an existing or historically significant~~ a potentially eligible historic resource, the historic district commission shall consider the following factors:

A i. Whether the public health, safety and/or welfare warrant the demolition;

B _____ ii. What accommodations can be provided to the owner of the property to make it feasible for the owner to preserve the property;

C _____ iii. Whether the owner of the property is willing to sell the property to a buyer who wishes to preserve the property;

D _____ iv. Whether a public entity wishes to acquire the property through exercise of the power of eminent domain in order to preserve the property.

4. The community development director shall have final authority relating to the review and approval of all Historic District Demolition applications not involving an existing or potentially eligible historic resource, as defined by the California Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan.

5. Prior to approval of a Historic District Demolition application~~the authorization of demolition~~, the applicant shall provide documentation of the structure for the historical record. Documentation shall include photographs of all sides of the structure, details of unique or representative construction features, and any history of the structure known to, or reasonably obtainable by, the applicant.

6. If the community development director cannot determine whether the building proposed for demolition was originally constructed more than 50 years prior to application for a demolition permit based on permitting files or other provided information, the proposed demolition will be subject to the Historic District Demolition process described in Section 17.52.660(B).

Attachment 3

H | P | L

Preserving Folsom's History

June 8, 2026

Folsom City Council
50 Natoma Street
Folsom, CA 95630
Via e-mail to cfreemantle@folsom.ca.us

Re: Folsom Municipal Code Chapter 17.52

On June 9, 2026, the City Council's closed session agenda includes conference with legal counsel regarding existing litigation in *Delp vs. City of Folsom* in relation to the amendments made to FMC 17.52 by Ordinance 1353. The Heritage Preservation League (HPL) views this as an opportunity to express our hope that this lawsuit will bring about reconsideration of provisions of Ordinance 1353. HPL concurs with the lawsuit's contention that the CEQA exemption used in the ordinance adoption is not appropriate, based on our opinion that the ordinance goes beyond a simple switch of approval responsibilities from the Historic District Commission to staff. HPL sees consequences of applying the ordinance that will result in negative impacts to the City's goal of preserving a historic small town and negative impacts to the historical significance of the Historic District.

We do believe it would be possible to amend FMC 17.52 in a way that retains protection of Folsom's Historic District while also accomplishing the City's goal of more efficiency for staff. Many of the substantial concerns expressed by our vice president, Loretta Hettinger, during the adoption process for Ordinance 1353 remain. Other concerns have arisen since adoption of the ordinance, most notably the fact that the ordinance delegates authority to the Community Development Department without requiring any expertise to perform such review. It is our opinion that Ordinance 1353 substantially reduces protection of the Historic District and needs to be reconsidered to avoid significant and substantial impacts to the Historic District aesthetic and historic quality.

None of the current Council members participated in the initial adoption of FMC 17.52 and Design and Development Guidelines (DDG's) in 1998, and so a brief review of circumstances at that time is appropriate. The 1988 General Plan directed that a Specific Plan be prepared to include the entire Theodore Judah mapped area in an expanded Historic District. Under the

auspices of the historic residents association a citizens committee, staffed by HPL's Loretta Hettinger (Folsom planner at that time) and with consultant support, a four-year, grass-roots process resulted in a draft Specific Plan. As described in Section 1.03, "CEQA Compliance," of the DDG's adopted by the City,

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www.FolsomPreservation.org



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The City conducted environmental review of a proposed Historic District Specific Plan. Due to the nature and complexity of the Plan and the projects which will follow under it, a Master Environmental Impact Report (MEIR) was prepared. The City Council ultimately elected to implement zoning changes to Chapter 17.52 of the Folsom Municipal Code and design standards through the adoption of these Design and Development Guidelines. Many of the provisions of the proposed Historic District Specific Plan and the amendments to Chapter 17.52 are contained within these guidelines. Accordingly, the City Council relied upon the MEIR for evaluation and consideration of environmental impacts.

It is not clear that the MEIR played a part in the preparation and adoption of Ordinance 1353. Review of its provisions might have had a beneficial effect on the process, as it underscores the overall importance of FMC 17.52's and the DDG's provisions in order to carry out the City's goal of preserving this historic small town. In addition, when considering relaxing the Historic District protections of FMC 17.52 design review provisions, the City should be aware of and consider the effects of state laws restricting or prohibiting discretionary review for certain types of projects in the Historic District. Any relaxation of design review protections made by the City would combine cumulatively with state laws restricting design review, to the detriment of the Historic District character.

It is important that the Council consider the potential impacts of amendments to FMC 17.52. HPL is providing an explanation of our concerns, and we would welcome an opportunity for additional input and collaboration with the City on considering a modified set of FMC 17.52 amendments as an alternative to the amendments of Ordinance 1353.

HPL's mission from its formation in 2003 has always been to advocate for preservation and protection of Folsom's remarkable history. Our intention has always been to be part of the solution of how best to preserve and protect, not simply object. In keeping with that goal and in recognition that a closed session is not the forum to discuss specific recommendations, we will conclude with a brief summary of some of the potential revisions we would propose.

PROBLEMS

Structures are not protected.

As modified by Ordinance 1353, FMC 17.52 now provides for design review of new or modified *buildings* (defined in FMC 17.02.090), eliminating design review of all other new *structures* (defined in FMC 17.02.400) and modifications to existing non-building structures. This change eliminates design review of many types of new structures and existing structures.

There is no requirement for staff expertise in historic architecture and historic preservation.

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The Community Development Director is tasked with deciding whether an application is heard by staff or the Historic District Commission. Per the ordinance, the decision relies on whether a building is already listed or is potentially listed as a historic resource. The CEQA Guidelines section referenced in the ordinance and the City's Historic Preservation Master Plan (HPMP) both describe proper methodology for placing a site on a list, a process that HPL has experience with, a process that requires more time than staff can devote without negating the time-saving goal of the ordinance. Thus, in effect, unless a building has already been evaluated for a list or potential listing, it is not appropriate for a staff decision unless City staff has the expertise and time to follow the methodologies of CEQA and/or the HPMP. The great majority of buildings and structures in the Historic District have not been evaluated beyond the fact of their location within the 98 blocks of the Judah map.

Qualified staff could decide whether an application must be reviewed by the HDC or is appropriate for staff decision if a different standard is adopted. Historic preservation and architecture is not a typical part of a planning degree, nor is it a requirement for being a Community Development Director. The ordinance puts a responsibility on the Director without assuring decisions are based on expertise.

A standard that protects only buildings at least 50 years old is inadequate.

Regarding demolition, the ordinance inserts a provision that buildings at least 50 years old have protection. This is a flawed standard. Of course buildings that are at least 50 years old deserve special review. However age should not be the only determinant if Folsom's goals are to be met.

It's important to take a moment here to compare Folsom's goals with the usual means of protecting a city's heritage. Most historic protections are geared toward preserving a specific structure that is valuable due either to its architecture or to its association with persons or events that are historically significant. Likewise, groupings of structures that are valuable for the same reasons are protected.

In contrast, Folsom's goal is to protect an entire historic small town, not parts of it, for a similar but different reason. It's not because of amazing architecture (we don't have much), or because of a "George Washington slept here" thought process or simply because it's old (we do have a very significant overall history). Instead Folsom's goal is to preserve something that is fast disappearing across the nation: a small town as it existed between 1850 and 1950, before the postwar construction boom changed the basic structure of town design. Today it seems that every small town has its Walmart, McDonalds, Starbucks, Target, etc. Many times they're located on Main Street, making the old buildings ready candidates for demolition because they look so "old" in comparison and there's nothing special about them. Preserving those ordinary buildings has created a Folsom Historic District that is greater than the sum of its parts.

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The Historic District exemplifies a unique California small town, and protection of its historic character will become increasingly valuable to the history of our region, even the history of the nation.

Exemptions allowed in the ordinance open the door for non-contributing work done by unaware property owners relying on the ordinance.

We appreciate that the ordinance was revised to exclude chain link fences when HPL cited their inappropriateness to the era. Chain link isn't the only material inappropriate in the Historic District, but the average property owner doesn't know what is and isn't appropriate.

Appeal provisions exclude most appeals.

As written in FMC 17.52 and not amended by Ordinance 1353, most potential appeals are foreclosed. History organizations like HPL have keen interest in decisions regarding the Historic District and should be afforded the right to appeal.

RECOMMENDATIONS

We have considered and will continue to consider possible effects of Ordinance 1353, and we have proposals to address the problems cited above, including 1) replacing the word *building(s)* with the word *structure(s)*, 2) specifying procedure in the ordinance to address absence of staff trained in historic preservation/architecture, 3) two alternates to assure historic design, 4) replacing the list of exempt projects with a performance standard, and 5) including revision of appeal procedure in any amendment of FMC 17.52 ensuing.

HPL is committed to preservation and protection of the City's historic resources, and we would welcome an opportunity to work with City staff and provide input to the City Council to ensure that amendments to FMC 17.52 balance the Council's current interests while retaining provisions for protection of the Historic District.

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Bob Delp - June 16, 2026

City of Folsom Planning Commission
50 Natoma Street
Folsom, CA 95630

via email to: ksanabria@folsom.ca.us; badams@folsom.ca.us; jkinkade@folsom.ca.us for
distribution to the Planning Commission

**SUBJECT: June 17, 2026, Agenda Item No. 4 – Zoning Code Update – Revisions to
Chapter 17.52: Historic District (Re-Adoption) – File #ZCAM26-00069**

Dear Planning Commissioners:

I am the Petitioner in Superior Court of the State of California, County of Sacramento Case No. 26WM000118 that, as discussed further in section 3 of this letter, pertains to the City Council's October 28, 2025, approval of the amendments that are the subject of this Planning Commission agenda item. However, I am providing these comments as a citizen of Folsom and a resident and property owner in the Historic District interested in the protection, preservation, and enhancement of the Historic District's character and quality. I live, work, play, and very much enjoy the Historic District, and I want it to thrive while its historical qualities are protected.

In the 1990s the City undertook a substantial effort in considering ways to protect and preserve the Historic District that culminated in the adoption of a re-written Folsom Municipal Code Chapter 17.52 ("FMC 17.52") and accompanying Historic District Design and Development Guidelines ("DDGs"). Many thoughtful people worked very hard to create a process defining objective standards and a design review process applicable to all structures in the Historic District. The process may not be perfect and in recent years is confronted by state laws that, while attempting to achieve commendable aims, have limited the City's ability to exercise design review to the extent envisioned in 1998. Nevertheless, the design review provisions of FMC 17.52 and the DDGs still serve a vital function in preservation and protection of the Historic District. Amending the processes they describe should not be taken lightly and the effects of any amendments should be fully understood before their approval.

The Planning Commission has an opportunity to provide a fresh perspective to City staff and the City Council pertaining to the amendments to FMC 17.52 adopted by the City Council last year ("Project"). Although staff is asking the Planning Commission to recommend that the City Council simply re-adopt the amendments, I am hopeful that the Planning Commission will give serious consideration to the amendments and provide an independent recommendation to the Council. This is a lengthy comment letter, but the first two pages should be sufficient to convince the Planning Commission to recommend that Ord. No. 1353 be rescinded and FMC 17.52 restored to its pre-ordinance content.

I understand that amending the City's zoning ordinance is not an easy task. Undoubtedly, the Community Development Department ("CDD") and the City Attorney's office worked diligently in attempting to craft the Project amendments, but the Project amendments go too far in relaxing and eliminating important provisions of FMC 17.52 that were carefully developed through a rigorous process in the 1990s leading the 1998 rewrite and adoption of FMC 17.52 and its companion DDGs.

The Project amendments effectively eliminate design review for all structures that do not meet the definition of *building* by establishing in FMC 17.52.300 that the HDC and CDD design reviews only apply to *buildings*. The staff reports argue that only certain "very small" structures will be exempt from design review, however, the amendments establish no person and no commission to perform design review of any structures that are not buildings and therefore

effectively eliminate all design review authority for all non-building structures. If this is an *unintended* aspect of the amendments, then now is the time for correction by ensuring that 17.52.300 establishes a design reviewer for non-building structures. If the elimination of design review authority for all non-building structures is an *intended* aspect of the amendments, then the City's claim that the Project qualifies for a CEQA exemption because design review is only limited to certain "very small" structures fails.

Additionally, the FMC 17.52 amendments modify the HDC's role but continue to provide HDC final authority in a manner that conflicts with the City Charter. A court ruling regarding the 603 Sutter Street project last October (issued three days after the Council approved the FMC 17.52 amendments) provided a perspective on Charter Section 4.07 and its relationship to FMC 17.52 sections that, as the ruling described, "purport to vest the Historic District Commission with the power to act on behalf of the City, without oversight or ratification by the City Council ... [that] cannot be squared with the Charter's limitation that the Commission's power is 'only advisory.'" The City Council's October 28, 2025, approval of the FMC 17.52 amendments was made prior to the court's October 31, 2025, final ruling on the 603 Sutter Street project. Although the court's ruling pertained only as applied to the 603 Sutter Street project, I suggest that any re-adoption of FMC 17.52 amendments that in any manner modify or expand the HDC's final authority role be carefully considered in light of the ruling.

While City Charter section 4.07 is properly read as restricting the HDC to an advisory role, I do not think that discounts the value of the HDC or other commission's role in design review. The Project amendments wrest far too much design review role from the HDC and reassign that role to the CDD Director. Although I have disagreed with certain decisions made by the HDC in recent years, design review performed by a *commission* through a public hearing provides for a more comprehensive perspective on design considerations, allows for a more formal and visible public noticing and public comment process, eliminates one-on-one influence, and improves design review decision-making. Often, the HDC considers staff recommendations, discusses design adjustments with staff and applicants, and modifies staff's recommendations to ensure design is more appropriate for the Historic District.

This is the very mechanism that, in 1998, City decision-makers decided was appropriate for the Historic District – with a *commission* performing design review not only for properties specifically identified on the City's list of historic properties, but for all properties, buildings, and other structures throughout the Historic District – where all properties contribute to the historic character of the entire Historic District that FMC 17.52 and the DDGs are intended to protect.

With all due respect to the CDD director and staff, shifting much of the design review away from the HDC and to the CDD director, especially in the absence of establishing some minimum qualifications for the director or staff to perform such review, is a substantial shift from the process implemented in 1998 and stands to diminish protection of the Historic District. The Planning Commission has this opportunity to indicate your perspective on the value and benefits of commission reviews, and I hope you will express support for retaining the design review role by a commission and not by staff for all but truly minor Historic District projects.

The remainder of this letter addresses issues in more detail, but I encourage the Planning Commission to recommend that the City Council rescind Ord. 1353 and restore FMC 17.52 to its prior content, allowing for a more thorough review process of any subsequent amendments.

1. FMC 17.52 and DDG Background

Several of the Project amendments to FMC 17.52 either omit or alter design review and demolition review responsibilities. The amendments create internal inconsistencies within FMC 17.52 with regard to the scope and responsibilities for design review and create inconsistencies between FMC 17.52 and the DDGs. The purpose and intent of FMC 17.52 and the DDGs are important for understanding the baseline conditions to which any amendments to FMC 17.52 must be compared to understand the effects of any amendments. Some background is provided here for the Planning Commission's consideration.

On July 14, 1998, the City Council adopted Ordinance No. 890 which, among other things, rewrote FMC Chapter 17.52, established the HDC, and established Historic District primary and subarea boundaries in which specialized use and development standards apply. As stated in FMC 17.52.010,¹ "Purpose and intent," among the express purposes of FMC Chapter 17.52 are,

1. To preserve and enhance the historic, small-town atmosphere of the Historic District as it developed between the years 1850 and 1950;
2. To maintain, restore, and reconstruct historic structures and sites within the Historic District;
5. To ensure that new residential and commercial development is consistent with the historical character of the Historic District as it developed between the years 1850 and 1950; and
6. To increase the awareness, understanding, and appreciation of the history of the City.

As adopted in 1998 and unmodified by the Project amendments, FMC 17.52.120(G) establishes that the HDC is to "[r]eview the design and architecture of any new structure, or alteration to any existing structures within the historic district," and FMC 17.52.330(B) anticipated that as part of the HDC's design review the HDC would consider criteria including "conformance with any...historic District design and development guidelines adopted by the city council."

Three months later, on October 13, 1998, the City Council adopted the *City of Folsom Historic District Design and Development Guidelines* (Resolution No. 5757) ("DDGs")² to provide a comprehensive document to assist with the implementation of the regulations and standards contained in FMC 17.52. The DDGs are not perfect, but they offer extensive and beneficial guidance for development in the Historic District.

Section 1.01, "Intent," of the DDGs explains,

the City Council elected to adopt Historic District Design and Development Guidelines (hereafter the "Design and Development Guidelines") in conjunction with amendments to Chapter 17.52 of the Folsom Municipal Code (hereafter

¹ The attachment to your staff report includes only excerpts of the amended sections of FMC 17.52, but I urge the Planning Commission to obtain and consider the full chapter since several unamended sections are also important for understanding the amendments. An online version, as amended, is here:

<https://www.codepublishing.com/CA/Folsom/#!/Folsom17/Folsom1752.html#17.52>

² The 1998 "Historic District Design and Development Guidelines" ("DDGs") are incorporated by this reference in their entirety. At the time of preparation of this letter, the DDGs are available to the public on the City of Folsom website at:

Main Document: <https://www.folsom.ca.us/home/showpublisheddocument/23554/639038904142800000>

Appendix A, Historic Resources: <https://www.folsom.ca.us/home/showpublisheddocument/23556/639038904870370000>

Appendix B, Visual Resources: <https://www.folsom.ca.us/home/showpublisheddocument/23558/639038904877770000>

Appendix C, Environmental Resources: <https://www.folsom.ca.us/home/showpublisheddocument/23560/639038904884700000>

Appendix D, Design Criteria: <https://www.folsom.ca.us/home/showpublisheddocument/23562/639038904905270000>

Appendix E, Historic District Circulation Plan: <https://www.folsom.ca.us/home/showpublisheddocument/23564/639038904914600000>

“Chapter 17.52”). By adopting the Design and Development Guidelines, the City Council intends to provide a comprehensive policy manual to assist with the implementation of the regulations contained in Chapter 17.52 of the Folsom Municipal Code. The goals, policies, and programs which have guided the preparation of this document and which are to be used in implementing Chapter 17.52 are enumerated in detail in Section 2.01 of this document. In addition to providing design review standards, the City Council intends to set forth in this document criteria that will guide further development within the Historic District. These Design and Development Guidelines provide policy direction concerning private and public development within the Historic District, as well as policy direction concerning public infrastructure and circulation improvements.

(DDGs, p. 1-1.)

The DDGs further explain the City Council’s purpose and intent for FMC 17.52 and the DDGs to work in combination for protection of the historical character of the entirety of the Historic District and not solely focused on protection of certain individual properties deemed historically significant,

Historic Folsom is also a representative example of the development of many small towns across the American West, and this legacy is likewise worthy of preservation, interpretation, and re-creation. While modern developments consist of carefully integrated architecture, materials, and site plans, protected by Design and Development Guidelines and CC&R's against discordant future construction, traditional development was more varied and occurred on a lot-by-lot basis. In conjunction with the regulations imposed by Chapter 17.52 of the Folsom Municipal Code, the Design and Development Guidelines limit future construction in Historic Folsom to the architectural styles extant in California from 1850 to 1950, a limitation intended to encourage the diversity which is the charm of old Folsom while preventing construction of modern buildings which would be discordant. While there are only a few structures within Historic Folsom which are individual architectural stand-outs, the homes and buildings, when taken together, evoke the feeling of life in small-town America, an aspect often ignored by history books and preservation efforts. By the adoption of Chapter 17.52 and these Design and Development Guidelines, the City Council seeks to preserve that image.

(DDGs, Section 1.01, pg. 1-2.)

The DDGs include goals and policies pertaining to Historic District design review including,

GOAL 1: Community Identity: To preserve and enhance the historic, small-town atmosphere of the 98-block Historic District area.

Policy 1.4: Since the Historic District plays a central role in determining the character of the City of Folsom, **every project within the Historic District, at every stage of approval and construction**, should be marked by an attention to quality which will serve as a benchmark to the rest of the community.

GOAL 6: New Development: To ensure that new residential and commercial development is consistent with and enhances the historical character of the historic district.

Policy 6.1: New development shall conform to architectural and infrastructure standards of Chapter 17.52 of the Folsom Municipal Code and these Design and Development Guidelines.

Additionally, the DDGs assign demolition review for all existing structures in the Historic District to the HDC, stating,

Policy 6.3: Demolition of existing structures located in the Historic District shall require approval of the Historic District Commission, which shall consider 1) whether the public health, safety and/or welfare warrant the demolition; 2) what accommodation can be provided to the owner of the property to make it feasible to preserve the property or structure; 3) whether the owner of the property is willing to sell the property or structure to a buyer who wishes to preserve it; and 4) whether a public entity wishes to acquire the property or structure in order to preserve it.

The DDGs are not simply an afterthought of niceties, they were developed as an integral part of the vision established by the City Council in 1998 for the preservation and protection of the Historic District.

As described section 1.03, "CEQA Compliance," of the DDG's,

The City conducted environmental review of a proposed Historic District Specific Plan. Due to the nature and complexity of the Plan and the projects which will follow under it, a Master Environmental Impact Report (MEIR) was prepared. The City Council ultimately elected to implement zoning changes to Chapter 17.52 of the Folsom Municipal Code and design standards through the adoption of these Design and Development Guidelines. Many of the provisions of the proposed Historic District Specific Plan and the amendments to Chapter 17.52 are contained within these guidelines. Accordingly, the City Council relied upon the MEIR for evaluation and consideration of environmental impacts.

Thus, the 1998 FMC 17.52 and DDGs were intended not simply as preferred land use regulations for the Historic District, but also incorporated provisions and mitigation identified through the California Environmental Quality Act ("CEQA") process as necessary to protect the character and quality of the Historic District. The City has all but ignored the fact that a comprehensive CEQA process was conducted prior to the adoption of FMC 17.52 and the DDGs.

Through that process, the City not only included provisions in FMC 17.52 and the DDGs to avoid or minimize adverse effects of development in the Historic District, but also identified several mitigation measures, including the following pertaining to inadvertent discovery of cultural resources:

Should any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains be encountered during any development activities, work shall be suspended and the City of Folsom shall be notified. The City shall consult with a qualified archaeologist to determine if the encountered resources are "important" cultural resources within the definition of CEQA Appendix K. The consulting archaeologist shall develop, if necessary, further mitigation measures consistent with CEQA Appendix K to reduce any cultural resource impact less than a significant level.

(Folsom Historic District Specific Plan, Mitigation Monitoring Program, January 21, 1998. State Clearinghouse Number: 95032066, pg. 9.)

I am uncertain of the ultimate disposition of the Mitigation Monitoring Program and the City provides no discussion of the previous CEQA effort in its current evaluation. However, the City has consistently included similar inadvertent cultural resources discovery provisions as conditions of approval for design review projects that involve ground disturbance in the Historic District. Yet, staff reports for the Project provide no explanation of how projects involving ground disturbance in the Historic District that will now be exempt from design review will still somehow be required to implement inadvertent cultural resources discovery protocols or, if such projects will not be required to implement these protocols, how impacts to cultural resources that may be present within a development footprint will be avoided or otherwise mitigated.

2. The Project Eliminates Design Review for All Non-Building Structures

Prior to the FMC 17.52 amendments approved by the City Council in October 2025, FMC 17.52.300 specified that the HDC was to perform design review of all proposed new or modified *structures* in the Historic District. Since there was no other design reviewer identified, it was very clear that any design review requirement discussed in any section of FMC 17.52 fell squarely on the HDC.

However, under the amended FMC 17.52.300, design review function is divided between the HDC and the CDD Director with each of their design review roles prescribed for only various types of *buildings*, such that any *structure* that does not also fit the definition of *building* is no longer subject to design review by either the HDC or CDD Director. (See PC 6/17/26 Packet pages 1347-1348 where FMC 17.52.300(A) provides for HDC design review of certain projects in which all previous references to “structures” are stricken and replaced with the more limited term “buildings” and FMC 17.52.300(B) provides for CDD Director design review of all other renovations, additions, and accessory *buildings* without assigning design review authority for review of non-building *structures*.)

FMC Chapter 17.02 “Definitions,” defines these terms:

17.02.090 Building. “**Building**” means any structure having a roof supported by columns and/or by walls and intended for the housing or shelter of any person, animal or chattel.

17.02.400 Structure. “**Structure**” means anything constructed or erected upon the ground or attached to a structure having location on the ground.

The definition of “structure” is very broad while the definition of “building” is much narrower (if not also subjective and awkward). All buildings are structures, but many structures are not buildings.

Eliminating design review of non-building structures is a substantial new limitation to the design review provisions of FMC 17.52. Staff describe that the amendments exempt only “certain very small projects from design review,” yet staff seemingly fail to recognize that *all* non-building structures, regardless of size, would no longer subject to design review under the amended language. The amended FMC 17.52.300 establishes that certain new or modified *buildings* are subject to HDC review and that other new or modified *buildings* are subject to CDD review, but contains no provisions for any design review of non-building structures neither by the HDC nor the CDD Director.³

³ The CDD website identifies that design review is required for certain types of non-building structures (e.g., landscape features depending on size/location, pools and spas depending on location), however, the amended FMC

Moreover, the FMC 17.52.300 amendments conflict with other sections of FMC 17.52 not amended by the Project. For instance, FMC 17.52.120 specifies duties of the HDC which include, “G. Review the design and architecture of any new *structure*, or alteration to any existing *structures* within the historic district, as further defined in this chapter,” yet, with the FMC 17.52.300 amendment, neither the HDC nor the CDD Director has authority to review any new or altered non-building structure. Additionally, FMC 17.52.400 specifies that “design review is required for all new *structures* and alterations to existing *structures*,” yet, as amended, FMC 17.52.300 no longer provides any role for either the HDC or CDD to perform design review for non-building structures.

In making any recommendation to the City Council, I think it is critical that the Planning Commission fully understand the implications of the elimination of design review for non-building structures. Staff’s incorrect premise that only “certain very small projects” would be exempt from design review cannot be reconciled with the actual language and effects of the amendments that eliminate design review authority for all non-building structures.

The City needs to either restore design review of non-building structures or the City’s analysis of the Project and its potential effects on the character of the Historic District must include consideration of the effects of eliminating design review for all non-building structures.

3. CEQA Compliance

On October 28, 2025, when the City Council adopted Ord. 1353 amending FMC 17.52 (“Project”), Council determined the Project was exempt from CEQA review because the Project was “process related and administrative in nature” and therefore qualified for the CEQA Guidelines § 15061(B)(3) “commonsense” exemption.

Prior to the Council’s approval of the Project, I submitted comments opposing the Project and providing explanation and evidence that the Project would have the potential to result in significant impacts to the historic character of the Historic District and that the Project did not qualify for a CEQA exemption.⁴ Others, including those involved in developing FMC 17.52 and the DDGs in the 1990s, also expressed concerns and provided comments to staff, the HDC, and the City Council prior to approval of the Project.

After requesting in November 2025 that the Council rescind Ord. 1353 and after allowing nearly six months for the Council to do so, on April 23, 2026, I filed a petition for writ of mandate with the Superior Court of the State of California, County of Sacramento (Case No. 26WM000118), challenging the City’s approval of the Project with a CEQA exemption. That lawsuit is the obvious catalyst for the City’s current effort to re-approve the Project and assert additional grounds for exempting the Project from CEQA review. Yet, the CEQA arguments that the staff report now presents to the Planning Commission (PC 6/17/26 Packet, pp. 1316-1320) misconstrues the Project and does not provide substantial evidence that the Project qualifies for one or some combination of CEQA exemptions.

The staff report argues that the Project is eligible for the CEQA Guidelines 15061(b)(3) “commonsense” exemption and also attempts to overlay or incorporate other CEQA exemptions in arguing that environmental review of the Project is not required. As discussed below, the Project does not qualify for the 15061(b)(3) exemption and the City’s attempt to bolster its

17.52 provides no authority for any such design review since these features are not *buildings* and the CDD exceeds its authority if it exercises design review over non-building structures.

⁴ See PC 6/17/26 Staff Report, pp. 1423-1453, for comment letters to the Council dated October 14, 2025, and October 28, 2025.

rationale fails. With or without application of additional CEQA exemptions, the Project does not qualify for the 15061(b)(3) exemption. Additionally, the staff report's attempt to assign a CEQA exemption to certain aspects of the Project as ministerial is misguided. The Project clearly involves discretionary decision-making and CEQA Guidelines expressly state, "[w]here a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA." Also, the staff report's attempt to assign categorical exemptions to the Project or portions of the Project is also misguided. The Class 1 and Class 3 categorical exemptions asserted in the staff report might be applicable to certain discretionary approvals in the Historic District, but they are inapplicable to the City's consideration and approval of the Project because the Project is a zoning ordinance amendment and is not a decision to approve modifications to existing facilities, small structures, or any other facilities or structures. Moreover, after introducing these two irrelevant categorical exemptions, the staff report attempts to discuss whether any *exceptions* to these exemptions apply. Yet, because the Project does not involve any specific development and the Class 1 and 3 exemptions cannot be applied to the Project, there is neither current relevance nor a basis to conclude that the exceptions to the exemptions would not apply to specific development subject to FMC 17.52.

3.1 The Project does Not Qualify for the Commonsense Exemption

The CEQA Guidelines 15061(b)(3) exemption can be applied only, "[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." In claiming this exemption, the City must provide substantial evidence for how the proposed FMC 17.52 amendments would have **no possibility** of a significant impact. The City Council's October 2025 approval of the Project rested on the assertion that "the proposed code amendment is *process related and administrative in nature* and therefore will not have a significant effect on the environment," and does not consider the implications of eliminating certain projects from design review and other changes in design and demolition review processes that would result from the Project amendments.

In attempting now to substantiate the Project's qualification for the 15061(b)(3) exemption, the staff report asserts that, "[t]he ordinance amendments proposed for re-adoption do not have the potential to cause a significant effect on the environment," and that the Project's exemption of "certain very small projects from design review" would not have potential to cause any significant impacts on the environment. The staff report also discusses that "several of the project types exempted from design review are required to be located in side or rear yards for the exemption to apply." (PC 6-17-26 Packet p. 1317.)

The staff report's arguments do not address substantial evidence indicating the potential for significant impacts and does not provide substantial evidence that the Project would have no possibility of a significant impact precluding the Project from the 15061(b)(3) exemption.

3.1.1 Elimination of Design Review for All Non-Building Structures

As discussed above in Section 2 of this letter, prior to the Project amendments, FMC 17.52.300 specified that the HDC was to have final authority over all new office, industrial, commercial, and residential *structures*, and all exterior renovations, remodeling, modification or addition to existing *structures*. Under the amended FMC 17.52.300, design review function is divided between the HDC and the CDD Director with each of their design review roles prescribed only various types of *buildings*, such that any *structure* that does not also fit the definition of *building* is no longer subject to design review by either the HDC or CDD Director.

Without a designated body and process, design review of non-building structures is effectively eliminated from FMC 17.52. With the Project amendments, the list of exempt non-building structures in FMC 17.52.300(C) represents only a small subset of the types of non-building structures for which design review will not be performed as a result of the Project.

The staff report and staff's assessment of potential impacts of the Project does not mention or assess the impacts of eliminating design review of all non-building structures and, thus, fails to provide evidence that the Project's elimination of design review for all non-building structures would have no possibility of a significant impact.

The elimination of design review for all non-building structures eliminates design review of many types of new and modified structures (e.g., privacy walls, retaining walls, fences, decks, pools/spas, play equipment, courtyards, exterior street-to-sidewalk stairways and railings, amphitheaters, bridges, public restrooms, mechanical equipment, roads, bike paths, sidewalks... all of which meet the definition of "structures" under the FMC 17.02.400) and any of which would have the potential to be inconsistent with the Historic District character if developed without going through the FMC 17.52 and DDGs design review process.

The elimination of design review of non-building structures would also eliminate any discretionary review of many such structures, and would provide no mechanism for the City to impose standard conditions of approval that are used mitigate impacts, including the standard condition pertaining to inadvertent cultural resources discovery discussed above in Section 1 of this letter.

3.1.2 Exempting Privacy Walls and Fences

Even if design review were restored for most structures, the exemption of privacy walls and fences would still have the potential for adverse effects on the Historic District character and quality and its individual historical and contributing resources.

The staff report asserts that, "[s]everal of the very small projects, including like-for-like structural replacements, residential re-painting, privacy walls/fences, and solar panels were already not going through design review based on the City's consistent past practice and thus, would not result in any change from baseline conditions for those projects."

Regardless of how baseline conditions might be defined for future review of a particular proposed structure, such as a privacy wall or fence, the relevant CEQA baseline for consideration of the potential environmental effects of the Project is the specifications of FMC 17.52 as it existed prior to the Project amendments. Under that appropriate baseline condition, FMC 17.52 provided for HDC design review of fences and all other new and alterations to existing structures, stating in FMC 17.52.400, "Design standards,"

A. The design standards specified in Sections 17.52.410 through 17.52.590 shall be applicable to all new structures and alterations to existing structures within the historic district. ***Design review is required for all new structures and alterations to existing structures, unless otherwise specified in this chapter.***

Unmodified by the Project amendments, FMC 17.52.430 – 17.52.480 provide objective standards for certain types of non-building structures⁵ and specify when certain sizes and/or locations of structures are not subject to design review. For instance, FMC 17.52.460 specifies objective standards for play equipment and exempts play equipment smaller than 120 square feet

⁵ e.g., 17.52.430 Decks, 17.52.440 Fences, 17.52.450 Landscape features, 17.52.460 Play Equipment, 17.52.470 Swimming Pools and Spas, 17.52.480 Accessory Structures.

or below fence height from design review; whereas FMC 17.52.440, “Fences,” specifies objective design standards for fence height without providing an exemption from design review. By a plain read of the text it is undeniable that, prior to the Project amendments, FMC 17.52 required design review for all structures, including fences. The Project amendments to FMC 17.52 that include “privacy walls and fences” on a list of features exempt from design review must be compared to the existing condition baseline under which design review was required by FMC 17.52.

The staff report’s assertion that fences and other types of structures “were already not going through design review based on the City’s consistent past practice” might reveal some deficiency of the City to actively implement FMC 17.52’s design review provisions for fences, but does not establish the relevant baseline for consideration the Project’s potential effects.

The City Police Department, from time to time and for various reasons, may not always actively enforce speed limits on City streets, but that does not negate the beneficial effect and value of maintaining posted speed limits on City streets, nor does it mean that speed limits could be abolished with no effect on driver behavior. Similarly, that any given time the CDD may not be actively performing/enforcing the required design review for certain types of projects does not negate the benefits of maintaining design review requirements in FMC 17.52.

Were individual property owners in the Historic District to build privacy walls or fences without first obtaining design review approval, those property owners would nevertheless be influenced by the risk of non-compliance and incentivized to design the structure consistent with Historic District character (akin to a driver heeding speed limits even in the absence of police enforcement). Moreover, the design review requirement for fences provides a mechanism through which the City could take enforcement action for a property owner’s failure to obtain a design review approval and remedy an inappropriate fence design. Without a design review requirement, the City has no mechanism or ability to enforce restrictions on inappropriate fence design.

Section C of Appendix D of the DDGs provides Historic Residential Design Criteria, and specifies the following design provisions for walls and fences:

Walls and fences. Materials of walls and fences shall reflect the style and character of the building and its site. Where large expanses of blank building wall, retaining wall or fencing are unavoidably exposed, they should be screened with upright shrubs or trellised vines. Trellises are to be constructed of substantial, durable materials, but may incorporate redwood lath lattice. **Inappropriate materials such as chainlink, split rail, and other non-historic fencing materials are not permitted.**

(DDGs, Appendix D, p. 55.)

Without establishing specific design requirements for fence design, the DDGs section above provides guidance for the City’s design review of walls and fences. Thus, the Project’s elimination of design review of walls and fences effectively eliminates all regulation and related incentives for individual property owners to achieve wall and fence design compatible with the Historic District character.

Exempting, “privacy walls and fencing” from any design review requirements would have the potential to be detrimental to the historical character of the Historic District. Even attractively designed privacy walls or fencing could be substantially inconsistent with, and diminish the historical character of, the Historic District. The development of unregulated out-of-character

walls and fences would have the potential to result in – in individual instances and cumulatively over time - a significant adverse impact on the historical character of the Historic District.

The City-adopted DDGs explain as pertains to “Fences, Landscape Features, and Play Equipment,”

Besides safety, the City's purpose in regulating fences and landscape features is primarily to inform property owners of the impact such construction has on the historical and aesthetic character of a home or neighborhood and to seek voluntary support of the community goal of preserving and enhancing the character of the Historic District. Preference in any required review will be toward granting the property owner's request unless it is unsafe or the effect on the character of the Historic District would be notably deleterious. (DDGs section 4.04.)

Pertaining specifically to “Fences” the DDGs explain the City’s 1998 affirmation that, “[f]ences are a significant contributing factor to a home's or neighborhood's character.” (DDGs section 4.04.01.) Notwithstanding the documented importance of design review for walls and fences as expressed in the DDGs adopted by the City Council in 1998, during the Project review process, the City has yet to directly acknowledge the adverse effects that incompatible fence design could have on the historical quality and character of the Historic District.

When adopting the Project’s list of “minor modifications” to be exempt from design review, the City included, “e. privacy walls and fencing, *excluding chain link, which is not allowed.*”

If the City’s position is that fence design does not have the potential to adversely affect the character of the Historic District, it is unclear why the City would attempt to *mitigate* the wall and fence exemption by including a prohibition of chain link fence.

In fact, the CDD has identified “appropriate” and “inappropriate” fence types for the Historic District. As reproduced in the table below, the City’s Historic District Resources website identifies 12 types of fences as “Inappropriate” for the Historic District and lists 10 types of fence types as “Appropriate” with 3 of the “Appropriate” types noted as “Except for Historic Properties.”

City of Folsom, Historic District Resources Website List of <i>Appropriate</i> and <i>Inappropriate</i> Fence Types	
Appropriate Fence Types	Inappropriate Fence Types
Wood Picket Fences	Chain Link
Vertical or Horizontal Board Fences (Min. 30% opening, or Staggered Boards)	Chicken Wire
Classic Wire Mesh (3” x 6”)	Barbed Wire
Solid Wood (Rear Yard Only)	Plywood
Brick and Mortar	Masonite
Stone and Mortar	Cedar Post and Rail
Treated Wood	Grape Stake
Cinderblock Wall (Except for Historic Properties)	Split Rail
Railroad Tie Fencing (Except for Historic Properties)	Cyclone
Poured or Finished Concrete Wall (Except for Historic Properties)	Snow Fence
	Bamboo or Matting
	Plastic or Vinyl
Source: City of Folsom, Historic District Resources website, “Residential Fencing” dropdown at: https://www.folsom.ca.us/government/community-development/planning-services/historic-district-resources/ . June 9, 2026.	

The staff reports prepared for the Project do not mention this list nor explain why, with a list of 12 fence types that CDD considers “inappropriate” for the Historic District and an additional 3 types that CDD has somehow determined are only inappropriate for historic properties, only *chain link* fence warrants a prohibition nor do the staff reports explain how such a prohibition will be enforced. Yet, with a dozen identified by CDD as “Inappropriate Fence Types,” in adopting the Project amendments to FMC 17.52, staff and the City Council somehow determined that only chain link need to be prohibited.

Even were a prohibition on chain link fence sufficient to *mitigate* the impact of exempting privacy walls and fences from design review, such a mitigation would run afoul of CEQA case law establishing that,

[r]eliance upon mitigation measures (whether included in the application or later adopted) involves an evaluative process of assessing those mitigation measures and weighing them against potential environmental impacts, and that process must be conducted under established CEQA standards and procedures for EIRs or negative declarations.

(*Salmon Protection and Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098)

Thus, if the prohibition on chain link fence was necessary to *mitigate* the impacts of exempting fences from design review or if the City thinks the impact can be mitigated by providing an advisory list of inappropriate fence types on its website, the Project is disqualified from any CEQA categorical exemption.

Given the Project’s elimination of design review for all non-building structures, including but not limited to the express exemption from design review of fences and other structures having the potential for deleterious effects on the quality and character of the Historic District, the Project does not qualify for the CEQA Guidelines 15061(b)(3) exemption and no combination of additional CEQA exemptions or mitigation measures can intervene to exempt the Project from CEQA review.

3.2 The Project does Not Qualify for a Ministerial Exemption

The staff report quotes CEQA Guidelines § 15268(a) stating, “Ministerial projects are exempt from the requirements of CEQA” and the staff report then argues that “the solar panel exemption from design review is ministerial and exempt from the requirements of CEQA,” that “the design review exemption for certain ADUs [accessory dwelling units] is ministerial and exempt from the requirements of CEQA,” and that, “to the extent that a building permit is required for installation of a fence or any of the other minor modifications exempt from design review under FMC Section 17.52.300(C)(1), such approvals are ministerial in nature and as such are exempt from the requirements of CEQA.” (PC 6/17/26 Packet p. 1318.)

In making these arguments the staff report confuses potential future activities and actions with the current Project. The Project involves a *discretionary* action by the City which is the amendment of FMC Chapter 17.52. The Project is not approval of a solar facility, nor approval of an ADU, nor the issuance of a building permit for installation of a fence or other structure. That future activities or projects may or may not be limited to ministerial decision-making at such time as each is proposed is irrelevant to assessing whether the Project qualifies for a ministerial project exemption.

Moreover, even if there were some element of ministerial decision-making involved in the Project, CEQA Guidelines § 15268, “Ministerial Projects,” at subd. (d) definitely establishes,

- (d) Where a project involves an approval that contains elements of *both* a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

Although state law may limit or preclude the City from performing discretionary design review of certain future development projects or other activities, the Ministerial Projects exemption is unavailable to the Project.

3.3 The Project does Not Qualify for a Class 1 Categorical Exemption

The staff report discusses the Class 1 Categorical Exemption of CEQA Guidelines 15301, describing that, “[u]nder Section 15301 of the CEQA Guidelines, the Class 1 exemption “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use,” and argues that, “[t]his proposed ordinance’s exemption for very small projects falls under this Class 1 CEQA exemption.” (PC 6-17-26 Packet p. 1318.)

In making this argument the staff report confuses potential future approvals for some unidentified existing facility with the current Project. The Project is the amendment of FMC 17.52. The Project does not involve an approval associated with an existing facility and the Class 1, “Existing Facilities,” categorical exemption is inapplicable to the Project.

The City will undoubtedly consider future discretionary approvals for many types of existing facilities in the Historic District and will likely make valid determinations that some of those approvals are exempt from CEQA under the Class 1 exemption. However, whether such projects may or may not qualify for the Class 1 exemption is a matter to be determined when such a project is proposed and, at that time, will require assessment of the particular factors of the project. Moreover, as part of that assessment, the City needs to consider whether any of the CEQA Guidelines 15300.2 *exceptions* apply and preclude the use of a Class 1 exemption, and such an assessment cannot be performed until a potentially eligible Class 1 project is proposed (see *Exceptions to the Exemptions* section below for additional discussion).

Additionally, the staff report seemingly confuses the two separate factors of: 1) whether a proposed new or modified structure in the Historic District can be *exempt from design review* without resulting in or contributing to degradation of the Historic District character and quality and 2) whether that project might be *exempt from CEQA*. The vast majority of design reviews performed in the Historic District are for projects that the City determines are exempt from CEQA. But those projects are not – or at least in the past have not been – exempt from design review. Design review of all structures as required by FMC 17.52 prior to the Project amendments serves the purpose established by FMC 17.52 and detailed in the DDGs. In fact, performing design review for a particular new or modified structure in the Historic District is a key step that often enables City decision-makers to determine that the new or modified structure, as conditioned through the design review process, qualifies for a CEQA categorical exemption without triggering the Historical Resources exception to the exemption.

3.4 The Project does Not Qualify for a Class 3 Categorical Exemption

The staff report discusses the Class 3 Categorical Exemption of CEQA Guidelines 15303, describing that, “[u]nder section 15303 of the CEQA Guidelines, projects consisting of “construction and location of limited numbers of new, small facilities or structures;

installation of small new equipment and facilities in small structures...”, and argues that, “the ordinance amendment’s exemption of fences, hot tubs, outdoor kitchens, and patios qualify for the Class 3 Categorical Exemption under CEQA, in addition to the Common Sense exemption.” (PC 6-17-26 Packet p. 1319.)

In making this argument the staff report confuses potential future approvals for some unidentified new construction or conversion of a small structure with the current Project. The Project is the amendment of FMC 17.52. The Project does not involve an approval associated with a new or proposed conversion of a small structure, thus, the Class 3, “New Construction or Conversion of Small Structures,” categorical exemption is inapplicable to the Project.

The City will undoubtedly consider future discretionary approvals for many types of small structures in the Historic District and will likely make valid determinations that some of those approvals are exempt from CEQA under the Class 3 exemption. However, whether such projects may or may not qualify for the Class 3 exemption is a matter to be determined when such a project is proposed and requires assessment of the particular factors of the project. Moreover, as part of that assessment, the City would need to consider whether any of the CEQA Guidelines 15300.2 *exceptions* apply and preclude the use of a Class 3 exemption, an assessment that cannot be performed until a potentially eligible Class 3 project is proposed (see *Exceptions to the Exemptions* section below for additional discussion).

Additionally, the staff report seemingly confuses the two separate factors of: 1) whether a proposed new or converted small structure in the Historic District can be *exempt from design review* without resulting in or contributing to degradation of the Historic District character and quality and 2) whether that project might be *exempt from CEQA*. The vast majority of design reviews performed in the Historic District are for projects that the City determines are exempt from CEQA. But those projects are not – or at least in the past have not been – exempt from design review. Design review of all structures as required by FMC 17.52 prior to the Project amendments serves the purpose established by FMC 17.52 and detailed in the DDGs. In fact, performance of design review for a particular new or modified structure in the Historic District is a key factor that then enables City decision-makers to determine that the new or modified structure, as conditioned through the design review process, qualifies for a CEQA categorical exemption without triggering the Historical Resources exception to the exemption.

3.5 The Question of Exceptions to Categorical Exemptions is Moot and Staff’s Conclusion is Not Supported by Substantial Evidence

The staff report asks the Planning Commission to recommend that the City Council find, among other things, that none of the CEQA Guidelines 15300.2 *exceptions* to categorical exemptions apply. However, neither the Class 1 nor the Class 3 categorical exemptions identified in the staff report can be applied to the Project for reasons explained above, and the question of whether any exceptions to the exemptions is therefore moot. Nevertheless, additional discussion is provided here in response to the staff report.

3.5.1 Unusual Circumstances

CEQA Guidelines §15300.2(c) provides, “A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” CEQA does not define the term “unusual circumstances,” but case law has held that an *unusual circumstance* refers to

“some feature of the project that distinguishes it” from others in the exempt class. (*Fairbank v. City of Mill Valley*, (1999) 75 Cal. App. 4th 1243, 1259.)

The staff report states that “the ordinance amendments do not involve any unusual circumstances, because creating different levels of design review within a municipality’s administrative processes is a common-place feature of municipal government, and as explained above, these changes will not have any significant effects on the environment.” (PC 6/17/26 Packet p. 1319) This discussion in the staff report further emphasizes the fact that the Project does not fit within either the Class 1 or Class 3 exemption.

The staff report’s statement that “creating different levels of design review within a municipality’s administrative processes is a common-place feature of municipal government” may be accurate but has nothing to do with a comparison of the Project to the circumstances of a typical Class 1 or Class 3 project. In fact, the Project’s circumstances are inherently *unusual* as judged relative to the typical circumstances of projects fitting either the Class 1 or Class 3 exemption, because the Project is an amendment to a zoning ordinance applicable to the entirety of Folsom Historic District.

If the unusual circumstances tail needs to be chased even further, then it is also worth noting that Project’s unusual circumstance as compared to Class 1 and Class 3 projects does create the potential for significant impacts that would not be typical of the types of impacts associated with a Class 1 or Class 3 project, because the Project involves amendment of a zoning code regulating development and demolitions in a Historic District whereas the typical Class 1 and Class 3 project does not create or amend a zoning ordinance pertaining to a historic district.

Thus, even if through some abstract theory the Project were to qualify for a Class 1 or Class 3 exemption, such an exemption would be precluded due to the unusual circumstances exception whereby the Project’s unusual circumstance do result in the Project having the potential to result in adverse effects on the character of the Historic District by relaxing or eliminating design review requirements creating the potential for adverse impacts as discussed in this letter.

3.5.2 *Historical Resources and Cumulative Impacts*

CEQA Guidelines §15300.2(f) provides, “Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.” Regarding the CEQA Guidelines § 15300.2(f) historical resources exception to the exemption, in *Hillside* the Supreme Court cited *Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039 affirming the holding that once a resource is recognized as historic, “the fair argument standard applies to the question of whether the proposed project ‘may cause a substantial adverse change in the significance of an historical resource’ and thereby have a significant effect on the environment.” (*Hillside*, supra, 60 Cal.4th at 1117.)

The staff report states that, “[t]he ordinance amendments would not result in any significant cumulative environmental impact, because there is no substantial evidence in the City’s record demonstrating that the amendments would result in any significant increase in impacts in the Historic District by virtue of just changing the design review process, which still protects listed and potentially eligible historic resources.”

The staff report’s assertions fail to recognize the Project provisions that eliminate design review of non-building structures and eliminate design review of privacy walls and

fences, both of which if unregulated pose the potential to result in a substantial adverse change in the significance of individual historic resources within the Historic District and the overall quality and character of the Historic District. Thus, even if the Project were to qualify for a Class 1 or Class 3 exemption, such an exemption would be precluded due to the historical resources exception.

CEQA Guidelines 15300.2(b) provides, “Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.”

Although the staff report asserts that the project would not result in any significant cumulative environmental impact, such a notion fails to recognize the breadth of the Project and the staff report’s discussion does not provide any basis for cumulative circumstances that were considered in making its conclusion.

The Project amendments to FMC 17.52 alter and reduce the design review and other roles of the HDC, eliminate design review provisions for all non-building structures, and expressly exempt certain features from any design review. FMC 17.52 applies to the 98-block of Folsom’s Historic District that contains federal, state, and locally recognized historic resources and properties, commercial areas with high tourism, recreational and cultural resources access, and the Historic District is a locally important historical resource. Elimination of design review provisions for all types of non-building structures that might be developed throughout the Historic District has the potential to result in significant adverse cumulative impacts when the Project (amendments to FMC 17.52) is considered in combination with future development within the Historic District.

Moreover, as discussed throughout the staff report, there are several types of individual future projects that may be developed in the Historic District – such as solar facilities, ADUs, multi-family housing – that will be exempt from CEQA and may also be exempt from design review whether by state law or by the City’s own doing. Any consideration of cumulative effects of FMC 17.52 amendments must account for the potential for such developments to occur without design review and reflect the expanded importance of design review.

Thus, even if the Project were to qualify for a Class 1 or Class 3 exemption, such an exemption would be precluded due to the cumulative impacts exception and the City has provided no meaningful evidence or assessment of these potential cumulative impacts.

3.6 *Public Resources Code section 21080.35 Exemption*

The staff report states that, “[t]he ordinance amendments are statutorily exempt from CEQA review under Public Resources Code section 21080.35, which states in pertinent part that CEQA ‘...does not apply to the installation of a solar energy system on the roof of an existing building or at an existing parking lot.’” ... “To the extent the ordinance amendments apply to solar panels on the roof of an existing building or at an existing parking lot, they are exempt from CEQA under this statute. Staff has not seen and does not anticipate receiving applications for the installation of solar panels on property within the Historic District that include a proposal to install solar panels anywhere other than the roof of an existing building or at an existing parking lot.” (PC 6/17/26 Packet, p. 1320.)

The Project does not involve development or approval of a solar energy system and this statutory exemption is inapplicable as an exemption for the Project.

4. Readopting Amendments to Chapter 17.52 will Restart a 90-Day Statute of Limitations for a Challenge of Provisions that Purport to Give Final Approval Decision to the HDC in Conflict with the City Charter

When the City Council adopted the FMC 17.52 amendments on October 28, 2025, a final ruling was pending in a separate matter, *Delp v. City of Folsom, et al.* (Superior Court of California, County of Sacramento, Case No. 23WM000125) involving two causes of action, the second of which involved Delp's request for declaratory relief pertaining to Folsom City Charter Section 4.07's limitation on the authority of the Historic District Commission as pertains to the 603 Sutter Street Mixed-Use project that was subject to that litigation. On October 31, 2025, the Court issued its final ruling. With regard to the HDC approval authority, as pertains to the 603 Sutter Street project design review, the Court found that the City's interpretation of Charter Section 4.07 was "entirely unreasonable," and that,

As the plain language of Section 4.07 provides, the City's authority to prescribe the "powers and duties" of other boards and commissions, like the Historic District Commission, is limited by the provision that "All boards and commissions only shall be advisory to the Council."

and that,

the City exceeded the limitations of its Charter to the degree it authorized the Historic District Commission to exercise final approval authority over the Project. The FMC purports to grant the Historic District Commission "final authority relating to the design and architecture" of "[a]ll new office, industrial, commercial and residential structures," which includes the Project. (Pet. RJN Exh. C [RJN000060, FMC § 17.52.300.]) The FMC also purports to authorize the Historic District Commission to carry out the City's CEQA compliance with regard to the Project, directing that the Commission "shall not approve applications prior to considering the applicable environmental document and complying with the requirements of CEQA[.]" (Id. at RJN000062, FMC § 17.52.390.) Approvals by the Historic District Commission may be appealed to the City Council, as the Project was here, but the Council is not required to review them. (Id. at RJN000083-83, FMC §§ 17.52.700-720.) These provisions purport to vest the Historic District Commission with the power to act on behalf of the City, without oversight or ratification by the City Council. They therefore cannot be squared with the Charter's limitation that the Commission's power is "only advisory." The City offers no authority or argument that the Historic District Commission acted in an "advisory" capacity when it approved the Project at issue here. **Thus, the provisions of the FMC which purport to delegate final approval authority to the Historic District Commission, as applied to the Project, conflict with the City Charter.**

(Superior Court of California, County of Sacramento, Case No. 23WM000125; *Final Ruling on Submitted Matter*, October 31, 2025. Emphasis added.)

In my comments to the City Council on October 14, 2025, (6/17/26 PC packet pg. 1424), I urged the Council to recognize that, "any revisions to FMC 17.52 that modify or expand the purported final authority of the HDC would exacerbate the existing FMC 17.52 conflict with City Charter section 4.07," noting the proposed amendments to 17.52.360 expanding the HDC's final authority role to include "expiration and extension of [conditional use] permits," FMC 17.52.370 expanding the HDC's final authority role to include "expiration and extension of [variance]

Bob Delp - June 16, 2026

requests,” and expanding the HDC’s final authority role in acting as the appeal hearing body pursuant to FMC 17.52.700 for the proposed new design review authority of the CDD Director established by FMC 17.52.300(B).

Although a 90-day statute of limitations to challenge the expanded HDC final authority of the amendments adopted by the Council on October 28, 2025, has expired, and the ruling in Case #23WM000125 pertained to that particular project, any re-adoption of amendments to FMC 17.52 that involve a modification or expansion of HDC authority that cannot be squared with the Charter’s limitation that the HDC’s power is only advisory may be subject to legal challenge for a 90-day period pursuant to Gov. Code, § 65009, subd. (c)(1). I expect that the Project amendments could be *rescinded* to restore FMC 17.52 to its pre-2026 language without subjecting the code to potential challenge under Gov. Code, § 65009, subd. (c)(1).

Any amendments to FMC 17.52 should include changes to ensure that the roles allocated to the HDC are in accordance with the limitations imposed by Charter Section 4.07. Alternatively, the city should consider amending the FMC 17.52 appeal procedures in a manner to alleviate the issues associated with granting final authority to the HDC.

Given that the City Council is presently pursuing a ballot measure attempting to modify Charter Section 4.07, the outcome of which will be known in November of this year, it would seem prudent for the City to rescind Ord. 1353 and reinstall the pre-2026 FMC 17.52 until such time as the Council either abandons the ballot measure or until the election determines whether the Charter will be amended by the voters and what amendments to FMC 17.52 may or may not be then warranted.

5. Conclusion

I encourage the Planning Commission to recommend that the City Council rescind Ord. 1353, restore FMC 17.52 to its prior content.

Thank you for considering my comments.

Sincerely,



Bob Delp
Historic District - Folsom, CA 95630 - [REDACTED]

June 16, 2026

To: Planning Commission
From: Loretta Hettinger, vice president, Heritage Preservation League (HPL)
Re: Agenda Item #4, Re-adoption of revisions to FMC 17.52, 6-17-2026 PC hearing
Via e-mail to jbrandt@folsom.ca.us

The City is asking this Commission to take action on a project that only one of your members has been party to, a difficult position for you. The first part of Bob Delp's 6-16-2026 letter to you provides a good summary of the process which brought about the existing City regulations for the Historic District. The next part of his letter goes into the details of the CEQA issue. HPL is not writing here to argue technicalities with an array of lawyers.

Instead, HPL's goal is to support the intent of the ordinance revisions to reduce demands on staff while calling out the unintended consequences of the ordinance and then recommending a path forward that achieves both the efficiency goal and protection of the goals of the Historic District at the same time. We believe both goals are achievable but not by re-adoption of this ordinance.

This ordinance attempts too much and thus succeeds in raising more issues than the "simple" transfer of review authority from one body to another. One example is that it changes the subject matter of design review, for both staff and the Historic District Commission, by limiting such review to buildings, leaving out structures. That is a simple fix: include structures or leave out this section altogether since existing regulations are clear that structures are important and need ordinance protection. Another example is that it changes the noticing requirement for both staff and Historic District Commission review of projects.

The responsibility the ordinance places on the Community Development Director is heavy. Unmodified by this ordinance, FMC 17.52.010,5 calls out a standard that a project must be "consistent with the historical character of the Historic District", not merely "compatible," a lower standard sometimes used for less valuable structures in other jurisdictions. The ordinance charges the Director with making the call about whether a proposed project is "historical" or not, a call which determines whether staff can make the decision or whether it must be heard by the Historic District Commission—importantly also, whether it can be demolished. This provision threatens the General Plan's and zoning's goal of maintaining a historic small town. Why? Because there is no adequate standard on which to base the Director's call and because there is no requirement that there be historic preservation/architectural expertise of the Director or among the staff to attempt to "fill in the blanks" of the piecemeal standard the ordinance offers. This issue can be avoided, but first we should make clear the deficiencies of the standard. Those deficiencies reverberate throughout all the topic areas of the ordinance.

In HPL's 6-8-2026 letter to the City Council is a brief description of the difference between Folsom's historic preservation goal and that of more typical historic preservation efforts, beginning at the bottom of p. 3 and extending on p. 4. As we look at the ordinance's piecemeal standard, it is also helpful to consider Folsom's similarities to other preservation efforts as well as its difference. To preserve a building identified as an outstanding architectural example of a historic period, typical preservation regulations will require that all modifications to the building must be in keeping with its architectural style. Folsom's requirements also uphold this principle. It is not appropriate to put a ranch-style picture window in a Queen Anne Victorian building. Folsom's regulations regarding the District as a whole operate on the same principle: the District as a whole is to be afforded the same protection as an individual building within it. No

discordant elements are appropriate, whether it's an inappropriately designed building or a fence that doesn't use historic materials, or any other aspect that is visible to the public. For example, vertical curbs are historic; rolled curbs are modern and don't belong in a preserved small town. These details are just as important to the goals of preserving a historic small town as the detail of what window design is appropriate in a Queen Anne house.

We describe the ordinance's standard as piecemeal. One piece of guidance for the Director is found in section 17.52.300C1i relating to exemptions, which says the Director can deem other projects exempt if they are similar in material, design, and scope to the listed exemptions, unless they are "on the City's Cultural Resources Inventory or located on an existing or potentially eligible historic resource, as defined by the California Environmental Quality Act Guidelines section 15064.5 or the adopted City of Folsom Historic Preservation Master Plan, which are subject to historic district commission approval." So anything that this standard doesn't require to go to the Commission can be deemed exempt from review by a Director's finding that it is similar to listed exemptions. Because there is no guidance on how similar it would need to be, a Director would of course consider what is required to go to the Commission. There are very few structures listed on the City's Cultural Resources Inventory, not because there is a dearth of historic structures but because they have not been documented. The Preliminary Cultural Resources Inventory in the Historic Preservation Master Plan (HPMP) is a listing of resources that potentially meet the "contributing" standard. That list is helpful but vague and non-specific on various topics and demonstrably incomplete. For example, the Orangevale Avenue Bridge was omitted from the list and ultimately documented for the Cultural Resources Inventory because HPL and the Lincoln Highway Association brought it to the City's attention in connection with a proposed Public Works project.

So where besides these two lists would the Director look for guidance? As quoted above, the ordinance cites a CEQA Guidelines section and the HPMP. Those two define the process for determining what belongs on a register of historic places. As anyone knows who has evaluated a site for placement on a register, the documentation process is lengthy. For example, the process of preparing the documentation to put Folsom Prison on the City's Cultural Resources Inventory took a year. The CEQA process takes a comparable amount of time. The truth is that most buildings in the Historic District have not been evaluated to determine whether they are "contributing" or "non-contributing" (terms widely used in the historic preservation field and appropriately applied in the Historic District) beyond the simple fact that they are located in the Historic District. Staff clearly does not have the time to do this level of evaluation when an application is submitted, and so these provisions do not address the goal of reducing demands on staff and in fact increase their workload.

Another piece of guidance is found in section 17.52.660 A., which allows any building (again, leaves out structures, as noted above) that is not at least 50 years old to be demolished. Mere age does not determine whether a building is "contributing" or "non-contributing". Buildings that are newer, that have been designed and built in conformance with appropriate historic design, contribute to the goals of preserving a historic small town, for example, the buildings Jerry Bernau constructed on Figueroa Street and others. Under provisions of the ordinance, they could be demolished, exempt from any review at all. Neither staff nor Commission would have authority to deny. We would have said that such a demolition request is quite unlikely—until SB 79.

Having every building in the District evaluated has always been a goal. How is it that the District has been able to be successful without those evaluations? The answer is the Historic District Commission process, which filled gaps in the staff's or applicant's knowledge by giving the

public the opportunity to participate in and influence the determination. An example is the log cabin that was requested to be demolished. Until the public became aware, there was no indication by the applicant or staff that the building was historic.

So how can the goal of reducing demands on staff be achieved if we have no reliable, speedy standard for them to use?

The original ordinance and DDG's allow that any structure can continue in its existing style when modifications are proposed. Evaluating a project for consistency with its existing style would not require specialized knowledge and appears to further the state's goal of a route to speedy, ministerial approval of housing. What it would mean for the ultimate goal of preserving a historic small town is simply pushing goal achievement farther into the future if non-contributing styles are continued. Applicants should always have the option to request Commission review if they are ready for their project to fully support the District's adopted goals. This approach has buy-in from HPL and the Historic Folsom Residents Association, and likely the Folsom Historic District Association although we have not specifically asked them. We believe that this approach is consistent with Bob Delp's goals also. The current ordinance proposal does not have support from any of these groups.

These are not all of HPL's concerns, as noted in the 6-8-2026 letter to the City Council. Regarding exemptions, a performance standard that calls for historic design of projects in public view rather than automatic exemption of project types would support the goals of the Historic District. We also see no reason to delay amending the appeals process, which currently excludes most appeals, including those of organizations like HPL, HFRA, and FHDA, organizations deeply involved and knowledgeable about the Historic District.

HPL recommends that the Planning Commission continue this item to allow for re-consideration of ordinance revisions rather than re-adoption. In keeping with HPL's mission, we are ready to assist the City in achieving both the goal of relieving staff's workload and the goals of the General Plan and zoning to preserve a historic small town.

Bob Delp - June 22, 2026

City of Folsom Historic District Commission

50 Natoma Street

Folsom, CA 95630

via email to: ksanabria@folsom.ca.us; jkinkade@folsom.ca.us for distribution to the Historic District Commission

SUBJECT: June 24, 2026, Agenda Item No. 2 – Zoning Code Update – Revisions to Chapter 17.52: Historic District (Re-Adoption) – File #ZCAM26-00069

To the Historic District Commission:

I am the Petitioner in Superior Court of the State of California, County of Sacramento, Case No. 26WM000118 that, as discussed further in section 3 of this letter, pertains to the City Council's October 28, 2025, approval of the Folsom Municipal Code Chapter 17.52 ("FMC 17.52") amendments ("Project") that are the subject of this Historic District Commission ("HDC") agenda item. However, I am providing these comments as a citizen of Folsom and a resident and property owner in the Historic District interested in the protection, preservation, and enhancement of the Historic District's character and quality.¹

Last week, on June 17, 2026, the Planning Commission engaged in a refreshingly open discussion of the FMC 17.52 amendments. One Planning Commissioner who also serves on the HDC discussed that, when considering the proposed amendments last year, he had not fully appreciated the extent to which the amendments eliminated certain design review provisions. After discussion, the Planning Commission passed a motion that included a recommendation that the City Council "reconsider section 17.52.300(C)(1)(e) which is the thing that excludes all fences from any design review at all." Contrary to the motion passed by the Planning Commission, your staff report incorrectly notes that the Planning Commission's recommendation was simply that the Council consider fence material type through some future consideration of zoning code amendments.²

In the 1990s the City undertook a substantial effort in considering ways to protect and preserve the Historic District that culminated in the adoption of a re-written Folsom Municipal Code Chapter 17.52 ("FMC 17.52") and accompanying Historic District Design and Development Guidelines ("DDGs"). Many thoughtful people worked very hard to create a process defining

¹ On June 17, 2026, Community Development Department ("CDD") staff brought this item to the Planning Commission for a recommendation to the City Council. I and others submitted written comments to the Planning Commission that are included as Attachment 2 of the staff report to HDC (beginning at HDC 6/24/26 pkt. pg. 150). My June 16, 2026, comment letter is incorporated here by reference and much of its content is reiterated in this letter with supplemented discussion.

² I urge the HDC to listen to the audio of the Planning Commission meeting prior to your June 24, 2026, meeting. Contrary to the summary of that meeting presented in the staff report to HDC (HDC 6/24/26 Pkt. pg. 12), the final motion approved by the Planning Commission included "*to recommend the City Council reconsider section 17.52.300(C)(1)(e) which is the thing that excludes all fences from any design review at all.*" Although staff's summary in the HDC staff report describes that the Planning Commission recommended that the City Council have staff "look at further modifying FMC Chapter 17.52 and consider increasing the amount of non-allowable fencing materials as part of the overall zoning code update," the staff report fails to acknowledge that the Planning Commission voted unanimously to recommend reconsideration of the privacy walls and fence exemption "*now*" as, when asked by the Chair to confirm the intent of his friendly amendment to the motion, the Commissioner explained, "*yeah, I'd like them to think about it now.*" The Commissioner's friendly amendment regarding the Council's reconsideration of the privacy walls and fence exemption *now* was seconded and unanimously approved by the Commission. Discussion of FMC 17.52 during the Planning Commission meeting begins at 1:44:05 here: <https://folsom.granicus.com/player/clip/3197?redirect=true>

objective standards and a design review process applicable to all structures in the Historic District. The process may not be perfect and in recent years has been confronted by state laws that, while attempting to achieve commendable aims, have limited the City's ability to exercise design review to the extent envisioned in 1998. Nevertheless, the design review provisions of FMC 17.52 and the DDGs still serve a vital function in preservation and protection of the Historic District. Amending the processes they describe should not be taken lightly and the effects of any amendments should be fully understood before their approval.

The FMC 17.52 amendments effectively eliminate design review for all *structures* that do not meet the definition of *building* by establishing in FMC 17.52.300 that the HDC and CDD design reviews only apply to *buildings*. The distinction between these two terms and the resulting change in design review provisions resulting from the FMC 17.52 amendments focus on "buildings" are important for understanding the implications of the FMC 17.52 amendments. These definitions may have been overlooked by staff, the HDC, and the City Council in adopting the amendments last year and certainly warrant further consideration now.³ The staff reports argue that only certain "very small" structures will be exempt from design review, however, the amendments establish no person and no commission to perform design review of any structures that are not buildings and therefore effectively eliminate all design review authority for all non-building structures. The City's claim that design review is only limited to certain "very small" structures cannot be reconciled with the actual effect that the amendments have in eliminating design review authority for all non-building structures. If this is an *unintended* aspect of the amendments, then now is the time for correction by ensuring that 17.52.300 establishes a design reviewer for non-building structures.

Although staff is asking the HDC to recommend that the City Council simply re-adopt the amendments – seemingly disregarding the Planning Commission's June 17, 2026, recommendation regarding reconsideration of the privacy walls and fences exemption, as discussed above – I am hopeful that the HDC will give serious consideration amendments and provide a thoughtful recommendation to the Council that allows for more thorough consideration of amendments that achieve the City's efficiency goals while not eliminating important design review provisions that protect the Historic District's character and quality.

The Project amendments go too far in relaxing and eliminating important provisions of FMC 17.52 that were carefully developed through a rigorous process in the 1990s leading the 1998 rewrite and adoption of FMC 17.52 and its companion DDGs. In addition to eliminating design review of non-building structures, the Project amendments wrest far too much of the remaining design review role from the HDC and reassign that role to the CDD Director. Although I have disagreed with certain decisions made by the HDC in recent years, design review performed by a *commission* through a public hearing provides for a more comprehensive perspective on design considerations, allows for a more formal and visible public noticing and public comment

³ The importance of not ignoring the FMC's definitions of terms is highlighted in an October 31, 2025, Sacramento County Superior Court decision pertaining to the 603 Sutter Street Mixed-Use project (Case No. 23WM000125) where the Court ruled that at the City did not comply with the California Environmental Quality Act ("CEQA") in approving that project. For that project, the City had determined that the project's parapet wall could be excluded when calculating the building height. To my knowledge, nowhere in the record had staff ever advised the HDC or City Council that the FMC definition of "building height" specifically establishes that building height is to include measurement to the highest point of any parapet wall. After two years of costly litigation, the Court concluded that "...the City's interpretation is foreclosed by section 17.02.110, which specifically includes a building's parapet wall in the definition of 'Building height.' While the City is permitted to reasonably interpret its own codes and ordinances where they are unclear or conflicting, it is not permitted to ignore directly applicable provisions of such codes."

process, eliminates one-on-one influence, and improves design review decision-making. Often, the HDC considers staff recommendations, discusses design adjustments with staff and applicants, and modifies staff's recommendations to ensure design is more appropriate for the Historic District.

This is the very mechanism that, in 1998, City decision-makers decided was appropriate for the Historic District – with a *commission* performing design review not only for properties specifically identified on the City's list of historic properties, but for all properties, buildings, and other structures throughout the Historic District – where all properties contribute to the historic character of the entire Historic District that FMC 17.52 and the DDGs are intended to protect.

With all due respect to the CDD director and staff, shifting much of the design review role away from the HDC and to the CDD director, especially in the absence of establishing some minimum qualifications for the director or staff to perform such review, is a substantial shift from the process implemented in 1998 and stands to diminish protection of the Historic District. If the HDC agrees that it serves an important function, the HDC should take this opportunity to indicate your perspective on the value and benefits of commission reviews, and I hope you will express support for retaining the design review role by a commission and not by staff for all but truly minor Historic District projects.

The remainder of this letter addresses issues in more detail but, in summary, I encourage the HDC to recommend that the City Council rescind Ord. 1353 and restore FMC 17.52 to its prior content allowing for a more thorough review process of any subsequent amendments.

1. FMC 17.52 and DDG Background

Several of the Project amendments to FMC 17.52 either omit or alter design review and demolition review responsibilities. The amendments create internal inconsistencies within FMC 17.52 with regard to the scope and responsibilities for design review and create inconsistencies between FMC 17.52 and the DDGs. The purpose and intent of FMC 17.52 and the DDGs are important for understanding the baseline conditions to which any amendments to FMC 17.52 must be compared to understand the effects of any amendments.

On July 14, 1998, the City Council adopted Ordinance No. 890 which, among other things, rewrote FMC Chapter 17.52, established the HDC, and established Historic District primary and subarea boundaries in which specialized use and development standards apply. As stated in FMC 17.52.010,⁴ "Purpose and intent," among the express purposes of FMC Chapter 17.52 are,

1. To preserve and enhance the historic, small-town atmosphere of the Historic District as it developed between the years 1850 and 1950;
2. To maintain, restore, and reconstruct historic structures and sites within the Historic District;
5. To ensure that new residential and commercial development is consistent with the historical character of the Historic District as it developed between the years 1850 and 1950; and
6. To increase the awareness, understanding, and appreciation of the history of the City.

⁴ The attachment to your staff report includes only excerpts of the amended sections of FMC 17.52, but I urge the HDC to obtain and consider the full chapter since several unamended sections are also important for understanding the amendments. An online version, as amended, is here:

<https://www.codepublishing.com/CA/Folsom/#!/Folsom17/Folsom1752.html#17.52>

As adopted in 1998 and unmodified by the Project amendments, FMC 17.52.120(G) establishes that the HDC is to “[r]eview the design and architecture of any new structure, or alteration to any existing structures within the historic district,” and FMC 17.52.330(B) anticipated that as part of the HDC’s design review the HDC would consider criteria including “conformance with any...historic District design and development guidelines adopted by the city council.”

Three months later, on October 13, 1998, the City Council adopted the *City of Folsom Historic District Design and Development Guidelines* (Resolution No. 5757) (“DDGs”)⁵ to provide a comprehensive document to assist with the implementation of the regulations and standards contained in FMC 17.52. The DDGs are not perfect, but they offer extensive and beneficial guidance for development in the Historic District.

Section 1.01, “Intent,” of the DDGs explains,

the City Council elected to adopt Historic District Design and Development Guidelines (hereafter the “Design and Development Guidelines”) in conjunction with amendments to Chapter 17.52 of the Folsom Municipal Code (hereafter “Chapter 17.52”). By adopting the Design and Development Guidelines, the City Council intends to provide a comprehensive policy manual to assist with the implementation of the regulations contained in Chapter 17.52 of the Folsom Municipal Code. The goals, policies, and programs which have guided the preparation of this document and which are to be used in implementing Chapter 17.52 are enumerated in detail in Section 2.01 of this document. In addition to providing design review standards, the City Council intends to set forth in this document criteria that will guide further development within the Historic District. These Design and Development Guidelines provide policy direction concerning private and public development within the Historic District, as well as policy direction concerning public infrastructure and circulation improvements.

(DDGs, p. 1-1.)

The DDGs further explain the City Council’s purpose and intent for FMC 17.52 and the DDGs to work in combination for protection of the historical character of the entirety of the Historic District and not solely focused on protection of certain individual properties deemed historically significant,

Historic Folsom is also a representative example of the development of many small towns across the American West, and this legacy is likewise worthy of preservation, interpretation, and re-creation. While modern developments consist of carefully integrated architecture, materials, and site plans, protected by Design and Development Guidelines and CC&R’s against discordant future construction, traditional development was more varied and occurred on a lot-by-lot basis. In conjunction with the regulations imposed by Chapter 17.52 of the Folsom Municipal Code, the Design and Development Guidelines limit future construction in Historic Folsom to the architectural styles extant in California

⁵ The 1998 “Historic District Design and Development Guidelines” (“DDGs”) are incorporated by this reference in their entirety. At the time of preparation of this letter, the DDGs are available to the public on the City of Folsom website at:

Main Document: <https://www.folsom.ca.us/home/showpublisheddocument/23554/639038904142800000>

Appendix A, Historic Resources: <https://www.folsom.ca.us/home/showpublisheddocument/23556/639038904870370000>

Appendix B, Visual Resources: <https://www.folsom.ca.us/home/showpublisheddocument/23558/639038904877770000>

Appendix C, Environmental Resources: <https://www.folsom.ca.us/home/showpublisheddocument/23560/639038904884700000>

Appendix D, Design Criteria: <https://www.folsom.ca.us/home/showpublisheddocument/23562/639038904905270000>

Appendix E, Historic District Circulation Plan: <https://www.folsom.ca.us/home/showpublisheddocument/23564/639038904914600000>

from 1850 to 1950, a limitation intended to encourage the diversity which is the charm of old Folsom while preventing construction of modern buildings which would be discordant. While there are only a few structures within Historic Folsom which are individual architectural stand-outs, the homes and buildings, when taken together, evoke the feeling of life in small-town America, an aspect often ignored by history books and preservation efforts. By the adoption of Chapter 17.52 and these Design and Development Guidelines, the City Council seeks to preserve that image.

(DDGs, Section 1.01, pg. 1-2.)

The DDGs include goals and policies pertaining to Historic District design review including,

GOAL 1: Community Identity: To preserve and enhance the historic, small-town atmosphere of the 98-block Historic District area.

Policy 1.4: Since the Historic District plays a central role in determining the character of the City of Folsom, **every project within the Historic District, at every stage of approval and construction**, should be marked by an attention to quality which will serve as a benchmark to the rest of the community.

GOAL 6: New Development: To ensure that new residential and commercial development is consistent with and enhances the historical character of the historic district.

Policy 6.1: New development shall conform to architectural and infrastructure standards of Chapter 17.52 of the Folsom Municipal Code and these Design and Development Guidelines.

Additionally, the DDGs assign demolition review for all existing structures in the Historic District to the HDC, stating,

Policy 6.3: Demolition of existing structures located in the Historic District shall require approval of the Historic District Commission, which shall consider 1) whether the public health, safety and/or welfare warrant the demolition; 2) what accommodation can be provided to the owner of the property to make it feasible to preserve the property or structure; 3) whether the owner of the property is willing to sell the property or structure to a buyer who wishes to preserve it; and 4) whether a public entity wishes to acquire the property or structure in order to preserve it.

The DDGs are not simply an afterthought of niceties, they were developed as an integral part of the vision established by the City Council in 1998 for the preservation and protection of the Historic District.

As described section 1.03, “CEQA Compliance,” of the DDG’s,

The City conducted environmental review of a proposed Historic District Specific Plan. Due to the nature and complexity of the Plan and the projects which will follow under it, a Master Environmental Impact Report (MEIR) was prepared. The City Council ultimately elected to implement zoning changes to Chapter 17.52 of the Folsom Municipal Code and design standards through the adoption of these Design and Development Guidelines. Many of the provisions of the proposed Historic District Specific Plan and the amendments to Chapter 17.52 are

contained within these guidelines. Accordingly, the City Council relied upon the MEIR for evaluation and consideration of environmental impacts.

Thus, the 1998 FMC 17.52 and DDGs were intended not simply as preferred land use regulations for the Historic District, but also incorporated provisions and mitigation identified through the California Environmental Quality Act (“CEQA”) process as necessary to protect the character and quality of the Historic District. The City has all but ignored the fact that a comprehensive CEQA process was conducted prior to the adoption of FMC 17.52 and the DDGs.

Through that process, the City not only included provisions in FMC 17.52 and the DDGs to avoid or minimize adverse effects of development in the Historic District, but also identified several mitigation measures, including the following pertaining to inadvertent discovery of cultural resources:

Should any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains be encountered during any development activities, work shall be suspended and the City of Folsom shall be notified. The City shall consult with a qualified archaeologist to determine if the encountered resources are "important" cultural resources within the definition of CEQA Appendix K. The consulting archaeologist shall develop, if necessary, further mitigation measures consistent with CEQA Appendix K to reduce any cultural resource impact less than a significant level.

(Folsom Historic District Specific Plan, Mitigation Monitoring Program, January 21, 1998. State Clearinghouse Number: 95032066, pg. 9.)

I am uncertain of the ultimate disposition of the Mitigation Monitoring Program and the City’s staff reports for the Project amendments provide no discussion of the previous CEQA effort in its current evaluation. However, the City has consistently included similar inadvertent cultural resources discovery provisions as conditions of approval for design review projects that involve ground disturbance in the Historic District. Yet, staff reports for the Project provide no explanation of how projects involving ground disturbance in the Historic District that will now be exempt from design review will still somehow be required to implement inadvertent cultural resources discovery protocols or, if such projects will not be required to implement these protocols, how impacts to cultural resources that may be present within a development footprint will be avoided or otherwise mitigated.

2. The Project Eliminates Design Review for All Non-Building Structures

Prior to the FMC 17.52 amendments approved by the City Council in October 2025, FMC 17.52.300 specified that the HDC was to perform design review of all proposed new or modified *structures* in the Historic District. Since there was no other design reviewer identified, it was very clear that any design review requirement discussed in any section of FMC 17.52 fell squarely on the HDC.

However, under the amended FMC 17.52.300, design review function is divided between the HDC and the CDD Director with each of their design review roles prescribed for only various types of *buildings*, such that any *structure* that does not also fit the definition of *building* is no longer subject to design review by either the HDC or CDD Director. (See HDC 6/24/26 Packet pages 1347-1348 where FMC 17.52.300(A) provides for HDC design review of certain projects in which all previous references to “structures” are stricken and replaced with the more limited term “buildings” and FMC 17.52.300(B) provides for CDD Director design review of all other

renovations, additions, and accessory *buildings* without assigning design review authority for review of non-building *structures*.)

FMC Chapter 17.02 “Definitions,” defines these terms:

17.02.090 Building. “**Building**” means any structure having a roof supported by columns and/or by walls and intended for the housing or shelter of any person, animal or chattel.

17.02.400 Structure. “**Structure**” means anything constructed or erected upon the ground or attached to a structure having location on the ground.

The definition of “structure” is very broad while the definition of “building” is much narrower (if not also subjective and awkward). All buildings are structures, but many structures are not buildings.

Eliminating design review of non-building structures is a substantial new limitation to the design review provisions of FMC 17.52. Staff describe that the amendments exempt only “certain very small projects from design review,” yet staff seemingly fail to recognize that *all* non-building structures, regardless of size, would no longer subject to design review under the amended language. The amended FMC 17.52.300 establishes that certain new or modified *buildings* are subject to HDC review and that other new or modified *buildings* are subject to CDD review, but contains no provisions for any design review of non-building structures neither by the HDC nor the CDD Director.⁶

Moreover, the FMC 17.52.300 amendments conflict with other sections of FMC 17.52 not amended by the Project. For instance, FMC 17.52.120 specifies duties of the HDC which include, “G. Review the design and architecture of any new *structure*, or alteration to any existing *structures* within the historic district, as further defined in this chapter,” yet, with the FMC 17.52.300 amendment, neither the HDC nor the CDD Director has authority to review any new or altered non-building structure. Additionally, FMC 17.52.400 specifies that “design review is required for all new *structures* and alterations to existing *structures*,” yet, as amended, FMC 17.52.300 no longer provides any role for either the HDC or CDD to perform design review for non-building structures.

In making any recommendation to the City Council, I think it is critical that the HDC fully understand the implications of the elimination of design review for non-building structures. Staff’s incorrect premise that only “certain very small projects” would be exempt from design review cannot be reconciled with the actual language and effects of the amendments that eliminate design review authority for all non-building structures.

The City needs to either restore design review of non-building structures or the City’s analysis of the Project and its potential effects on the character of the Historic District must include consideration of the effects of eliminating design review for all non-building structures.

3. CEQA Compliance

On October 28, 2025, when the City Council adopted Ord. 1353 amending FMC 17.52 (“Project”), the Council determined the Project was exempt from CEQA review because the

⁶ The CDD website identifies that design review is required for certain types of non-building structures (e.g., landscape features depending on size/location, pools and spas depending on location), however, the amended FMC 17.52 provides no authority for any such design review since these features are not *buildings* and the CDD exceeds its authority if it exercises design review over non-building structures.

Project was “process related and administrative in nature” and therefore qualified for the CEQA Guidelines § 15061(B)(3) “commonsense” exemption.

Prior to the Council’s approval of the Project, I submitted comments opposing the Project and providing explanation and evidence that the Project would have the potential to result in significant impacts to the historic character of the Historic District and that the Project did not qualify for a CEQA exemption. Others, including those involved in developing FMC 17.52 and the DDGs in the 1990s, also expressed concerns and provided comments to staff, the HDC, and the City Council prior to approval of the Project.

After requesting in November 2025 that the Council rescind Ord. 1353 and after allowing nearly six months for the Council to do so, on April 23, 2026, I filed a petition for writ of mandate with the Superior Court of the State of California, County of Sacramento, (Case No. 26WM000118) challenging the City’s approval of the Project with a CEQA exemption. That lawsuit is the obvious catalyst for the City’s current effort to re-approve the Project and assert additional grounds for exempting the Project from CEQA review. Yet, the CEQA arguments that the staff report now presents to the HDC (HDC 6/24/26 pkt, pp. 13 - 16) misconstrues the Project and does not provide substantial evidence that the Project qualifies for one or some combination of CEQA exemptions.

As a last-minute change prior to last week’s Planning Commission meeting, staff added a proposed resolution statement claiming the Project is actually not a project at all under CEQA. But the Project is a project under CEQA as, among other things, the elimination of design review that would otherwise be performed for all non-building structures has the obvious potential to cause an indirect physical change in the environment as compared to circumstances in which all buildings and structures are subject to design review, as discussed further herein. To argue otherwise would require one to take the position that the design review process has no influence on the character or quality of non-building structures constructed, modified, and/or demolished in the Historic District. Instead of addressing that fact, the staff report to the HDC now claims the Project is not a project under CEQA “[b]ecause changing which body (HDC or City staff) will process the minor approvals covered under the proposed amendments does not have the potential to cause a physical change in the environment directly or indirectly.” Even were staff correct that changing the body performing design review has no potential to result in physical changes, this argument fails to address other aspects of the Project that modify and eliminate design review of all non-building structures. Staff’s attempt to claim the Project is not a project under CEQA falls short of even attempting to address the whole of the Project and fails to account for the indirect physical changes to the environment that will occur as a result of the Project’s elimination of non-building structure design review.

In contrast to staff’s new claim that the Project is not a project under CEQA, the staff report also argues that the Project is eligible for the CEQA Guidelines 15061(b)(3) “commonsense” exemption and also attempts to overlay or incorporate other CEQA exemptions in arguing that environmental review of the Project is not required. As discussed below, the Project does not qualify for the 15061(b)(3) exemption and the City’s attempt to bolster its rationale fails.

Moreover, with or without application of additional CEQA exemptions, the Project does not qualify for the 15061(b)(3) exemption. Additionally, the staff report’s attempt to assign a CEQA exemption to certain aspects of the Project as ministerial is misguided. The Project clearly involves discretionary decision-making and CEQA Guidelines expressly state, “[w]here a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.” Also, the staff report’s attempt to assign categorical exemptions to the Project or

portions of the Project is also misguided. The Class 1 and Class 3 categorical exemptions asserted in the staff report might be applicable to certain discretionary approvals in the Historic District, but they are inapplicable to the City's consideration and approval of the Project because the Project is a zoning ordinance amendment and is not a decision to approve modifications to existing facilities, small structures, or any other facilities or structures. Moreover, after introducing these two irrelevant categorical exemptions, the staff report attempts to discuss whether any *exceptions* to these exemptions apply. Yet, because the Project does not involve any specific development and the Class 1 and 3 exemptions cannot be applied to the Project, there is neither current relevance nor a basis to conclude that the exceptions to the exemptions would not apply to specific development subject to FMC 17.52.

3.1 The Project does Not Qualify for the Commonsense Exemption

The CEQA Guidelines 15061(b)(3) exemption can be applied only, “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” In claiming this exemption, the City must provide substantial evidence for how the proposed FMC 17.52 amendments would have no possibility of a significant impact. The City Council's October 2025 approval of the Project rested on the assertion that “the proposed code amendment is *process related and administrative in nature* and therefore will not have a significant effect on the environment,” and does not consider the implications of eliminating certain projects from design review and other changes in design and demolition review processes that would result from the Project amendments.

In attempting now to substantiate the Project's qualification for the 15061(b)(3) exemption, the staff report asserts that, “[t]he ordinance amendments proposed for re-adoption do not have the potential to cause a significant effect on the environment,” and that the Project's exemption of “certain very small projects from design review” would not have potential to cause any significant impacts on the environment. The staff report also discusses that “several of the project types exempted from design review are required to be located in side or rear yards for the exemption to apply.” (HDC 6/24/26 pkt. p. 14)

The staff report's arguments do not address substantial evidence indicating the potential for significant impacts and does not provide substantial evidence that the Project would have no possibility of a significant impact precluding the Project from the 15061(b)(3) exemption.

3.1.1 Elimination of Design Review for All Non-Building Structures

As discussed above in Section 2 of this letter, prior to the Project amendments, FMC 17.52.300 specified that the HDC was to have final authority over all new office, industrial, commercial, and residential *structures*, and all exterior renovations, remodeling, modification or addition to existing *structures*. Under the amended FMC 17.52.300, design review function is divided between the HDC and the CDD Director with each of their design review roles prescribed only various types of *buildings*, such that any *structure* that does not also fit the definition of *building* is no longer subject to design review by either the HDC or CDD Director.

Without a designated body and process, design review of non-building structures is effectively eliminated from FMC 17.52. With the Project amendments, the list of exempt non-building structures in FMC 17.52.300(C) represents only a small subset of the types of non-building structures for which design review will not be performed as a result of the Project.

The staff report and staff's assessment of potential impacts of the Project does not mention or assess the impacts of eliminating design review of all non-building structures and, thus, fails to

provide evidence that the Project's elimination of design review for all non-building structures would have no possibility of a significant impact.

The elimination of design review for all non-building structures eliminates design review of many types of new and modified structures (e.g., privacy walls, retaining walls, fences, decks, pools/spas, play equipment, courtyards, exterior street-to-sidewalk stairways and railings, amphitheaters, bridges, public restrooms, mechanical equipment, roads, bike paths, sidewalks... all of which meet the definition of "structures" under the FMC 17.02.400) and any of which would have the potential to be inconsistent with the Historic District character if developed without going through the FMC 17.52 and DDGs design review process.

The elimination of design review of non-building structures would also eliminate any discretionary review of many such structures, and would provide no mechanism for the City to impose standard conditions of approval that are used mitigate impacts, including the standard condition pertaining to inadvertent cultural resources discovery discussed above in Section 1 of this letter.

3.1.2 Exempting Privacy Walls and Fences

Even if design review were restored for most structures, the exemption of privacy walls and fences would still have the potential for adverse effects on the Historic District character and quality and its individual historical and contributing resources.

The staff report asserts that, "[s]everal of the very small projects, including like-for-like structural replacements, residential re-painting, privacy walls/fences, and solar panels were already not going through design review based on the City's consistent past practice and thus, would not result in any change from baseline conditions for those projects."

Regardless of how baseline conditions might be defined for future review of a particular proposed structure, such as a privacy wall or fence, the relevant CEQA baseline for consideration of the potential environmental effects of the Project is the specifications of FMC 17.52 as it existed prior to the Project amendments. Under that appropriate baseline condition, FMC 17.52 provided for HDC design review of fences and all other new and alterations to existing structures, stating in FMC 17.52.400, "Design standards,"

A. The design standards specified in Sections 17.52.410 through 17.52.590 shall be applicable to all new structures and alterations to existing structures within the historic district. ***Design review is required for all new structures and alterations to existing structures, unless otherwise specified in this chapter.***

Unmodified by the Project amendments, FMC 17.52.430 – 17.52.480 provide objective standards for certain types of non-building structures⁷ and specify when certain sizes and/or locations of structures are not subject to design review. For instance, FMC 17.52.460 specifies objective standards for play equipment and exempts play equipment smaller than 120 square feet or below fence height from design review; whereas FMC 17.52.440, "Fences," specifies objective design standards for fence height without providing an exemption from design review. By a plain read of the text it is undeniable that, prior to the Project amendments, FMC 17.52 required design review for all structures, including fences. The Project amendments to FMC 17.52 that include "privacy walls and fences" on a list of features exempt from design review

⁷ e.g., 17.52.430 Decks, 17.52.440 Fences, 17.52.450 Landscape features, 17.52.460 Play Equipment, 17.52.470 Swimming Pools and Spas, 17.52.480 Accessory Structures.

must be compared to the existing condition baseline under which design review was required by FMC 17.52.

The staff report's assertion that fences and other types of structures "were already not going through design review based on the City's consistent past practice" might reveal some deficiency of the City to actively implement FMC 17.52's design review provisions for fences, but does not establish the relevant baseline for consideration the Project's potential effects.

The City Police Department, from time to time and for various reasons, may not always actively enforce speed limits on City streets, but that does not negate the beneficial effect and value of maintaining posted speed limits on City streets, nor does it mean that speed limits could be abolished with no effect on driver behavior. Similarly, that any given time the CDD may not be actively performing/enforcing the required design review for certain types of projects does not negate the benefits of maintaining design review requirements in FMC 17.52.

Were individual property owners in the Historic District to build privacy walls or fences without first obtaining design review approval, those property owners would nevertheless be influenced by the risk of non-compliance and incentivized to design the structure consistent with Historic District character (akin to a driver heeding speed limits even in the absence of police enforcement). Moreover, the design review requirement for fences provides a mechanism through which the City could take enforcement action for a property owner's failure to obtain a design review approval and remedy an inappropriate fence design. Without a design review requirement, the City has no mechanism or ability to enforce restrictions on inappropriate fence design.

Section C of Appendix D of the DDGs provides Historic Residential Design Criteria, and specifies the following design provisions for walls and fences:

Walls and fences. Materials of walls and fences shall reflect the style and character of the building and its site. Where large expanses of blank building wall, retaining wall or fencing are unavoidably exposed, they should be screened with upright shrubs or trellised vines. Trellises are to be constructed of substantial, durable materials, but may incorporate redwood lath lattice. **Inappropriate materials such as chainlink, split rail, and other non-historic fencing materials are not permitted.**

(DDGs, Appendix D, p. 55.)

Without establishing specific design requirements for fence design, the DDGs section above provides guidance for the City's design review of walls and fences. Thus, the Project's elimination of design review of walls and fences effectively eliminates all regulation and related incentives for individual property owners to achieve wall and fence design compatible with the Historic District character.

Exempting, "privacy walls and fencing" from any design review requirements would have the potential to be detrimental to the historical character of the Historic District. Even attractively designed privacy walls or fencing could be substantially inconsistent with, and diminish the historical character of, the Historic District. The development of unregulated out-of-character walls and fences would have the potential to result in – in individual instances and cumulatively over time - a significant adverse impact on the historical character of the Historic District.

The City-adopted DDGs explain as pertains to "Fences, Landscape Features, and Play Equipment,"

Besides safety, the City's purpose in regulating fences and landscape features is primarily to inform property owners of the impact such construction has on the historical and aesthetic character of a home or neighborhood and to seek voluntary support of the community goal of preserving and enhancing the character of the Historic District. Preference in any required review will be toward granting the property owner's request unless it is unsafe or the effect on the character of the Historic District would be notably deleterious. (DDGs section 4.04.)

Pertaining specifically to “Fences” the DDGs explain the City’s 1998 affirmation that, “[f]ences are a significant contributing factor to a home's or neighborhood's character.” (DDGs section 4.04.01.) Notwithstanding the documented importance of design review for walls and fences as expressed in the DDGs adopted by the City Council in 1998, during the Project review process, the City has yet to directly acknowledge the adverse effects that incompatible fence design could have on the historical quality and character of the Historic District.

When adopting the Project’s list of “minor modifications” to be exempt from design review, the City included, “e. privacy walls and fencing, *excluding chain link, which is not allowed.*”

If the City’s position is that fence design does not have the potential to adversely affect the character of the Historic District, it is unclear why the City would attempt to *mitigate* the wall and fence exemption by including a prohibition of chain link fence. Moreover, the DDGs establish “appropriate” and “inappropriate” fence and wall/retaining wall types (DDGs, Appendix D, Attachment 2, “Building Materials Palette.”). These lists in the City’s adopted DDGs do not allow or prohibit particular fence or walls types and, instead, they provided guidance intended for consideration during the design review process. With elimination of design review for privacy walls and fences, the mechanism for the City’s regulation of appropriate wall and fence types is eliminated.

The CDD has attempted to list “appropriate” and “inappropriate” fence types for the Historic District on the City’s Historic District Resources website which identifies 12 types of fences as “Inappropriate” for the Historic District and lists 10 types of fence types as “Appropriate” with 3 of the “Appropriate” types noted as “Except for Historic Properties.”

City of Folsom, Historic District Resources Website List of <i>Appropriate</i> and <i>Inappropriate</i> Fence Types	
Appropriate Fence Types	Inappropriate Fence Types
Wood Picket Fences	Chain Link
Vertical or Horizontal Board Fences (Min. 30% opening, or Staggered Boards)	Chicken Wire
Classic Wire Mesh (3” x 6”)	Barbed Wire
Solid Wood (Rear Yard Only)	Plywood
Brick and Mortar	Masonite
Stone and Mortar	Cedar Post and Rail
Treated Wood	Grape Stake
Cinderblock Wall (Except for Historic Properties)	Split Rail
Railroad Tie Fencing (Except for Historic Properties)	Cyclone
Poured or Finished Concrete Wall (Except for Historic Properties)	Snow Fence
	Bamboo or Matting
	Plastic or Vinyl
Source: City of Folsom, Historic District Resources website, “Residential Fencing” dropdown at: https://www.folsom.ca.us/government/community-development/planning-services/historic-district-resources/ . June 9, 2026.	

The staff reports prepared for the Project do not mention the DDGs Building Materials Palette lists for fences and walls/retaining walls nor do the staff reports explain why, with a dozen specific fence types considered “inappropriate” for the Historic District and an additional 3 types inappropriate for historic properties, only *chain link* fence warrants a prohibition in FMC 17.52 while design review of all privacy walls and fences is eliminated. Yet, with a dozen identified by CDD as “Inappropriate Fence Types,” in adopting the Project amendments to FMC 17.52, staff and the City Council somehow determined that only chain link need to be prohibited.

Even were a prohibition on chain link fence sufficient to *mitigate* the impact of exempting privacy walls and fences from design review, such a mitigation would run afoul of CEQA case law establishing that,

[r]eliance upon mitigation measures (whether included in the application or later adopted) involves an evaluative process of assessing those mitigation measures and weighing them against potential environmental impacts, and that process must be conducted under established CEQA standards and procedures for EIRs or negative declarations.

(*Salmon Protection and Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098)

Thus, if the prohibition on chain link fence was necessary to *mitigate* the impacts of exempting fences from design review or if the City thinks the impact can mitigated by providing an advisory list of inappropriate fence types on its website, the Project is disqualified from any CEQA categorical exemption.

Given the Project’s elimination of design review for all non-building structures, including but not limited to the express exemption from design review of fences and other structures having the potential for deleterious effects on the quality and character of the Historic District, the Project does not qualify for the CEQA Guidelines 15061(b)(3) exemption and no combination of additional CEQA exemptions or mitigation measures can intervene to exempt the Project from CEQA review.

3.2 The Project does Not Qualify for a Ministerial Exemption

The staff report quotes CEQA Guidelines § 15268(a) stating, “Ministerial projects are exempt from the requirements of CEQA” and the staff report then argues that “the solar panel exemption from design review is ministerial and exempt from the requirements of CEQA,” that “the design review exemption for certain ADUs [accessory dwelling units] is ministerial and exempt from the requirements of CEQA,” and that, “to the extent that a building permit is required for installation of a fence or any of the other minor modifications exempt from design review under FMC Section 17.52.300(C)(1), such approvals are ministerial in nature and as such are exempt from the requirements of CEQA.” (HDC 6/24/26 pkt. p. 14.)

In making these arguments the staff report confuses potential future activities and actions with the current Project. The Project involves a *discretionary* action by the City which is the amendment of FMC Chapter 17.52. The Project is not approval of a solar facility, nor approval of an ADU, nor the issuance of a building permit for installation of a fence or other structure. That future activities or projects may or may not be limited to ministerial decision-making at such time as each is proposed is irrelevant to assessing whether the Project qualifies for a ministerial project exemption.

Moreover, even if there were some element of ministerial decision-making involved in the Project, CEQA Guidelines § 15268, “Ministerial Projects,” at subd. (d) definitely establishes,

- (d) Where a project involves an approval that contains elements of *both* a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

Although state law may limit or preclude the City from performing discretionary design review of certain future development projects or other activities, the Ministerial Projects exemption is unavailable to the Project.

3.3 *The Project does Not Qualify for a Class 1 Categorical Exemption*

The staff report discusses the Class 1 Categorical Exemption of CEQA Guidelines 15301, describing that, “[u]nder Section 15301 of the CEQA Guidelines, the Class 1 exemption “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use,” and argues that, “ [t]his proposed ordinance’s exemption for very small projects falls under this Class 1 CEQA exemption.” (HDC 6/24/26 pkt. p. 15.)

In making this argument the staff report confuses potential future approvals for some unidentified existing facility with the current Project. The Project is the amendment of FMC 17.52. The Project does not involve an approval associated with an existing facility and the Class 1, “Existing Facilities,” categorical exemption is inapplicable to the Project.

The City will undoubtedly consider future discretionary approvals for many types of existing facilities in the Historic District and will likely make valid determinations that some of those approvals are exempt from CEQA under the Class 1 exemption. However, whether such projects may or may not qualify for the Class 1 exemption is a matter to be determined when such a project is proposed and, at that time, will require assessment of the particular factors of the project. Moreover, as part of that assessment, the City needs to consider whether any of the CEQA Guidelines 15300.2 *exceptions* apply and preclude the use of a Class 1 exemption, and such an assessment cannot be performed until a potentially eligible Class 1 project is proposed (see *Exceptions to the Exemptions* section below for additional discussion).

Additionally, the staff report seemingly confuses the two separate factors of: 1) whether a proposed new or modified structure in the Historic District can be *exempt from design review* without resulting in or contributing to degradation of the Historic District character and quality and 2) whether that project might be *exempt from CEQA*. The vast majority of design reviews performed in the Historic District are for projects that the City determines are exempt from CEQA. But those projects are not – or at least in the past have not been – exempt from design review. Design review of all structures as required by FMC 17.52 prior to the Project amendments serves the purpose established by FMC 17.52 and detailed in the DDGs. In fact, performing design review for a particular new or modified structure in the Historic District is a key step that often enables City decision-makers to determine that the new or modified structure, as conditioned through the design review process, qualifies for a CEQA categorical exemption without triggering the Historical Resources exception to the exemption.

3.4 *The Project does Not Qualify for a Class 3 Categorical Exemption*

The staff report discusses the Class 3 Categorical Exemption of CEQA Guidelines 15303, describing that, “[u]nder section 15303 of the CEQA Guidelines, projects consisting of “construction and location of limited numbers of new, small facilities or structures;

installation of small new equipment and facilities in small structures...”, and argues that, “the ordinance amendment’s exemption of fences, hot tubs, outdoor kitchens, and patios qualify for the Class 3 Categorical Exemption under CEQA, in addition to the Common Sense exemption.” (HDC 6/24/26 pkt. p. 15.)

In making this argument the staff report confuses potential future approvals for some unidentified new construction or conversion of a small structure with the current Project. The Project is the amendment of FMC 17.52. The Project does not involve an approval associated with a new or proposed conversion of a small structure, thus, the Class 3, “New Construction or Conversion of Small Structures,” categorical exemption is inapplicable to the Project.

The City will undoubtedly consider future discretionary approvals for many types of small structures in the Historic District and will likely make valid determinations that some of those approvals are exempt from CEQA under the Class 3 exemption. However, whether such projects may or may not qualify for the Class 3 exemption is a matter to be determined when such a project is proposed and requires assessment of the particular factors of the project. Moreover, as part of that assessment, the City would need to consider whether any of the CEQA Guidelines 15300.2 *exceptions* apply and preclude the use of a Class 3 exemption, an assessment that cannot be performed until a potentially eligible Class 3 project is proposed (see *Exceptions to the Exemptions* section below for additional discussion).

Additionally, the staff report seemingly confuses the two separate factors of: 1) whether a proposed new or converted small structure in the Historic District can be *exempt from design review* without resulting in or contributing to degradation of the Historic District character and quality and 2) whether that project might be *exempt from CEQA*. The vast majority of design reviews performed in the Historic District are for projects that the City determines are exempt from CEQA. But those projects are not – or at least in the past have not been – exempt from design review. Design review of all structures as required by FMC 17.52 prior to the Project amendments serves the purpose established by FMC 17.52 and detailed in the DDGs. In fact, performance of design review for a particular new or modified structure in the Historic District is a key factor that then enables City decision-makers to determine that the new or modified structure, as conditioned through the design review process, qualifies for a CEQA categorical exemption without triggering the Historical Resources exception to the exemption.

3.5 The Question of Exceptions to Categorical Exemptions is Moot and Staff’s Conclusion is Not Supported by Substantial Evidence

The staff report asks the HDC to recommend that the City Council find, among other things, that none of the CEQA Guidelines 15300.2 *exceptions* to categorical exemptions apply. However, neither the Class 1 nor the Class 3 categorical exemptions identified in the staff report can be applied to the Project for reasons explained above, and the question of whether any exceptions to the exemptions is therefore moot. Nevertheless, additional discussion is provided here in response to the staff report.

3.5.1 Unusual Circumstances

CEQA Guidelines §15300.2(c) provides, “A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” CEQA does not define the term “unusual circumstances,” but case law has held that an *unusual circumstance* refers to

“some feature of the project that distinguishes it” from others in the exempt class. (*Fairbank v. City of Mill Valley*, (1999) 75 Cal. App. 4th 1243, 1259.)

The staff report states that “the ordinance amendments do not involve any unusual circumstances, because creating different levels of design review within a municipality’s administrative processes is a common-place feature of municipal government, and as explained above, these changes will not have any significant effects on the environment.” (HDC 6/24/26 pkt. p. 16.) This discussion in the staff report further emphasizes the fact that the Project does not fit within either the Class 1 or Class 3 exemption.

The staff report’s statement that “creating different levels of design review within a municipality’s administrative processes is a common-place feature of municipal government” may be accurate but has nothing to do with a comparison of the Project to the circumstances of a typical Class 1 or Class 3 project. In fact, the Project’s circumstances are inherently *unusual* as judged relative to the typical circumstances of projects fitting either the Class 1 or Class 3 exemption, because the Project is an amendment to a zoning ordinance applicable to the entirety of Folsom Historic District.

If the unusual circumstances tail needs to be chased even further, then it is also worth noting that Project’s unusual circumstance as compared to Class 1 and Class 3 projects does create the potential for significant impacts that would not be typical of the types of impacts associated with a Class 1 or Class 3 project, because the Project involves amendment of a zoning code regulating development and demolitions in a Historic District whereas the typical Class 1 and Class 3 project does not create or amend a zoning ordinance pertaining to a historic district.

Thus, even if through some abstract theory the Project were to qualify for a Class 1 or Class 3 exemption, such an exemption would be precluded due to the unusual circumstances exception whereby the Project’s unusual circumstance do result in the Project having the potential to result in adverse effects on the character of the Historic District by relaxing or eliminating design review requirements creating the potential for adverse impacts as discussed in this letter.

3.5.2 *Historical Resources and Cumulative Impacts*

CEQA Guidelines §15300.2(f) provides, “Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.” Regarding the CEQA Guidelines § 15300.2(f) historical resources exception to the exemption, in *Hillside* the Supreme Court cited *Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039 affirming the holding that once a resource is recognized as historic, “the fair argument standard applies to the question of whether the proposed project ‘may cause a substantial adverse change in the significance of an historical resource’ and thereby have a significant effect on the environment.” (*Hillside*, supra, 60 Cal.4th at 1117.)

The staff report states that, “[t]he ordinance amendments would not result in any significant cumulative environmental impact, because there is no substantial evidence in the City’s record demonstrating that the amendments would result in any significant increase in impacts in the Historic District by virtue of just changing the design review process, which still protects listed and potentially eligible historic resources.”

The staff report’s assertions fail to recognize the Project provisions that eliminate design review of non-building structures and eliminate design review of privacy walls and

fences, both of which if unregulated pose the potential to result in a substantial adverse change in the significance of individual historic resources within the Historic District and the overall quality and character of the Historic District. Thus, even if the Project were to qualify for a Class 1 or Class 3 exemption, such an exemption would be precluded due to the historical resources exception.

CEQA Guidelines 15300.2(b) provides, “Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.”

Although the staff report asserts that the project would not result in any significant cumulative environmental impact, such a notion fails to recognize the breadth of the Project and the staff report’s discussion does not provide any basis for cumulative circumstances that were considered in making its conclusion.

The Project amendments to FMC 17.52 alter and reduce the design review and other roles of the HDC, eliminate design review provisions for all non-building structures, and expressly exempt certain features from any design review. FMC 17.52 applies to the 98-block of Folsom’s Historic District that contains federal, state, and locally recognized historic resources and properties, commercial areas with high tourism, recreational and cultural resources access, and the Historic District is a locally important historical resource. Elimination of design review provisions for all types of non-building structures that might be developed throughout the Historic District has the potential to result in significant adverse cumulative impacts when the Project (amendments to FMC 17.52) is considered in combination with future development within the Historic District.

Moreover, as discussed throughout the staff report, there are several types of individual future projects that may be developed in the Historic District – such as solar facilities, ADUs, multi-family housing – that will be exempt from CEQA and may also be exempt from design review whether by state law or by the City’s own doing. Any consideration of cumulative effects of FMC 17.52 amendments must account for the potential for such developments to occur without design review and reflect the expanded importance of design review.

Thus, even if the Project were to qualify for a Class 1 or Class 3 exemption, such an exemption would be precluded due to the cumulative impacts exception and the City has provided no meaningful evidence or assessment of these potential cumulative impacts.

3.6 *Public Resources Code section 21080.35 Exemption*

The staff report states that, “[t]he ordinance amendments are statutorily exempt from CEQA review under Public Resources Code section 21080.35, which states in pertinent part that CEQA ‘...does not apply to the installation of a solar energy system on the roof of an existing building or at an existing parking lot.’” ... “To the extent the ordinance amendments apply to solar panels on the roof of an existing building or at an existing parking lot, they are exempt from CEQA under this statute. Staff has not seen and does not anticipate receiving applications for the installation of solar panels on property within the Historic District that include a proposal to install solar panels anywhere other than the roof of an existing building or at an existing parking lot.” (HDC 6/24/26 pkt. p. 16.)

The Project does not involve development or approval of a solar energy system and this statutory exemption is inapplicable as an exemption for the Project.

4. Readopting Amendments to Chapter 17.52 will Restart a 90-Day Statute of Limitations for a Challenge of Provisions that Purport to Give Final Approval Decision to the HDC in Conflict with the City Charter

When the City Council adopted the FMC 17.52 amendments on October 28, 2025, a final ruling was pending in a separate matter, *Delp v. City of Folsom, et al.* (Superior Court of California, County of Sacramento, Case No. 23WM000125) involving two causes of action, the second of which involved Delp's request for declaratory relief pertaining to Folsom City Charter Section 4.07's limitation on the authority of the Historic District Commission as pertains to the 603 Sutter Street Mixed-Use project that was subject to that litigation. On October 31, 2025, the Court issued its final ruling. With regard to the HDC approval authority, as pertains to the 603 Sutter Street project design review, the Court found that the City's interpretation of Charter Section 4.07 was "entirely unreasonable," and that,

As the plain language of Section 4.07 provides, the City's authority to prescribe the "powers and duties" of other boards and commissions, like the Historic District Commission, is limited by the provision that "All boards and commissions only shall be advisory to the Council."

and that,

the City exceeded the limitations of its Charter to the degree it authorized the Historic District Commission to exercise final approval authority over the Project. The FMC purports to grant the Historic District Commission "final authority relating to the design and architecture" of "[a]ll new office, industrial, commercial and residential structures," which includes the Project. (Pet. RJN Exh. C [RJN000060, FMC § 17.52.300.]) The FMC also purports to authorize the Historic District Commission to carry out the City's CEQA compliance with regard to the Project, directing that the Commission "shall not approve applications prior to considering the applicable environmental document and complying with the requirements of CEQA[.]" (Id. at RJN000062, FMC § 17.52.390.) Approvals by the Historic District Commission may be appealed to the City Council, as the Project was here, but the Council is not required to review them. (Id. at RJN000083-83, FMC §§ 17.52.700-720.) These provisions purport to vest the Historic District Commission with the power to act on behalf of the City, without oversight or ratification by the City Council. They therefore cannot be squared with the Charter's limitation that the Commission's power is "only advisory." The City offers no authority or argument that the Historic District Commission acted in an "advisory" capacity when it approved the Project at issue here. **Thus, the provisions of the FMC which purport to delegate final approval authority to the Historic District Commission, as applied to the Project, conflict with the City Charter.**

(Superior Court of California, County of Sacramento, Case No. 23WM000125; *Final Ruling on Submitted Matter*, October 31, 2025. Emphasis added.)

In my comments to the City Council on October 14, 2025, (6/24/26 HDC pkt. pp. 119-124), I urged the Council to recognize that, "any revisions to FMC 17.52 that modify or expand the purported final authority of the HDC would exacerbate the existing FMC 17.52 conflict with City Charter section 4.07," noting the proposed amendments to 17.52.360 expanding the HDC's final authority role to include "expiration and extension of [conditional use] permits," FMC 17.52.370 expanding the HDC's final authority role to include "expiration and extension of

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[variance] requests,” and expanding the HDC’s final authority role in acting as the appeal hearing body pursuant to FMC 17.52.700 for the proposed new design review authority of the CDD Director established by FMC 17.52.300(B).

Although a 90-day statute of limitations to challenge the expanded HDC final authority of the amendments adopted by the Council on October 28, 2025, has expired, and the ruling in Case #23WM000125 pertained to that particular project, any re-adoption of amendments to FMC 17.52 that involve a modification or expansion of HDC authority that cannot be squared with the Charter’s limitation that the HDC’s power is only advisory may be subject to legal challenge for a 90-day period pursuant to Gov. Code, § 65009, subd. (c)(1). I expect that the Project amendments could be *rescinded* to restore FMC 17.52 to its pre-2026 language without subjecting the code to potential challenge under Gov. Code, § 65009, subd. (c)(1).

Any amendments to FMC 17.52 should include changes to ensure that the roles allocated to the HDC are in accordance with the limitations imposed by Charter Section 4.07. Alternatively, the city should consider amending the FMC 17.52 appeal procedures in a manner to alleviate the issues associated with granting final authority to the HDC.

Given that the City Council is presently pursuing a ballot measure attempting to modify Charter Section 4.07, the outcome of which will be known in November of this year, it would seem prudent for the City to rescind Ord. 1353 and reinstall the pre-2026 FMC 17.52 until such time as the Council either abandons the ballot measure or until the election determines whether the Charter will be amended by the voters and what amendments to FMC 17.52 may or may not be then warranted.

5. Conclusion

I encourage the HDC to recommend that the City Council rescind Ord. 1353, restore FMC 17.52 to its prior content.

Thank you for considering my comments.

Sincerely,



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June 22, 2026

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The Heritage Preservation League (HPL) requests that the ordinance be revised, not re-adopted. Parts of the ordinance are much needed, delegation of sign approval, for example. However, HPL continues to object to provisions which remove existing protections for historic and contributing sites. We believe these to be unintended consequences that can be corrected. While the goal of efficiency is desirable, the ordinance allows for decisions to be made which are not in keeping with the City goals stated in the General Plan and the Folsom Municipal Code. There are major and minor issues with the ordinance and with the CEQA arguments in the staff report. The discussion below of major concerns with the ordinance provides amplification for the CEQA concerns.

The major concerns with the CEQA arguments are:

HPL's concerns are focused on design, with no objections now which relate to our minor concerns or to exemptions for projects beyond the City's control or for provisions relating to uses.

The CEQA arguments are premised on the concept that "changing which body (HDC or staff) will process the minor approvals covered under the proposed amendments does not have the potential to cause a physical change in the environment directly or indirectly." For this premise to be true, there needs to be equivalent expertise in both bodies. Historic District Commissioners are appointed based on their individual expertise, with the aggregate bringing a high level of expertise to the Commission as a whole. In contrast, there is no requirement that the Community Development Director have any level of historic preservation/architectural expertise, nor that any staff have expertise to advise the Director's decisions. Such expertise is not a requirement of a city planner degree. It goes without saying that decisions made outside one's field of expertise have the potential for adverse physical effects.

Common Sense Exemption

As quoted in the staff report, the CEQA Guidelines exempt activities "[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Unless the ordinance is revised, implementation may have a significant effect on the environment. Specifically, 1) The lack of requirement in the ordinance that the Community Development Director's decisions be informed by historic preservation expertise has potential to adversely affect cultural resources, as noted above. 2) Only design review of buildings is provided, which means that new non-conforming structures that are not buildings can be constructed without review and existing historic structures that are not buildings can be modified or demolished without review. Non-buildings include some of the most historic features of the Historic District, for example, historic cemeteries (some of which, not all, are on the Cultural Resource Inventory) and remnants of railroad, gold mining, Chinese, and native people's activities. 3) The "small" projects exempted by the ordinance are not necessarily "minimal and aesthetically similar to the original" as the staff report asserts. For example, exempting projects "outside of the front and street side yards" means that installations of

noticeably modern design can significantly affect cultural resources in the vicinity. The staff report argues that such exempt projects are not visible from the street, but there is no requirement for screening from view. There are other examples.

Ministerial Exemption.

As quoted in the staff report, the CEQA guidelines exempt "...governmental decision[s] involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision." The ordinance charges the Community Development Director with decisions on whether a project is historic or potentially historic without sufficient "law" to apply. If a project is listed on a state or national register or is listed on the City's Cultural Resource Inventory or is listed in the City's Historic Preservation Master Plan (HPMP), the Director's decision to refer the project to the Historic District Commission is clearly ministerial. It would also be a ministerial decision then to conclude that projects not so listed are not historic or potentially historic. However, the great majority of buildings and structures in Historic Folsom have not been professionally evaluated for historicity, for whether they are contributing to the goals of the District. Absent such listing, per the ordinance the Director's decision then is to be based on methodology in the CEQA Guidelines or in the HPMP as to whether a project is a historic or potentially historic resource. The methodologies in both are intended only to provide information to guide legislative decisions, not ministerial staff decisions. See further discussion below.

Exceptions to Categorical Exemptions

The staff report asserts, "None of the exceptions apply. The ordinance amendments would not result in any significant cumulative environmental impact because there is no substantial evidence in the City's record demonstrating that the amendments would result in any significant increase in impacts in the Historic District by virtue of just changing the design review process, which still protects listed and potentially eligible historic resources." As explained above, changing the design review process without providing equivalent expertise has the potential to negatively impact cultural resources.

Further, the fact cited by staff, that the entire Historic District has not been "listed," does not mean that it should not be so viewed. The General Plan and the Zoning Code both recognize that the entire small town within the larger modern town is a valuable cultural resource to be protected. As usual, Folsom was ahead of the curve, recognizing that not only buildings or small groupings of buildings are historically significant but that the urban form of development prior to World War II is as important a communicator of the past as any building within it. Small-town America is homogenizing, and authentic small towns of Historic Folsom's era are increasingly rare. The cumulative effect of individual decisions regarding buildings and structures in the Historic District will either maintain the historic small town envisioned in the General Plan and Zoning Code or will incrementally result in a non-historic small town.

The major concerns with the ordinance are:

Review of structures has been removed, meaning that there is no provision for review of projects affecting historic structures, only buildings, and there is no provision that new structures be built in accordance with historic design. For example, unprotected structures would include the cemeteries not yet listed and the extant remnants of railroad, gold mining, Chinese and native people's history. The ordinance conflicts with Section 17.52.120 of the Folsom Municipal Code (FMC) without amending it.

RECOMMENDATION: restore the word “structure” in all instances where “building” is identified for review or demolition.

There is no requirement that there be historic preservation/architectural expertise among City staff to advise the Community Development Director’s opinions regarding a site’s historic/contributing status nor its environmental review and regarding whether staff or Historic District Commission (HDC) is the appropriate hearing body. Training in historic preservation is not a requirement for an urban planning degree.

RECOMMENDATION: add provision that in any instance where qualified professional advice to the Community Development Director is not available, applications will be heard by the Historic District Commission. Qualified professional advice should be at least equal to the aggregate of qualifications required for appointment to the Historic District Commission. Application materials for review or demolition need to include the applicant’s good-faith effort to provide information on the topic areas cited on the first two pages of Appendix A of the HPMP.

An unintended consequence is that strict reading of the ordinance would limit review by the Historic District Commission to listed buildings, for practical reasons. Otherwise the Commission or its staff would be required to gather extensive information required under the CEQA Guidelines and HPMP. Strict reading would also put the Director in the role of the legislative body in certain circumstances while requiring that the same level of information be gathered on which to base decisions. FMC17.52.300(A)2 of the ordinance, in practical terms, adds new limits on what projects are subject to design review by the HDC, in contrast to the charge to the HDC in FMC17.52.120. The ordinance cites only the two adopted lists and two guidelines provisions as criteria for decisions. In effect the ordinance restricts HDC review to only projects affecting buildings on an adopted list, because the staff work required to use the CEQA Guidelines and HPMP to identify whether other sites are historic is extensive. What then does the ordinance protect? Only a few of the many buildings and structures in the Historic District have been evaluated by qualified professionals in accordance with provisions of the HPMP and have thus been approved by the Commission to be listed on the City’s Cultural Resource Inventory (in accordance with requirements of the adopted Historic Preservation Master Plan (HPMP). The HPMP itself contains the second list the ordinance references, the Preliminary Cultural Resources Inventory. It was created by the citizen committee that prepared and recommended the HPMP to the City Council; committee members were appointed based on their individual qualification by reason of longtime involvement in particular aspects of preservation of Folsom’s history (HPMP, p. 2). Besides the two lists, the other two criteria cited for Historic District Commission and Community Development Director review guidance are the California Environmental Quality Act (CEQA) Guidelines and the HPMP’s City of Folsom Cultural Resources Inventory Registration Form, which is modeled on the form for the National Register of Historic Places. Each of these two citations defines only a process, a lengthy process as noted above, which is intended to provide decision makers, not staff, with information on which to base their decisions.

Consider the purpose and authority of the two guidelines cited. The CEQA Guidelines section cited provides the process to guide determination of whether a project will have a significant effect on a historic resource, for purposes of environmental review. The same process is used to determine whether a project will be listed on the California Register. Staff has a role in giving an opinion, usually based on the opinions of experts, but it is ultimately up to the legislative body to endorse or decline any recommendations or conclusions regarding whether the project will affect a historic resource. Similarly, per the HPMP and the City’s past practices, the Historic District Commission determines a site’s eligibility for the Cultural Resource Inventory. Staff’s

role is to submit information on which the Commission will base the decision. Neither the process of the CEQA Guidelines nor the process of the HPMP can be carried out in a manner that achieves the efficiency goal of the ordinance. For example, adding the Granite School to the California Register took a year to prepare the submittal. Adding Folsom Prison to the City's Cultural Resource Inventory also took a year.

Given Folsom's history and how few sites are on either list, it is likely that there are other sites that should be listed. For example, the Orangevale Avenue Bridge was not on either list until the omission was called to the City's attention by HPL and the Lincoln Highway Association in connection with a public works project; it was ultimately placed on the Cultural Resource Inventory through the process defined in the HPMP.

However, there is no process for adding sites to the other list, the Preliminary Cultural Resource Inventory of the HPMP, an appropriate means to create such a process. The General Plan calls for updating the HPMP, but it is currently not scheduled.

RECOMMENDATION: Either have all buildings/structures in the Historic District evaluated by qualified historic professionals before delegating any approvals to the Community Development Director

OR

Acknowledge that all buildings and structures in the Historic District are potentially historic/contributing and thus ineligible for delegation of approval of changes AND give the Community Development Director full authority to evaluate whether a proposed project maintains the structure's original or existing style (Design and Development Guidelines Goal 1, Policy 1.2; Goal 2, Policy 2.30). This avenue may delay full realization of the General Plan and zoning goals, but it avoids requiring extensive staff time to gather information required under the CEQA Guidelines and the HPMP in order for the Commission to exercise its role in determining historic significance. Applicants can be assured of a quick approval by submitting designs that continue the structure's style. If they wish to support the City's goals by bringing the structure into compliance with historic design, they can choose to go to the Historic District Commission.

Demolition provisions would allow demolition of historic/contributing, and potentially historic/contributing, buildings and structures. FMC17.52.660 protects only buildings and introduces a new standard for exempting demolition from review: whether the building was originally constructed at least 50 years before application for demolition. Age should not be the only determinant if the General Plan and zoning goals are to be met. Proper determination of historicity depends on consideration by qualified persons of all the topic areas in the CEQA Guidelines and the HPMP. There are buildings which have been modified and constructed since 1998 (when the Historic District regulations were adopted) or 1988 (when the General Plan defining the Historic District boundary was adopted) which have been built in accordance with historic standards and/or approved by the Historic District Commission. AllowingE such buildings to be demolished without review undermines public support for historic regulation as a whole. It's unlikely that owners would demolish a building they constructed, but a subsequent owner might want something different. That could be sufficient reason for allowing demolition but not until justification of the demolition is explained at a hearing.

RECOMMENDATION: Require all proposed demolition to provide justification at a hearing before the Historic District Commission or the Community Development Director

Exemption provisions allow non-historic structures to be built in public view. As cited above, the ordinance's approach of citing project types that can be built without an approval leaves open the possibility of non-conforming structures visible to the public with no avenue for requiring them to be brought into compliance.

RECOMMENDATION: Instead of a list of projects, use a performance standard, stating to the effect that all small projects are exempt if they are constructed in accordance with defined architectural styles or are adequately screened from public view.

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to facilitate double-sided printing
and minimize paper use.*



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