Historic Preservation Commission Agenda

DON SIMMONS, Ph.D.
Chair
PATRICK BOYD, Vice Chair

Commission Members
ROBIN GOLDBECK
PAUL HALAJIAN AIA
JASON HATWIG LEED AP BD+C
CHARLOTTE KONCZAL ESQ.
VACANT

JENNIFER K. CLARK, AICP
Director

DANIEL ZACK, AICP
Assistant Director

KARANA HATTERSLEY-DRAYTON, M.A.
Secretary
Historic Preservation Project Manager

CASEY LAUDERDALE, Planner 1
Recording Secretary

Any interested person may appear at the public hearing and present written testimony, or speak in favor or against the matters scheduled on the agenda.

If you challenge these matters in court, you may be limited to raising only those issues you or someone else raised in oral or written testimony at or before the close of the hearing.

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices, or translators should be made one week prior to the meeting. Please call the Historic Preservation Project Manager at 621-8520.

The Historic Preservation Commission welcomes you to this meeting.

January 26, 2015 MONDAY 6:00 p.m.

CONFERENCE ROOM A 2600 FRESNO STREET
2nd Floor, City Hall

I. CALL TO ORDER AND ROLL CALL- 6:00 p.m.

II. APPROVE MEETING MINUTES

A. Approve minutes for November 17, 2014.
III. APPROVE AGENDA

IV. CONSENT CALENDAR
   A. Adopt Meeting Schedule for 2015.

V. CONTINUED MATTERS
   None

VI. COMMISSION ITEMS
   A. Review and Make Findings on a Request to Rescind the Designation of The Nestel Home (HP#152) Located at 1527 “L” Street Due to the Loss of Integrity, and Health and Safety Concerns, Pursuant to FMC Section 12-1614, Section 12-1608 and 12-1609. (ACTION ITEM).

       Staff Recommendation: Recommend approval.

VII. CHAIRPERSON’S REPORT

VIII. UNSCHEDULED ITEMS
   A. Members of the Commission

   B. Staff


   C. General Public

IX. NEXT MEETING: Monday, February 23, 2015, 6 PM Conference Room A City Hall.

X. ADJOURNMENT
Historic Preservation Commission Executive Minutes

November 17, 2014
MONDAY
6:00 p.m.

CONFERENCE ROOM A
2nd Floor, City Hall

I. CALL TO ORDER AND ROLL CALL- 6:00 p.m.
The meeting was called to order at 6:01 p.m. by Chair Don Simmons, Ph.D.

Commissioners Present: Boyd, Goldbeck, Halajian, Konczal, Simmons.

Commissioners Absent: Hatwig

Staff Present: Hattersley-Drayton, Lauderdale, Preciado and Zack.

II. APPROVE MEETING MINUTES

A. Approve minutes for October 27, 2014.

The minutes were approved 4-0-1 (Konczal abstaining) with a motion by Boyd and a second by Goldbeck.

III. APPROVE AGENDA

The Chair asked to amend the agenda pursuant to Section 8c of the HPC By-Laws to include a discussion of the recently formed Code Enforcement Task Force vis-à-vis historic preservation. Chair Simmons noted that the Task Force met today and there is a direct relation to the work of this new group and that of the Historic Preservation Commission. Dr. Simmons previously asked about including a Commissioner or preservation staff and was told the Task Force is too large. He opines that this is the appropriate time to act as the Task Force has only met once.

Agenda amended on a vote of 5-0 with a motion by Simmons and second by Boyd.

IV. CONSENT CALENDAR

V. CONTINUED MATTERS
None
Historic Preservation Commission Minutes, November 17, 2014

VI. COMMISSION ITEMS

A. Review and Approve Conceptual Plans for the Restoration and Adaptive Reuse of the Parker Nash Building (HP#226, 1913) Located at 1462 Broadway Pursuant to FMC 12-1606(a)(2).

Staff Recommendation: Recommend approval.

Karana Hattersley-Drayton gave a power point that outlined the proposed project. The staff recommendation is to approve the conceptual plans and find that the project is consistent with the Secretary of the Interior's Standards with two caveats: preserve the option to restore the ceramic tiles on the spandrels and along the base of the building and explore option to NOT infill the loggia on the building's façade.

Chair Simmons asked the applicant to address the questions of the decorative tiles and the loggia.

Cliff Tutelian (Tutelian and Company): His company has been using the building as a parking garage. The proposed occupant is a charter school that receives funding from the State of California, has a great reputation but can only pay a limited amount in rent. Mr. Tutelian notes that he spoke to staff (Karana) about the applied tiles and that if there is funding available he would restore this work. However, he does not believe that this decorative work will be missed once the building is restored. The loggia area needs to be in-filled to accommodate the upstairs classrooms. The roof in this section needs to be elevated and rebuilt in order to allow natural light into the classrooms. They also have a severe problem with pigeons in this area.

Paul Halajian: Asked whether the shed roof in this section would need to be removed?

Mr. Tutelian stepped up to the “dais” and discussed the proposed work using a copy of the elevation drawings.

Halajian: Wondered whether the ceilings in these classrooms would be high or dropped.

Tutelian: Responded that both scenarios would apply, depending upon the location.

Halajian: Asked whether the building was unreinforced masonry.

Tutelian: Yes, it is unreinforced.

Halajian: Noted that the project would have to be approved by the State Architect's office due to the use of State funds.

Tutelian: They have checked on this and have been told that it will not be reviewed by the State.

Hattersley-Drayton: Clarified that the recommendation is not to REQUIRE the tile work now but to allow for an option for the future: the pattern of the tiles is still readily seen, can this be preserved in place using a clear seal? Discussion among Commissioners and applicant that this is not feasible and would not be aesthetically appealing. Cleaning of the brick will remove the pattern which is apparently left from the mastic or glue used to apply the tiles.
Historic Preservation Commission Minutes, November 17, 2014

Charlotte Konczal: Asked whether stencils or patterns could be replicated?

Tutelian: Noted that he is worried about the economics of the project.

Simmons: Asked whether sprinkler requirements would have any visible impact to the exterior of the building.

Tutelian: The building already has fire sprinklers and are approved by the fire department.

There follows a discussion regarding the new windows and various options.

Halajian: Asked whether the new storefront windows would evoke the look of the former dealership or that of a school... also what kind of mullions. He recommends a bronze colored metal product NuCore (from Conaire) which is very reliable. He also recommends that fewer mullions are better [Ed. Note: He probably actually means muntins at this point; thus fewer divides. Historic photo shows an interesting treatment of the windows back in the 1930s when Broadway was widened.]

The issue of documenting the ceramic tiles is again addressed.

Konczal: Before the pattern is washed off... take measurements.

Hattersley-Drayton: The colors of the original tiles are discussed in the survey forms prepared by John Edward Powell.

Simmons closes the discussion to the applicant and the public and returns to the Commission.

Boyd: Asked whether the west elevation windows are out of scale... they seem overly large on drawings.

Tutelian: Those are the sizes but the drawings may change.

Halajian: Recommends that the windows NOT be divided evenly, make center light larger and it will look more authentic [In fact historic photos indicate that this asymmetry was the way they were treated originally.]

Boyd: Comments that due to the depth of the walls can locate windows with some flexibility.

Robin Goldbeck: This would keep the feeling of the depth.

Halajian: Asked if the square piercings at the loggias will be filled in?

Tutelian: Suggests that he could do a glass block in these holes. Again asks for possible grant funds for some of these aesthetic issues.

Commission comments about asking for community help in locating additional historic photos of the building.
Christopher Preciado (Planner III, assigned to project): The drawings indicate that the proposed interior walls “dive into” the arched window openings. He stresses that the double tower arches (thus the northeast corner) is a particularly important place on the building and this corner should be “celebrated.” This can perhaps be a meeting room or teachers’ lounge instead of just a classroom.

Halajian: Agrees with Preciado’s comment.

Tutelian: All comments will be considered. The needs of the school will also determine the interior layout. The windows will need to be tinted.

Simmons: Recommends having a historic plaque on the building.

Drayton: I can send the property owner the template/form.

On a vote of 5-0 the Commission recommended approval of the proposed project with the condition that the mosaic tile pattern be appropriately documented and that an option be left open to reapply this when it is financially feasible. Motion by Halajian, second by Goldbeck.

B. Develop a Resolution Regarding Historic Preservation Participation on the Code Enforcement Task Force.

Chair Simmons outlined the issue: that the Mayor has established a Code Enforcement Task Force which currently does not have a Historic Preservation representative.

Halajian: Asked what other departments are included or represented in this Task Force?

Simmons: City Manager, Development and Resource Management, City Attorney.

Halajian: Would HPCs role be technical or policy?

Simmons: His hope is that it would be for policy.

Konczal: But there is a technical need as well. The City Attorney can interpret code but has no context.

Hattersley-Drayton: A specific example might be that a property could pencil out and be rehabilitated if it was a designated historic resource AND the property owner could use the California Historical Building Code.

Konczal: Notes that if there was a staff member attending these meetings, we could receive regular reports.

Hattersley-Drayton: Asks Dan Zack if there is any reason that she can’t attend these meetings.

Zack: Not sure, but will look into it. He also could be considered a representative.
Historic Preservation Commission Minutes, November 17, 2014

Hattersley-Drayton: Asks Mr. Zack if he thinks a resolution is helpful... what does he prefer?

Simmons: The Chair (of the Task Force) would like a historic representative. The Mayor responded that the Task Force is too large and that historic preservation concerns will be covered.

Konczal: What is the purpose of the Task Force?

Simmons: Will be making recommendations for policy/code changes.

[Discussion about a resolution and what it should entail: Could include actual designations of a representative from the Commission, the Historic Preservation Officer or Assistant Director.]

Konczal: We can request that until such time that someone is actually appointed that Karana or Dan be allowed to attend the meetings and report back.

Simmons: A resolution will express our concern that Historic Preservation has been left out.

On a vote of 5-0 the Commission adopted the following resolution to be forwarded to the Task Force Chair, the Mayor and the City Council: the Historic Preservation Commission hereby resolves that a Historic Preservation Commission representative be appointed to the Task Force to represent historic preservation issues and code enforcement. Motion by Charlotte Konczal Esq, with a second by Patrick Boyd.

VI. CHAIRPERSON'S REPORT

There was no Chair report.

VII. UNSCHEDULED ITEMS

A. Members of the Commission

There were no additional reports from the Commission.

B. Staff


Karana Hattersley-Drayton reported that there were 101 participants in this year's Bike Through History. It was a great event with participation from property owners on Huntington Boulevard as well as the South Van Ness Industrial Area. [She showed a few images in a Power Point. She mentioned that the event was posted on the CLG list serve and several cities (including one in Minneapolis) requested information and expressed interest in doing something similar in their city.]
2. RFP/RFQ for South Van Ness Industrial District Historic Survey.

Ms. Drayton reported that the contract for the consultant chosen for the South Van Ness survey goes to Council on Thursday. Nine firms sent proposals; all were from reputable firms from throughout California. The consultants chosen prepared the survey for Chinatown and the Germantown context. One apparent reason for the number of excellent proposals is that the budget was considered sufficient.

Karana Hattersley-Drayton also publicly thanked both Paul Halajian and Robin Goldbeck for their help reviewing the revised Met Block elevations and plans.

C. General Public

IX. NEXT MEETING: Monday, December 15, 2014, 6 PM Conference Room A City Hall. Both Charlotte Konczal and Don Simmons noted that they may not be able to be present for this meeting.

X. ADJOURNMENT

The meeting was adjourned at 7:39 P.M.

Respectfully submitted:

Karana Hattersley-Drayton
Secretary

Casey Lauderdale
Recording Secretary
THE HISTORIC PRESERVATION COMMISSION
of the
CITY OF FRESNO

2015 Meeting Schedule

All Regular Meetings will be held on the Fourth Monday of Every Month
in Conference Room A, (2165N)
City Hall, 6:00 P.M. Unless Otherwise Noted

January 26th
February 23rd
March 23rd
April 27th
May 18th (third Monday, due to holiday)
June 22nd
July 27th
August 24th
September 28th
October 26th
November 16th (third Monday)
December 14th (third Monday due to holidays)

For additional information, please contact Karana Hattersley-Drayton,
Historic Preservation Project Manager, (559) 621-8520 or
karana.hattersley-drayton@fresno.gov.
REPORT TO THE HISTORIC PRESERVATION COMMISSION

January 26, 2015

FROM: DANIEL ZACK AICP, Assistant Director
Development and Resource Management Dept.

BY: KARANA HATTERSLEY-DRAYTON, M.A.
Secretary
Historic Preservation Project Manager

SUBJECT: REVIEW AND MAKE FINDINGS ON A REQUEST TO RESCIND
THE DESIGNATION OF THE NESTEL HOME (HP#152) LOCATED AT 1527 L
STREET DUE TO THE LOSS OF INTEGRITY, AND HEALTH AND SAFETY
CONCERNS PURSUANT TO FMC SECTION 12-1614, SECTION 12-1608 AND
12-1609.

RECOMMENDATION

Staff recommends that the Historic Preservation Commission recommend to the City Council that it rescind the historic designation of the Nestel Home located at 1527 L Street due to a loss of integrity and for health and safety concerns, pursuant to FMC Section 12-1614, Section 12-1608, and 12-1609.

EXECUTIVE SUMMARY

On September 20, 2014 the Nestel Home, located at 1527 L Street, suffered a devastating fire which resulted in a 100% loss, according to a report prepared by the City of Fresno's Fire Department. The fire destroyed most of the character-defining features of this c1897 Queen Anne style home which made it initially eligible for listing on Fresno's Local Register of Historic Resources. Due to this loss of integrity the Nestel Home no longer appears to meet the definition of a "Historic Resource" pursuant to FMC 12-1603(o); therefore rescinding its listing on the Local Register is appropriate. Should the Commission and ultimately the City Council find that the property is no longer a historic resource, this finding will not require a particular action or decision on the part of the property owner. He may choose to rebuild the multi-family residence or demolish it. Pursuant to FMC 12-1614 and 12-1609(b)(2) on January 16, 2015 a public notice regarding tonight's meeting was mailed to the property owner and published in the Fresno Bee.

BACKGROUND

The Nestel Home is a 1-story Queen Anne style residence which was built prior to 1898 (Sanborn Map 1898:30). The building is named for its first resident, Otto Nestel, who was the proprietor of the Palm Garden Saloon at 961 L Street, "Fresno's leading resort." The Nestel Home was listed on the Local Register of Historic Resources by action of the Fresno City Council on May 6, 1980 as "particularly representative of a distinct historical period, type and
style and as "the best remaining architectural type of the neighborhood" (City Council Resolution 80-295).

By 1963 the single-family residence had been subdivided into "4 apartments" and the immediate neighborhood had changed, with commercial buildings, adjacent parking lots and vacant parcels. Over the next 50 years the property had numerous code violations. As an example, in 2011 historic preservation, code and (former) Commissioner Molly Smith met on site to help address some of the historic issues. In 2013 the property owner was cited for violations and received a "Notice and Order To Repair and Rehabilitate a Substandard Building." Following the fire in September, Community Revitalization staff inspected the property and on December 17, 2014 issued a "Notice and Order to Remove Public Nuisance" which included a series of required corrections in order to meet health and safety (Exhibit D).

**FMC Section 12-1614: Amendment or Rescission of Designation.**

As a designated historic property on Fresno's Local Register of Historic Resources, the Commission and the property owner must follow the same process that is required for designation to rescind the designation. FMC Section 12-1614 states, "The Historic Preservation Commission may amend or rescind any designation of an Historic Resource... in the same manner and procedure as was followed in the original designation. This action shall result from new information, the discovery of earlier misinformation or change of the original circumstances, conditions or factors which justified the designation of the Resource or District."

Designation of a historic resource may be initiated by the Council, the Commission, the Secretary, the property owner, or an authorized representative of the owner (FMC 12-1609(a). This request to delist the property from the Local Register of Historic Resources is made by the Secretary to the Commission, Karana Hattersley-Drayton, after consultation with the property owner, Michael Montgomery and with his attorneys.

Pursuant to FMC 12-1607(a) properties eligible for the Local Register of Historic Resources must be at least fifty years old and possess integrity of location, design, setting, materials, workmanship, feeling and association and be historically significant under one or more criteria set forth in this subsection. The Nestel Home was constructed prior to 1898 and thus it is still over fifty years of age.

The concept of "Integrity" is not specifically defined in Fresno's Historic Preservation Ordinance but is implicitly based on the definition used by the National Park Service for the National Register of Historic Places: "the ability of a property to convey its significance. (....) The evaluation of integrity is sometimes a subjective judgment, but it must always be grounded in an understanding of a property's physical features and how they relate to its significance." The National Register Bulletin continues by noting that "a property will always possess several, and usually most, of the aspects" and that in assessing integrity one must determine whether the essential physical features are visible enough to convey their significance" (National Register Bulletin: How to Apply the National Register Criteria for Evaluation 1998:44-45). Of the seven
Aspects of "integrity" (listed above) the Nestel Home retains only one, that of location. The design of the home and its setting, materials, workmanship, feeling and association have been severely compromised due to the fire.

Integrity is particularly critical when a property is nominated to the Local Register for its architectural merit (Criterion iii) rather than its association with an event (Criterion i) or the lives of "persons significant in our past" (Criterion ii). The resolution by the Fresno City Council placing the Nestel Home on the Local Register noted that the property was particularly representative of a distinct historical period, type and style and was "the best remaining architectural type of the neighborhood" (City Council Resolution 80-295).

Due to the fire and the recent rain, the Nestel Home has lost its integrity and cannot convey its (former) architectural significance. The character defining façade gables with the fish scale shingles are gone as is the decorative cartouche formerly above the house address and the multi-paned attic window. The roof is largely missing. The front door of the home had long ago disappeared and the porch balustrade and southeast bay window of the building were changed, even before the property was designated.

In February 2006 Urbana Preservation and Planning prepared an updated DPR form for the Nestel Home (Exhibit B). This survey form assigned status codes of 5S1 and 3CD. As noted in the OHP Technical Bulletin #8, the codes are not fixed but are "broad indicators which, in most cases, serve as a starting place for further consideration and evaluations" (Bulletin #8:5). Status Code 5S1 refers to an individual property that is listed or designated locally. This code is still applicable to the Nestel Home.

The status code 3CD refers to a property that "appears eligible as a contributor to a CR eligible district through a survey evaluation." This code is no longer applicable; the Nestel Home has lost integrity to its period of significance due to the fire and cannot be counted as a contributor to a proposed district.

In its current state the Nestel Home also poses concerns for public health and safety. The building is easily accessed and upon recent inspection it appeared that vagrants were living in one or more of the rooms. The home is not fenced and even with a security fence could be easily breeched.

Pursuant to FMC 12-1614, the same process used for listing a resource on the Local Register of Historic Resources must be followed for rescission of that designation. As such, the Commission’s action shall be in the form of a recommendation to the City Council regarding whether the Nestel Home’s listing on the Local Register should be rescinded. Thereafter, pursuant to FMC 12-1613, at a noticed public hearing the Council shall consider the recommendation of the Commission and make a final decision regarding whether to rescind the designation.
California Environmental Quality Act (CEQA) Consideration

The matter before the Commission is whether to recommend to the City Council rescinding the listing of the Nestel Home on the Local Register of Historic Resources. Though rescinding the listing of the building would facilitate the possible future demolition of the Nestel Home, the question of demolition is not before the Commission. Because it is listed on the Local Register of Historic Resources, the Nestel Home currently fits within the definition of a presumptive historic resource for purposes of CEQA, pursuant to CEQA Guidelines, section 15064.5(a)(2). However, this presumption can be overcome if the preponderance of the evidence demonstrates that it is not historically or culturally significant.

As set forth above, the preponderance of the evidence establishes that the Nestel home in its current “burned out” condition is no longer historically significant because it no longer possesses integrity of design, setting, materials, workmanship, feeling and association. As such, rescinding the listing on the Local Register of Historic Resources recognizes the fact that the building fails to qualify for continued listing on the Local Register and that it no longer falls within the definition of a presumptive historic resource for purposes of CEQA.

Finally, there is no substantial evidence in the record to support a finding of the Commission that this home qualifies as a Historic Resource for purposes of CEQA, pursuant to the discretionary authority to find a resource historically significant set forth in CEQA Guidelines, section 15064.5(a)(3). City staff has opined that because of its current condition the Nestel Home no longer meets the requirements for listing on the City’s Local Register of Historic Resources.

The preponderance of the evidence establishes that the Nestel Home is no longer historically or culturally significant and there is no substantial evidence in the record to support a Commission finding that the Nestel Home qualifies as a Historic Resource pursuant to its discretionary authority. Since it is not a Historic Resource for purposes of CEQA, it is not considered part of the environment to be evaluated in determining if an action will have a substantial adverse change in the environment. Therefore, this request to rescind the designation of the Nestel Home does not require any CEQA environmental review.

Attachments: 

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<tr>
<th>Exhibit</th>
<th>Description</th>
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<tbody>
<tr>
<td>A</td>
<td>2008 Aerial of the Nestel Home 1527 L Street</td>
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<tr>
<td>D</td>
<td>Notice and Order to Remove Public Nuisance December 17, 2014.</td>
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</table>
The dwelling at 1527 L Street dates to approximately 1898 and represents the Free Classic subtype of the historic Queen Anne style. Previously identified as 1529 L Street on Sanborn Fire Insurance Maps for Fresno, the dwelling was constructed for Palm Garden Saloon proprietor Otto Nestel, who resided in the home until approximately 1920. The house appears to be approximately 1 1/2 stories with a rectangular plan, asymmetrical composition, and multiple cross gabled roofs of moderate pitch. Full view of the dwelling is obscured by mature trees planted along the front elevation. Features include two slender brick chimneys, composition roll roofing, horizontal board siding with corner boards, and fishscale shingles in the gables. Windows vary in size and location; visible types include one-over-one double-hung wood sash with wood surrounds and a tri-partite bay at the northeast corner. Overall the house appears to be in good-to-fair exterior condition, and still is considered a representative example of a vernacular turn-of-the-century residence in Downtown Fresno.

References:
2. City of Fresno Historic Preservation Commission Resolution No. 80-56.

Attachments:
William Patnaude, Nestel Home – Historic Resources Inventory Form, 1527 L Street, June 1978.
Photos: Nestel Home (HP#152) 1527 L Street

Nestel Home, August 19, 2011 and fire damage on September 22, 2014
December 17, 2014

Michael J. Montgomery
6461 North Briarwood Avenue
Fresno, CA 93711

Dear Property Owner:

SUBJECT: NOTICE AND ORDER TO REMOVE PUBLIC NUISANCE
ADDRESS: 1527 L Street
APN: 466-142-04
CASE #: 14-00011013

NOTICE: Your property was recently inspected by the Community Revitalization Division and found to have violations of the Fresno Municipal Code. Please be advised that property owners are required to keep their property free of code violations.

VIOLATIONS AND CORRECTIVE ACTION REQUIRED: Attached is a list of violations and corrective action required.
We are requiring that all listed violations be corrected and completed within the time frame noted in the attached Notice and Order Correction Notice. Staff will re-inspect to determine if corrections are in progress or have been completed.

FAILURE TO COMPLY: Failure to correct the violations within the time frame will result in further action which may include any or all of the following actions:

1. Issuance of administrative citations with penalties starting at $200 per violation.
2. Administrative action by the City to remove the public nuisance violations (by demolition) at your expense pursuant to FMC 10-615 (a), (b) (3), (c) (1) – (3).
3. Request the City Attorney to institute legal action.

APPEAL: Any person entitled to service of this notice and order pursuant to Fresno Municipal Code Section 10-608 may file an appeal to the Hearing Officer pursuant to Article 4, Chapter 1 of the Fresno Municipal Code, provided the appeal is received by the Hearing Officer within 15 days of the service of this notice and order. The appeal shall be made in writing and filed with the Office of the City Manager located on the second floor of City Hall, 2600 Fresno Street, Fresno, CA 93721, (559) 621-7766.

FEES: The Community Revitalization Division is currently charging a fee of $100 per hour for the enforcement/abatement action at this property. This fee includes inspections of the property and administrative time used by staff. Fees will also be charged for all actual and reasonable costs incurred by the city to abate the public nuisance including all direct and indirect costs to the city that result from the total abatement action. Failure to pay these fees and costs may result in a lien being attached to the property. These charges are in addition to any required permits or related fees necessary to correct the violation.

RECORDED DOCUMENTS: A Notice of Pending Administrative Action may be immediately filed against the property in the Office of the County Recorder. If the notice and order becomes final, as described in this article, it may be recorded against the property in the Office of the County Recorder. A fee of $60 each will be charged to release any recorded documents.

If you have any questions, please contact me at (559) 621-8425 Monday- Thursday from 10 am- noon or by email at Jesse.Morrison@fresno.gov.

Sincerely,

Jesse J. Morrison
Community Revitalization Division

File
Site Posting
NOTICE AND ORDER CORRECTION NOTICE

REMOVE PUBLIC NUISANCE

Pursuant to Chapter 10, Article 6 of the Fresno Municipal Code ("FMC"), an inspection of the premises was conducted and the following public nuisance conditions were found as defined within said Article.

MULTI-FAMILY DWELLING

1. Fire damaged structure in violation of FMC 10-605. (1); 11-406; 11-411.(a) (4, 12, 13, 15); 11-101; CBC Chapter 1 Division II §§ 105, 114, 116; 3401.2 et. seq. Obtain a fire report to determine the extent of damage attributable to the recent fire at the above referenced structure. Contact the Development and Resource Management Department/Building and Safety Division (621-8116) to schedule a fire report inspection. Submit plans and/or obtain permits as required and comply with all requirements noted in the fire report. These corrections shall be completed prior to the building being reoccupied. In the interim, the structure must be maintained vacant and secure.

Note: This item is not required if you demolish the structure.

2. Damaged structure unfit for human habitation in violation of FMC 10-605. (1); 11-406; 11-411.(a) (13, 15); 11-101; CBC Chapter 1 Division II §§ 105, 114, 116; 3401.2 et. seq. Submit plans and/or obtain building permits as required by the Development and Resource Management Department and make building repairs as needed to restore the dwelling to a habitable condition. In the interim, the structure must be maintained vacant and secure.

Note: This item is not required if you demolish the structure.

3. Fire damaged plumbing and/or mechanical systems in violation of FMC 10-605. (1); 11-406; 11-411.(a) (13, 15); 11-107; CPC Chapter 1 Division II § 101.5.5. Obtain a fire report to determine the extent of damage attributable to the recent fire at the above referenced structure. Contact the Development and Resource Management Department/Building and Safety Division (621-8116) to schedule a fire report inspection. Submit plans and/or obtain permits as required and comply with all requirements noted in the fire report. These corrections shall be completed prior to the building being reoccupied. In the interim, the structure must be maintained vacant and secure.

Note: This item is not required if you demolish the structure.

4. Damaged plumbing and/or mechanical systems in violation of FMC 10-605. (1); 11-406; 11-411.(a) (13, 15); 11-107; CPC Chapter 1 Division II § 101.5.5. Obtain plumbing and/or mechanical permits as required by the Development and Resource Management Department to repair these systems as needed to restore the dwelling to a habitable condition. In the interim, the structure must be maintained vacant and secure.

Note: This item is not required if you demolish the structure.

5. Fire damaged electrical system in violation of FMC 10-605. (1); 11-406; 11-411.(a) (13, 15); 11-107; CBC Chapter 1 Division II §§ 105, 114, 116; CEC 110.3; 110.12. Contact the Development and Resource Management Department/Building and Safety Division (621-8116) to schedule a fire report inspection. Submit plans and/or obtain permits as required and comply with all requirements noted in the fire report. These corrections shall be completed prior to the building being reoccupied. In the interim, the structure must be maintained vacant and secure.

Note: This item is not required if you demolish the structure.
*E 6. Damaged electrical system in violation of FMC 10-605. (l); 11-406; 11-411.(a) (13, 15); 11-107; CBC Chapter 1 Division II §§ 105, 114, 116; CEC 110.3; 110.12. Obtain electrical permits as required by the Development and Resource Management Department to repair this system as needed to restore the dwelling to a habitable condition. In the interim, the structure must be maintained vacant and secure. 

Note: This item is not required if you demolish the structure.

GENERAL REQUIREMENTS

1. Rubbish/junk, including but limited to refuse, garbage, scrap metal or lumber, brush/tree trimmings, furniture and tires in violation of FMC 10-605. (a). Remove any and all aforementioned items and dispose of same in a legal manner.

2. Hazardous and/or dead trees in violation of FMC 10-605. (e). Remove hazardous and/or dead trees and dispose of same in a legal manner.

3. Failure to maintain building free from attractive nuisance violations in that the building has at times been in an “open/vacant” condition in violation of FMC 10-605(f); 11-411.(a). (12, 13, 16, 17); 11-422; CBC Chapter 1 Division II §116. Maintain building securely at all times.

4. Presumed presence of asbestos in violation of FMC 10-605. (l); 11-406; 11-411.(a) (13); CBC 3401.2; 3405.1 et. seq.; APCD Rule 4002. Contact the San Joaquin Valley Air Pollution Control District (“APCD”) at (559) 230-5950 regarding asbestos abatement requirements. You must satisfy APCD asbestos abatement requirements and obtain a “Renovation Permit Release” from APCD prior to obtaining any required permits and prior to commencing any repairs and/or renovation. This may require an asbestos inspection performed by a Consultant certified by Cal-OSHA and a written report containing the inspection results. In addition, if Regulated Asbestos-Containing Materials (“RACM”) are found, removal must be performed by a licensed and certified contractor in compliance with all local, state and federal guidelines. In some instances, there may be others who may perform the removal of RACM (such as an owner occupied property) but you must contact APCD regarding any alternative.

Note: If you choose to demolish the building you will be required to obtain a “Demolition Permit Release” from the APCD which may also require asbestos testing and removal.

5. City records show that the building(s) at the premises was built before 1/1/1978. As such, pursuant to and as defined by H&S Code § 17920.10, testing for “lead hazards” shall be conducted by a DHS Certified Inspector/Assessor if there is existing deteriorated paint or paint that would be disturbed by the repairs or rehabilitation in excess of 2 square feet of interior paint, 20 square feet of exterior paint or ten percent of the surface area of the interior or exterior type of component with a small surface area (examples include window sills, baseboards, and trim). FMC 10-605. (l); 11-406; 11-411.(a) (13); H&S § 17920.10. In addition, any lead abatement shall be done pursuant to, and in accordance with, California Code of Regulations Title 17, Division 1, Chapter 8, Article 16 § 36100 and H&S Code §§ 105250-105257. This includes following HUD/EPA recommended “Lead Safe Work Practices”.


6. Failure to maintain building(s) free from public nuisance violations to wit the building(s) is in a condition which constitutes a "blighted building" in violation of FMC 10-605. (m). Remove all conditions which constitute a blighted building as described by the following FMC Section 10-603. (c):

(c) "Blighted Building" means a vacant residential, commercial or industrial building and all yards surrounding the building that reduces the aesthetic appearance of its neighborhood, area or district, is offensive to the senses, or is detrimental to nearby property or property values. A blighted building includes a vacant building and the yards surrounding the building that are not being actively maintained, or actively monitored, or actively secured. To actively maintain, monitor, and secure a vacant building, the owner or his or her agent must comply with all sections of this article and do all of the following:

(i) Maintain all yards in compliance with any applicable development permits. If there are no applicable development permits, maintain all interior yards (those that are not visible to the general public) in a safe condition, including keeping all plant materials controlled to avoid overgrowth; maintain all exterior yards (those that are visible to the general public), including park strips, with landscaping, as defined in this section, installed and maintained in a trimmed, live and healthy condition;

(ii) Maintain the exterior of the building, including, but not limited to, paint and finishes, in good condition;

(iii) Remove all trash and debris within seventy-two (72) hours of their placement or abandonment on the property;

(iv) Maintain the building in continuing compliance with all applicable state and local codes and regulations and any applicable city issued permits; and

(v) Take all reasonable steps necessary to prevent criminal activity on the premises, including, but not limited to, the use and sale of controlled substances, prostitution and criminal street gang activity; and

(vi) Secure the property, both structure and grounds, against trespassers, including maintaining all windows and doors with locks, replacing all broken doors or windows, and securing any other openings into the structure which are readily accessible to trespassers by boarding or such other means as shall be accepted by the Director. For purposes of securing the building, boarding-up windows and doors shall be a disfavored technique and may only be used when it is determined by the Director that no other reasonable alternative exists. When a building is boarded, the owner shall comply with the requirements of Section 13-1100.1500*, unless the Director requires alternative standards.

*CED Note: The correct Section reference should have been 13-1100.1500 which is now Section 11-335.

(vii) Remove all graffiti on the property within forty-eight (48) hours of placement on the property.
SEC. 10-605. - PUBLIC NUISANCE. It is unlawful for any person, corporation or other entity owning, leasing, occupying, directly controlling or having charge of any property in this city to keep, maintain or deposit on said property any public nuisances. The City Council, by adoption of this ordinance declares, the keeping, maintaining or depositing of any of the following to be a public nuisance:

(a) Rubbish or junk, including but not limited to refuse, garbage, scrap metal or lumber, concrete, asphalt, tin cans, tires and piles of earth.

(b) Any violation of the Uniform Fire Code, and such amendments as adopted by the State of California, as adopted by the city pursuant to Article 5 of Chapter 10 of this Code.

(c) The presence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private or public property, except as expressly hereinafter permitted. Except as expressly permitted by law, it shall be unlawful, and an infraction, for any person to keep, store, or maintain upon any premises under his control any abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof. Criminal prosecution pursuant to this section shall not preclude, nor be precluded by, abatement of such vehicles or parts thereof pursuant to the provisions of this chapter.

(d) The following weeds:
(1) Weeds which bear seeds of a downy or wingy nature.
(2) Sagebrush, chaparral, and any other brush or weeds which attain such large growth as to become, when dry, a menace to adjacent property.
(3) Weeds which are otherwise noxious or dangerous.
(4) Puncture vines and tumbleweed.
(5) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health.
(6) Dry grass and grass likely to become dry, stubble, brush, litter or other flammable material which endangers the public safety creating a fire hazard, as defined in the Uniform Fire Code as adopted by the city pursuant to Article 5 of Chapter 10 of this Code.

(e) Dead, decayed or hazardous trees, residue from a fire or demolition such as concrete or brick foundations and flatwork, and which constitute an unsightly appearance, a fire hazard, or are dangerous to public health and welfare.

(f) Any attractive nuisance.

(g) Except as expressly permitted or required by law, exhibition, storage or repair of merchandise, signs (temporary, portable, or permanent or other forms of advertisement), bicycle racks, vending machines, or other obstructions upon any public sidewalk, median island, street, alley or public easement;

(h) Except as expressly authorized by law, park or store any vehicle upon an unpaved surface. It shall be presumed that the owner of the property and/or the person or entity occupying the property authorized the parking of the vehicle. It shall also be presumed that the registered owner of the vehicle parked the vehicle on the unpaved surface. The property owner, occupant and registered owner of the vehicle may all be held responsible for a violation of this subsection.

(i) Yard landscaping that has become so overgrown or uncontrolled as to create a fire hazard, obstruction to traffic or otherwise a blight to the neighborhood.

(j) Violation of zoning ordinance.

(k) Any violation of the Fresno Municipal Code wherein said violation has been declared a public nuisance.

(m) Blighted building.

SEC. 10-612. - APPEAL. Any person entitled to service under subsection (b) of Section 10-607 may appeal from any notice and order of the Director pursuant to Chapter 1, Article 4 of this code. If no appeal is filed within the time prescribed, the action of the Director shall be final. (Added Ord. 97-77, § 2, eff. 1-29-98; Am. Ord. 98-79, § 1, eff. 12-3-98)
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SEC. 10-615. - FAILURE TO COMPLY WITH FINAL ORDER.
(a) After any notice and order of the Director made pursuant to this article shall have become a final order, either by decision of the hearing officer affirming or modifying the same, or by failure to file an appeal within the time prescribed herein, no person or entity shall fail, neglect, or refuse to obey any such order. Any such person or entity who fails to comply with any such order is guilty of a misdemeanor.
(b) If, after the notice and order of the Director made pursuant to this article has become a final order, as described in subsection (a) above, and the responsible party has failed to timely comply with the final order, the Director may:
(1) Issue administrative citations pursuant to Section 1-308 et seq.; and/or,
(2) Request the City Attorney to exercise his/her discretion in the alternative, or cumulatively, to institute court action; and/or,
(3) Proceed with administrative abatement as provided in subsection (c).
(c) Except where abatement will require the demolition or removal of a structure, the Director may proceed with administrative abatement by removing the public nuisance at the expense of the responsible party.
Where abatement will require the demolition or removal of a structure, city or its agent shall not abate said nuisance without first obtaining an order from the City Hearing Officer. An order approving abatement in such circumstances may be obtained either (a) after an appeal of the notice and order, if the notice and order is appealed to the City Hearing Officer and the Hearing Officer so grants; or, (b) by the city scheduling and noticing a nuisance abatement hearing before the City Hearing Officer.
(3) Notice of a nuisance abatement hearing shall be served in the same manner as the notice and order. The notice shall state the time, place and location for hearing, the city intends to abate the nuisance, the estimated cost of abatement, including administrative time, and that said abatement will be done at the expense of the owner. The hearing shall be set no earlier than 10 calendar days from the date of service. At the time and place for hearing, city shall establish the existence of the condition constituting a public nuisance as defined in this ordinance, that a notice and order was properly served on the person(s) responsible, that said person(s) have failed to timely abate the nuisance, and that notice of the abatement hearing was properly served on the person(s) responsible. The Hearing Officer shall make findings regarding the existence of the nuisance, the proper service of the notice and order and the notice of the abatement hearing and shall confirm or deny the request to abate. (Added Ord. 97-77, § 2, eff. 1-29-98; Am. Ord. 2001-40, §§ 6, 7, 5-28-01).

SEC. 11-406. ABATEMENT OF DANGEROUS BUILDINGS. All buildings or portions thereof which are determined after inspection by the Building Official or Fire Chief to be dangerous as defined in this article are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, or demolition in accordance with the procedure specified in Section 11-418 of this article. (Added Ord. 97-70, § 2, eff. 1-4-98).

SEC. 11-418. REPAIR, REHABILITATION, OR DEMOLITION.
(a) The building shall be repaired in accordance with the current Fresno Building Code or other current code applicable to the type of dangerous conditions requiring repair; or
(b) The building shall be demolished at the option of the building owner; or
(c) If the building or structure is vacant and does not constitute an imminent danger to life, limb, property or safety, it shall be boarded and temporarily secured against entry pursuant to Section 11-422 of this article.
(d) The building or structure may by posted with a placard(s) by the Fire Chief for the purpose of notifying Fire Department personnel of any potential dangers posed by the building or structure or any other requirements, restrictions or limitations for safely fighting a fire involving the building or structure. (Added Ord. 97-70, § 2, eff. 1-4-98; Am. Ord. 2004-133, § 1, 1-18-05).

Materials involved in public nuisances shall be disposed of in a legal manner.

Should you decide to repair the building(s), the repairs shall meet the requirements for new building(s) as described in Section 3403.1 et. seq. and/or 3409.1 et. seq., as applicable, of the California Building Code. Prior to commencing work, any required plans and specifications for repairs must be submitted to the Development and Resource Management Department. Once your plans are approved, permits will be issued for the commencement of the work.

If this property is listed on the “Local Register of Historic Resources” it is also regulated by Chapter 12 Article 16 (Historic Preservation Ordinance) of the Fresno Municipal Code (“FMC”), and will also be subject to the Historic Resource Permit Review Process as described in FMC Section 12-1617 et. seq.
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If you decide to demolish the building(s), you will need to obtain an Application For Demolition Permit from the Development and Resource Management Department. You will be required to provide a complete site plan drawn to scale clearly indicating all structures and property lines of the parcel. The Planning Division must review the proposed Demolition Permit Application and will then refer you to the Historic Preservation Officer (Karana Hattersley-Drayton (559) 621-8520) for review and signature. DO NOT PROCEED WITH THE FOLLOWING STEPS UNTIL APPROVED BY THE HISTORIC PRESERVATION OFFICER. Contact PG&E at (800) 743-5000 and schedule to have all PG&E services disconnected and/or capped off. You must also contact the San Joaquin Valley Air Pollution Control District at (559) 230-5950 regarding asbestos testing and removal from the building(s). Once you have satisfied their requirements, they will issue you a “Demolition Permit Release”. Take the release form and the Application for Demolition Permit (signed by the Historic Preservation Officer) to the Planning Division for final review and signature. After this final review and signature, take the application to the Permit Counter to obtain sewer cap/ septic tank fill and demolition permits. Complete demolition of premises including removing, backfilling and compaction of all foundations, sub-floor and basement areas, paved walkways, driveways and flatwork, leaving a clean level vacant lot. This includes proper capping of water and sewer services, if applicable. It also includes removal of all debris, weeds, dead or decayed trees, useless material and overgrown landscaping. If any trees remain, limbs shall be trimmed to provide a minimum clearance of ten (10) feet above the ground for disking and to eliminate an unsightly appearance, blight to the neighborhood or a harborage for people. Once the sewer has been capped or the septic tank and drain wells filled, contact the Plumbing Section at (559) 621-8116 who will inspect the work and final the plumbing permit if the work is done properly. When all demolition work is complete, contact the Building Section at (559) 621-8116 who will inspect the property and final the demolition permit if the work is done properly.

DEADLINES:

If you choose to repair the building(s)
- Submit all required construction plans/specifications to the Development and Resource Management Department for approval by January 17, 2015. Diligently follow through with any plan check corrections and requirements.
- Obtain all required permits and commence work as soon as the aforementioned documents are approved by Development and Resource Management, but no later than February 17, 2015.
- All required permits to be finalized by their respective Departments and all corrections to be completed by April 17, 2015.

If you choose to demolish the building(s) following the guidelines listed above
- Obtain all required permits and commence demolition by January 17, 2015.
- Complete demolition and have all permits finalized by February 17, 2015.

If you are unable to meet any of the above referenced deadlines, contact the Community Revitalization Division immediately regarding a possible extension of time per FMC Section 10-614.

Permits required: *B- Building; *P/M- Plumbing/Mechanical; *E- Electrical
Pursuant to Fresno Building Code Chapter 1 Division II, plans may need to be submitted prior to obtaining permits. Bring this correction notice with you to the Development and Resource Management Department permit counter (559) 621-8084 when obtaining permits.
To request inspections after permits have been obtained, call the Inspection Services Section at (559) 621-8116 for inspection of correction items that require permits.

AFTER ALL REQUIRED PERMITS ARE FINALIZED, AN INSPECTION BY THE COMMUNITY REVITALIZATION DIVISION IS REQUIRED TO CLEAR THIS NOTICE AND ORDER.

Jesse J. Morrison
Community Revitalization Inspector
I. WELCOME

   Mayor & Councilmembers

II. INTRODUCTORY COMMENTS AND SUMMARY

   Matthew Jendian and
   Steve Hrdlicka

III. BLIGHTED VACANT BUILDINGS

   a. Process Recommendations
   b. Ordinance Review
   c. Property Management Group Update

   Jennifer Clark

IV. OCCUPANCY READINESS DISCUSSION

   Matthew Jendian and
   Steve Hrdlicka

V. PRIORITIZATION OF REMAINING ITEMS

   a. Illegal Dumping
   b. Yard Cars
   c. Homelessness and/or Criminal Activity
   d. Recycling Ordinance
   e. Technology
   f. Other

   Group

VI. FUTURE MEETING SCHEDULE AND TIMELINE

   Matthew Jendian and
   Steve Hrdlicka