



Folsom City Council Staff Report

MEETING DATE:	9/13/2022
AGENDA SECTION:	New Business
SUBJECT:	Zoning Code Update – Workshop on Proposed Zoning Administration and Review Process Changes and Direction to Staff
FROM:	Community Development Department

RECOMMENDATION / CITY COUNCIL ACTION

Staff is seeking early Council direction on key changes proposed to the current administrative and review processes as part of the current Zoning Code update effort (Title 17 of the Folsom Municipal Code or FMC). Specifically, questions and recommendations in this report address the appropriate level of design review for smaller projects, public noticing and outreach, minor modifications to design and development standards, and the appeals process.

BACKGROUND / ISSUE

City staff and its consultant team (Mintier Harnish) are in the process of updating the City’s Zoning Code, which has not been comprehensively updated for decades. Based on staff’s review of the current zoning administrative and review processes in the code, several of the processes are time-consuming, costly, and inefficient. There are four key areas of the current administrative and review processes that staff reviewed and are recommending process changes. These include:

1. Design Review
2. Permits and Variances
3. Public Hearings, Notices and Outreach
4. Appeals

The proposed concepts, as described in the Analysis section of this report, would apply to all areas of Folsom except the Historic District and those areas of the City within a specific plan.

Some of the proposed changes are the result of staff and community input that has been received over the past few years. In addition, changes in State law are removing jurisdictions' discretion as it relates to housing approvals. As a result, some of the proposed changes are reflective of those amendments to State law.

The changes to zoning for the Historic District will be handled separately after completion of the rest of the Zoning Code. Based on feedback about the Historic District and the number of issues raised in this area, staff will be completing the Historic District portion of the Zoning Code update separately after the update and adoption of the rest of the Zoning Code. This is so that staff can spend more time and hold more workshops to discuss major design and use issues in this area. As a result, staff will conduct a separate hearing for the Historic District to review and provide recommendations on the administrative and review processes for that area later next year.

With Council direction staff will complete the administrative sections of the Zoning Code and along with the other sections present those as a public review draft. The public review draft will be made available for 30 days for public input and staff will host workshops with the Planning Commission and City Council on the draft document in early 2023.

POLICY / RULE

There are several important goals, policies, and programs from the City's 2035 General Plan and the 2021-2029 Housing Element that relate either directly or indirectly to the Zoning Code update and the review process. These policies are:

General Plan:

- Policy LU 1.1.1 Zoning Ordinance: Ensure that the Folsom Zoning Ordinance is consistent with the 2035 General Plan.
- Policy LU 1.1.12 Infill Development: Coordinate with the real estate development community to encourage infill development in key parcels north of U.S. Highway 50. Infill development should follow these guidelines:
 1. Respect the local context. New development should improve the character and connectivity of the neighborhoods in which it occurs. Physical design should respond to the scale and features of the surrounding community, while improving critical elements such as transparency and permeability.
 2. Work with neighbors. Infill development requires neighborhood consultation to understand the concerns, goals, and needs of existing neighborhoods. Ensure the planning and design process provides proper avenues for neighborhood input while fulfilling the community's larger goals for walkability and compact development.
- Goal LU 9.1 Community Design: Encourage community design that results in a

distinctive, high-quality built environment with a character that creates memorable places and enriches the quality of life of Folsom's residents.

Housing Element:

- Policy H-2.1 Permit Processing and Review Times: The City shall continually strive to shorten permit processing and review times to the greatest extent possible and will consider allowing concurrent processing for affordable housing projects.
- Policy H-2.5 Objective Standards: The City shall endeavor through its development and design standards and decision making to provide consistent and predictable policy direction based on objective standards for multi-family residential project applicants.
 - Implementation Program H-8 Objective Design Standards for Multifamily Housing: The City shall rescind the Design Guidelines for Multifamily Development upon adoption of the Housing Element and shall adopt objective design standards for multifamily development, as part of the comprehensive Zoning Code update.
- Policy H-3.7 By-right Housing on Previously Identified Housing Sites: The City shall allow housing developments with at least 20 percent affordable housing by-right, consistent with objective design standards, on lower-income housing sites that have been counted in previous housing element cycles, consistent with AB 1397.

ANALYSIS

As part of the Zoning Code update, staff has reviewed the administrative processes including the permit process, design review process, and the appeals process. In addition, staff has also reviewed the current public hearing, public noticing, and outreach process. Staff evaluated the different processes based on input from the public, applicants, City staff and the Commissions. Staff compared the existing processes in the Zoning Code with those of other jurisdictions in our region. The analysis below looks at each of the four issue areas (design review, permits and variances, public hearings and noticing, and appeals), asks key questions, and provides recommendations for improvement as well as background information explaining the reasons for the recommendations.

Issue # 1: Design Review Process:

Back in August 2018, the City Council approved the 2035 General Plan, which in the Land Use Element, identifies what type of development (single-unit residential, multi-unit residential, commercial development, etc.) should occur in each area of Folsom. In addition, the Land Use Element established Community Design goals and policies. Furthermore, the City Council will be required to adopt objective design standards for all residential development in accordance with State law. Once these documents and design standards are reviewed, adopted and in place, the first question is:

Design Question 1: Should the City continue to require homeowners, businesses, property owners, and developers to obtain Planning Commission approval for their design if they comply with adopted City development and design standards?

The current thresholds for Planning Commission-level design review (outside of the Historic District) are as follows:

- Non-residential projects larger than 1,000 square feet
- Residential projects with more than 2 units
- Significant exterior modifications that include changes in exterior building materials

For example, under the current thresholds a four-unit apartment project would be subject to Planning Commission approval. However, because Planning Commission review is longer than director-level review this threshold could be considered inconsistent with Housing Element Policy H-2.1, which committed the City to reduce permit processing and review times for housing development.

In another example, if a store that is 1,500 sq. ft. changes the exterior materials on the building from brick to stone that project currently must go to Planning Commission for approval. As a result, that process includes preparation of a staff report, presentation, applicant and designer attendance at the meeting, and this adds anywhere from one to three months to the review process.

To provide some context for a change to the thresholds, most new apartment projects in new development areas like the Folsom Plan Area are typically 100 units or more, while infill apartment projects are often smaller in scale and have fewer units due to the smaller lot sizes typical in infill areas. Commercial projects vary in size depending on the type of use. The table below show the building sizes for some typical retailers (refer to Table 1).

**Table 1
Examples of Typical Commercial Building Sizes**

Retailer	Type of Use	Typical Building Size*
Starbucks	Coffee chain	1,500 – 2,000 sq. ft.
Chipotle	Fast food restaurant	2,000 – 3,500 sq. ft.
Panera Bread	Fast food restaurant	4,000 – 5,000 sq. ft.
Bank of America	Bank	4,000 – 5,000 sq. ft.
AutoZone	Automotive parts store	7,000 sq. ft.
Dollar General	Discount store	9,000 – 10,000 sq. ft.
Walgreens	Pharmacy	14,500 sq. ft.
Safeway	Grocery store	45,000 – 60,000 sq. ft.
Hobby Lobby	Big box hobby store	55,000 – 64,000 sq. ft.

**Note: Commercial square footage figures are rounded.*

Source: Net Lease Advisor (www.netleaseadvisor.com), August 2022.

Design Question 2: What does the City hope to achieve by requiring Planning Commission review for projects that comply with the General Plan, the Zoning Code, and objective design standards or guidelines?

In our region, there is no uniform threshold for what is handled at director level versus what is handled at the Commission or Council level. As shown in Table 2, some jurisdictions like Rocklin and Roseville only allow minor design modifications to be heard at the director level while other jurisdictions like Sacramento and Elk Grove allow much larger projects to be handled by the director. For example, in the City of Elk Grove, the Development Services Director handles design review for apartment projects with less than 150 units and non-residential projects under 10,000 square feet.

Staff Recommendation: Increase thresholds for director-level design review. For commercial projects consider a new threshold of 5,000 square feet and for residential projects consider a new threshold of 10 units.

**Table 2
Summary Comparison of Major Thresholds for Design Review**

Jurisdiction	Exempt*	Staff Level Review	Director Level	Commission Level
<i>Folsom (Existing)</i>	Residential changes that don't require a building permit	N/A	<ul style="list-style-type: none"> Residential: Custom homes and duplexes (2 units or less) Commercial: 1,000 sf or less Minor modifications 	<ul style="list-style-type: none"> Residential: Projects with more than 2 units. Commercial: New buildings greater than 1,000 sf or Major modifications or site changes
Citrus Heights	Custom single-family homes	N/A	<ul style="list-style-type: none"> Residential: Projects with 5 to 9 units Commercial: 5,000 sf or less 	<ul style="list-style-type: none"> Residential: Projects with 10 or more units Commercial: 5,000 sf or more
Elk Grove	Custom single-family homes; additions of less than 1,000 sf	N/A	<ul style="list-style-type: none"> Residential: Multi-family with less than 150 units Commercial: Projects less than 10,000 sf and additions of less than 10,000 sf 	<ul style="list-style-type: none"> Residential: Multi-family projects with 150 units or more and residential subdivisions Commercial: Projects 10,000 sf or more and additions of 10,000 sf or more
Rancho Cordova	Custom single-family homes; additions of less than 1,000 sf	N/A	<ul style="list-style-type: none"> Commercial: Less than 5,000 sf Industrial: Less than 10,000 sf Residential: Remodels of multi-family 	<ul style="list-style-type: none"> Residential Single-family subdivisions and master plans Commercial: Projects over 5,000 sf or additions beyond that amount Industrial: Projects over 10,000 sf and additions beyond that amount Integrated developments
Rocklin	New single-family homes outside of certain districts	N/A	<ul style="list-style-type: none"> Residential: Projects of 4 or fewer lots; small additions, minor modifications 	<ul style="list-style-type: none"> Residential: Projects with 5 or more lots Commercial: New projects Major modifications
Roseville	Custom single-family homes and duplexes	N/A	<ul style="list-style-type: none"> Minor improvements or alternations only Projects consistent with Downtown Specific Plan 	<ul style="list-style-type: none"> New buildings or projects involving significant site alterations
Sacramento (City)	Alterations to existing structure or site that does not change the function or appearance	All projects	<ul style="list-style-type: none"> Projects involving deviations from design guidelines or development standards Development project involving a landmark or historic resource Project elevated by to this level by Director 	<ul style="list-style-type: none"> Project involving change to or construction on an existing landmark or historic resource as determined by Director Any project elevated to this level by Director

**Note: This is a summary table of major criteria triggering design review. All jurisdictions exempt small accessory structures, repair and maintenance, and repainting, and ADUs less than 800 sf and 16 feet tall or less, etc.*

Issue #2: Permitting and Minor Modification Process

While the City has a variety of planning permits most are granted by the Planning Commission and there is no flexibility granted to the Community Development Director for projects with unique situations requesting minor deviations from development standards. Under the current situation, this can result in an expensive and time-consuming process for applicants.

Permitting Process Question: Should the City change its current process to allow for some use permits and requests for deviations to be handled at the director level?

Under the current zoning regulations in the case of use permits, there is very little difference between the major and minor conditional use permit. The only difference between these is the fee (\$2,683 vs. \$5,528). Both require staff reports, public hearings and noticing, and both go to Planning Commission for review and approval. There is no use permit handled at the director-level. As shown in Table 3 below, Folsom is one of the few jurisdictions that does not have an administrative use permit or minor use permit that is handled at the director-level.

**Table 3
Regional Comparison of Level of Use Permit Approval**

Jurisdiction	Administrative/ Minor Use Permits	Conditional Use Permit
Folsom (Existing)	Commission	Commission
Citrus Heights	Planning Director	Commission
Elk Grove	Zoning Administrator	Commission
Rancho Cordova	Planning Director	Commission
Rocklin	N/A	Commission
Roseville	Planning Manager	Commission/Committee
Sacramento (City)	Planning Director	Director or Commission

If an Administrative Use Permit (AUP) is added to the new Zoning Code, it would be used in cases where the use is appropriate for the zoning district but there are additional standard conditions needed to ensure its compatibility with surrounding uses that would be applied by the director. An example would be a major automotive repair facility in the C-3 (General Commercial) zone. Major automotive repair is an appropriate use in the C-3 zone, but certain standard conditions would apply such as hours of operation, loading and delivery activities, limitation on vehicle idling if near residential, etc. In another example, a wine tasting room in the C-1 (Neighborhood Business) zone is an appropriate use, but staff would use an AUP to impose standard conditions such as hours of operation, prohibition on outdoor entertainment, compliance with any Folsom Police and State Alcohol Beverage Control (ABC) requirements, limit on hours for outdoor seating areas, etc.

In addition to the lack of an administrative use permit process, the City also lacks the ability to handle requests for minor deviations from existing standards without an expensive and time-consuming process for the property owner as noted above. The only tools that the City offers is the Variance or the Planned Development (PD) permit. However, the Variance process includes findings that are difficult to meet, both permits are very expensive (\$1,567 for a Variance and

\$8,525 + \$426/acre for the PD permit), and the process is time consuming as these both require Planning Commission approval. Examples of these kinds of minor deviation requests include the following:

1. Minor Front Yard Encroachment: When a small portion of a proposed addition or new structure encroaches one or two feet into the front setback due to site conditions (e.g., avoiding a protected tree).
2. Minor Rear Yard Encroachment: An unusual lot shape that necessitates partial encroachment into the rear yard setback.
3. Minor Height Increase: A minor increase in rear building height to compensate for a slope issue, but no change to appearance of home at street level.
4. Existing Nonconformity: Allowing applicant to do a small addition to their home even though it has an existing non-conforming condition (e.g., one-car garage) that normally would prevent any work on the home without resolution of the non-conformity.
5. Minor Parking Reduction: Request for a parking reduction of one or two spaces for a commercial use that improved their building including adding parking lot shading trees, but the trees prevented the applicant from meeting its parking obligations.

When comparing Folsom with other jurisdictions in our region (refer to Table 4), the City stands apart since Folsom is the only jurisdiction that requires all requests for minor modifications or deviations to go to the Planning Commission for review and approval.

Table 4
Regional Comparison of Allowed Minor Deviations

Jurisdiction	Amount of Deviation	Areas of Allowed Deviation	Approval Level
Folsom (Existing)	No threshold	Any area except density and use	Planning Commission
Citrus Heights	Up to 30% to 40%	Setbacks, parking, lot coverage and height	Planning Director
Elk Grove	Up to 10%	Height, setback, lot coverage, maximum allowed signage area, sign height, sign setbacks, sign projections, and parking provisions	Development Director
Rancho Cordova	Up to 30% to 40%	Parking, setbacks, height	Planning Director
Rocklin	Up to 10%	Lot area, depth, or width; setbacks; height; lot coverage	Planning Director
Roseville	Up to 35%	Any modification to permit and up to 35% deviation from development standards	Planning Manager
Sacramento (City)	No threshold	All development standards and design guidelines	Planning Director

Staff Recommendation: Two changes are recommended: 1) create a new director-level Administrative Use Permit (AUP) process for appropriate uses in the zone that require certain standard conditions; and 2) create a minor modification process that is handled at the director

level and allows for minor deviations (such as a 10% deviation) from existing development standards (e.g., height, setbacks, lot coverage, lot area, parking, etc.).

Issue #3: Public Hearings, Notices and Outreach Process

Under the City's current process for development projects, which requires a public hearing, Planning staff sends out a request for comments to other City departments, outside agencies, and any business or community groups that have requested reviews. This is generally done within the first few weeks of receipt of the application. For design review applications only, City staff also posts the site at least five days prior to the hearing, requires the applicant to provide notices that City staff mails to all property owners within 300 feet of the project site ten days beforehand, and places a notice in the *Folsom Telegraph* or *Sacramento Bee* at least ten days prior to the hearing consistent with the current requirements of the Zoning Code and State law (Government Code Section 65090 *et seq.*). For larger or controversial projects, Planning staff encourages applicants to reach out to neighborhood and/or business groups that may be affected by the project or have an interest in the project. Large project applications are also posted on CDD's [Pending Development Applications webpage](#) while director-level design review projects are uploaded to the [Active Staff-Level Design Review Submittals webpage](#).

Outreach Question: As the Council considers the recommendations to shift more minor reviews to director level and as the State makes more review processes ministerial (i.e., handled at staff level with no discretion), should staff increase outreach and noticing especially for large projects?

If the answer to the question above is yes, there are several different approaches that jurisdictions in our region have taken to increase transparency and create opportunities for public input and involvement. These include:

- Early Notification:
 - Email Notification: Early email notices to neighborhood and business associations (within 2 to 4 weeks of application receipt) (City of Sacramento)
 - Site Posting: Early site posting after design review application receipt (Sacramento County and City of Sacramento) in addition to normal posting of site before the public hearing.
- Director Reports:
 - Expand the director's report to the Planning Commission to identify all projects approved at the director-level and where information on those projects can be found on the CDD's website.
- Public Hearing Notices:
 - Increasing the distance from the project site for mailed public notices (refer to table below)
 - Requiring the public hearing notices be mailed to both property owners and tenants (Elk Grove)
- Development Activity Website: Use of development activity webpage and activity tracker that shows active projects including both applications and projects under construction on an interactive map (Elk Grove, Davis, City of Sacramento)

- Community Outreach:
 - Encouraging applicants to hold community meeting on their project and/or reach out to neighborhood and business groups (Citrus Heights, City of Sacramento)
 - Granting authority to the Community Development Director to require community meeting when appropriate (City of Sacramento)

As shown in Table 5, more than half of the jurisdictions listed below now require notices for public hearings to be sent to property owners within 500 feet or more of the project site compared to the existing 300-foot requirement set forth in State law (Government Code Section 65091(a)(4)).

**Table 5
Regional Comparison of Public Hearing Noticing Distance**

Jurisdiction	Required Noticing Area
Folsom (Existing)	300'
Citrus Heights	300'
Elk Grove	500'*
Rancho Cordova	500'
Rocklin	600'
Roseville	300'
Sacramento (City)	500'

**Note: In Elk Grove, certain other projects require noticing 1000' or 2000' from the project site*

Staff Recommendation: Improve the level of outreach and transparency by including the following approaches in the new Zoning Code:

- Early notification emails
- Provide expanded director reports with information on staff-level projects
- Expand the public hearing notice radius from 300 to 500 feet
- Set up a development activity webpage
- Encourage community meetings for larger projects and grant the director the authority to require a meeting

Issue #4: Appeals Process

Folsom's existing Zoning Code provides for two levels of appeal. For example, a design review of a custom home by the Community Development Director can be appealed to the Planning Commission and the Commission's decision can be appealed again to the City Council. However, over the past ten years no more than five director-level decisions have been appealed all the way to the City Council. Typically, those have involved the design review of custom home projects focusing on the design and scale of the custom home. The key questions for considering updates to the City's appeal process are as follows

Appeal Question 1: With so few director-level projects that are appealed to Commission and then Council, what is the benefit of the two-level appeal process?

Appeal Question 2: If the City changes to allow only one level of appeal, does the Council support having the Commission be the final hearing body for the appeals of director-level decisions or does the Council want that role?

As shown in Table 6, while some jurisdictions such as Rocklin and Rancho Cordova still allow two levels of appeal, the rest do not. Jurisdictions that have reduced the number of appeals from two to one have done so in order to reduce the time and cost of the review process for the applicant, appellant, and staff. Larger and more controversial projects would still go the Planning Commission and then would continue to be appealed to the City Council. The Council would remain the final decision-making body in those cases.

**Table 6
Regional Comparison of Levels of Appeal**

Jurisdiction	Level of Appeal
Folsom (Existing)	Two levels
Citrus Heights	One level
Elk Grove	One level
Rancho Cordova	Two levels
Rocklin	Two levels
Roseville	One level
Sacramento (City)	One level

Staff Recommendation: One-level of appeal with director-level decisions appealed to the Planning Commission for final decision and Planning Commission decisions appealed to the City Council for final decision.

FINANCIAL IMPACT

No financial changes are proposed as part of this workshop.

ENVIRONMENTAL REVIEW

Under Section 15061(b)(3) of the California Public Resources Code, this activity will not have a significant effect on the environment and as such the project is exempt from environmental review under CEQA. Environmental review for the Zoning Code update will be conducted prior to the adoption hearings.

ATTACHMENTS

None

Submitted,



Pam Johns, Community Development Director

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