

2600 Fresno Street, Room 3043  
Fresno, California 93721-3604  
(559) 621-8003  
www.fresno.gov

To: Jennifer Clark, AICP, Director

From: Mike Sanchez  
Assistant Director

By: Alicia C. Gonzales  
Historic Preservation Specialist

Re: Emergency Demolition Permit# B21-16224 for HP#39 Hewitt House  
located at 175 N. Diana Street, Fresno, CA 93701 (APN 45933302)

Jennifer, Pursuant to Fresno Municipal Code (FMC) Section 12-1617 (e ) the Director of Development may approve the issuance of a demolition permit of a historic resource if the removal “is immediately necessary to protect the public health, safety or general welfare...”

The Hewitt House (HP #39) sustained substantial damage in a fire which was reported on Thursday May 13, 2021. Code Enforcement and the Fire Department responded immediately for review; attached are documents provided by both departments. Code Enforcement, the Fire Department, and the City Attorney’s Office are in consensus that the building meets the definition of a *public nuisance* and a *threat to public safety* and should be demolished immediately. The owners have requested this action.

Regarding this proposed action Historic Preservation staff has been in cross-departmental discussion with Jennifer Clark Director of Development, Mike Sanchez Assistant Director, Douglas Sloan City Attorney, Erica M. Camarena Chief Assistant City Attorney, Christina Roberson, Assistant City Attorney, Charles Clark Building Services Manager and Juan Reynaga Supervising Plans Examiner.

Historic Preservation staff conducted a site visit on December 8, 2021, see attached documents for photos and assessment. Historic Preservation Staff found that all the windows and doors have been boarded closed with plywood. The front porch has sustained significant fire damage beyond repair and most of the exterior façade is gone; except for some sporadic paneling, the structural integrity of the building on the interior is unsalvageable and unstable. The roof has burned away, and the fire has removed many of the character defining features of this building. Although a chain-link fence has been erected, there are clear signs of trespassing, debris and garbage waste throughout the property, a hole has been cut in one section of the fence and the fence has been removed from the rear yard altogether. Historic Preservation staff agrees with the findings from Code Enforcement and the Fire Department and recommends the immediate issuance of the demolition permit for HP#39 the Hewitt House located at 175 N. Diana Street (APN 45933302) as it is a public nuisance and threat to public safety. Additionally, Historic Preservation staff would encourage the applicant to consider salvaging the original (8) wood posts and remaining brackets which remain supporting the fire damaged rear wrap-around porch.

12/10/2021

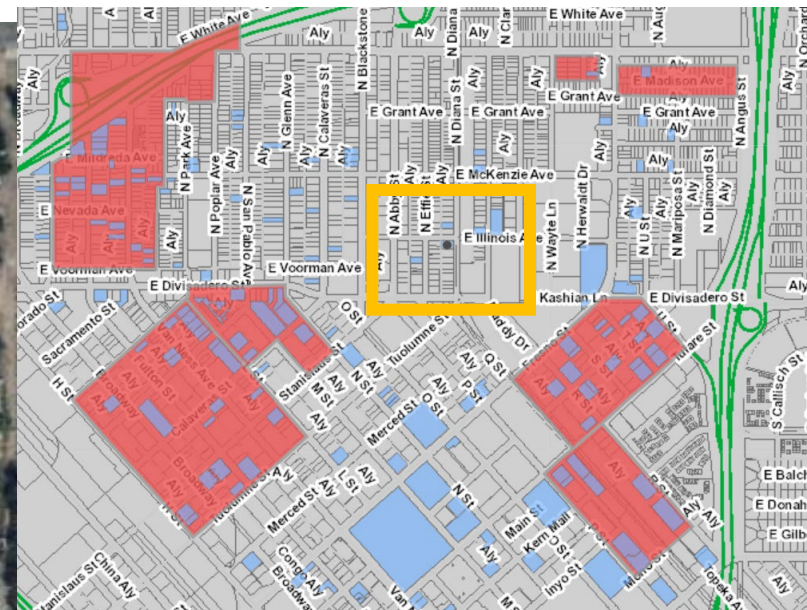
J. Clark, Director of Development

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Attachments:

- Site Map
- DPR Form, HP#39 Hewitt House
- Resolution for Hewitt House [1979]
- Fresno Fire Department Incident Report,
- Code Enforcement Report Case ST Case# E21-05241 [11/29/2021]
- Historic Preservation Condition Assessment & Photos [12/08/2021]
- Demolition Permit Application #B21-16224 [11/12/2021]
- Bill No. B-40 [2021]
- List of authority and code compliance [2021]

# Location Map of HP #39 Hewitt Home 175 N. Diana Street[b. 1891] (APN 45933302)



HISTORIC RESOURCES INVENTORY

(State use only)  
 Ser 117512150/699950 Site \_\_\_\_\_ Mo. \_\_\_\_\_ Yr. \_\_\_\_\_  
 UTM \_\_\_\_\_ Q \_\_\_\_\_ NR 4 SHL \_\_\_\_\_  
 Lat \_\_\_\_\_ Lon \_\_\_\_\_ Era \_\_\_\_\_ Sig \_\_\_\_\_  
 Adm \_\_\_\_\_ T2 \_\_\_\_\_ T3 \_\_\_\_\_ Cat HABS HAER \_\_\_\_\_ Fed \_\_\_\_\_  
HP 39 S.14 (1)

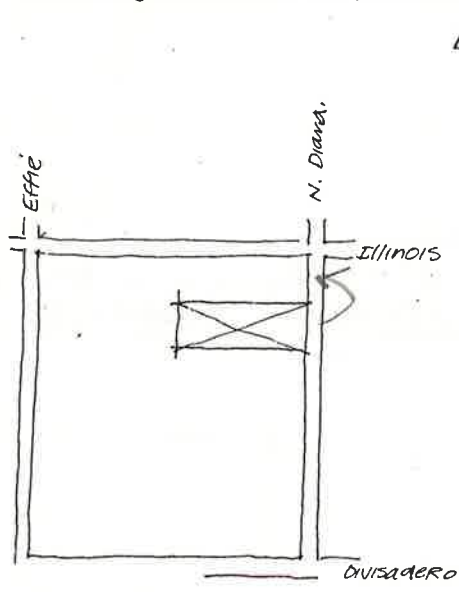
IDENTIFICATION

- Common name: \_\_\_\_\_
- Historic name, if known: The Hewitt Home
- Street or rural address 175 N. Diana  
 City: Fresno, California ZIP: 93703 County: Fresno
- Present owner, if known: William E. & Lola M. Grove Address: 2928 N. Millbrook  
 City: Fresno, California ZIP: 93703 Ownership is: Public  Private
- Present Use: Apartments Original Use: Private Residence  
 Other past uses: \_\_\_\_\_

DESCRIPTION

- Briefly describe the present physical appearance of the site or structure and describe any major alterations from its original condition:  
*Single story wood framed house with a hipped main roof and two gables. Channeled redwood siding with bracketed 24" wide eaves. Porch on two sides held up by turned wood posts with jigsaw brackets. Turned wood railing pieces decorated by jigsaw brackets. Gable ends are decorated in a minimal eastlake style. The South porch has been filled in as an apartment and the integrity of this facade has been compromised. The interior of the house has been broken up into numerous small apartments.*

7. Locational sketch map (draw and label site and surrounding streets, roads, and prominent landmarks):



- Approximate property size:  
 Lot size (in feet) Frontage 90  
 Depth 125  
 or approx. acreage 0.26
- Condition: (check one)  
 a. Excellent  b. Good  c. Fair   
 d. Deteriorated  e. No longer in existence
- Is the feature a. Altered?  b. Unaltered?   
 interior and one side
- Surroundings: (Check more than one if necessary)  
 a. Open land  b. Scattered buildings   
 c. Densely built-up  d. Residential   
 e. Commercial  f. Industrial   
 g. Other
- Threats to site:  
 a. None known  b. Private development   
 c. Zoning  d. Public Works project   
 e. Vandalism  f. Other
- Date(s) of enclosed photograph(s): 1978

NOTE: The following (Items 14-19) are for structures only.

14. Primary exterior building material: a. Stone  b. Brick  c. Stucco  d. Adobe  e. Wood   
 f. Other  \_\_\_\_\_
15. Is the structure: a. On its original site?  b. Moved?  c. Unknown?
16. Year of initial construction 1890 This date is: a. Factual  b. Estimated
17. Architect (if known): \_\_\_\_\_
18. Builder (if known): John C. Hewitt
19. Related features: a. Barn  b. Carriage house  c. Outhouse  d. Shed(s)  e. Formal garden(s)   
 f. Windmill  g. Watertower/tankhouse  h. Other  \_\_\_\_\_ i. None

SIGNIFICANCE *Diana & Ellenow (was Alice St. Chy to Ill. in 1916)*

20. Briefly state historical and/or architectural importance (include dates, events, and persons associated with the site when known):

Constructed by John C. Hewitt 5 years prior to the arrival of the Santa Fe Railway in what was then a fine residential district. The arrival of the railroad at the front door diminished the desirability of this area. A native of Georgia, Mr. Hewitt engaged in farming and city real estate development.

This house is a charming reminder of the late nineteenth century and, as such, is one of the very few remaining residences of this area.

*Hewitt fought in Mexican War  
came to Ca to engage in mining, but in  
1852 turned to farming*

*according to  
obituary in  
Fresno Weekly  
Expositor - worth  
for \$30,000 at death*

*present owner lived in home for 30 yrs  
& divided into apts.*

21. Main theme of the historic resource: (Check only one): a. Architecture  b. Arts & Leisure   
 c. Economic/Industrial  d. Exploration/Settlement  e. Government  f. Military   
 g. Religion  h. Social/Education

22. Sources: List books, documents, surveys, personal interviews, and their dates:

"Heritage Fresno, Homes & People" AAUW, 1975  
Assessor's Office

23. Date form prepared: 6/26/78 By (name): William E. Patnaude  
 Address: 1050 'S' Street City Fresno, California ZIP: 93721  
 Phone: (209) 486-8150 Organization: Allen Y. Lew & William E. Patnaude, Inc.

(State Use Only)



RESOLUTION NO. 79-520

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO DESIGNATING THE HEWITT RESIDENCE, LOCATED AT 175 NORTH DIANA, TO THE LOCAL OFFICIAL REGISTER OF HISTORIC RESOURCES

WHEREAS, at a noticed public hearing on October 11, 1979, the Historic Preservation Commission heard testimony on the subject property and recommends its designation to the Local Official Register; and

WHEREAS, at a noticed public hearing on November 13, 1979, the Council considered the recommendations of staff, the Historic Preservation Commission and all interested parties; and

WHEREAS, the Hewitt Residence, located at 175 North Diana, was built in 1890; and

WHEREAS, based upon the presentation of facts relating to the criteria for official designation, the structure has been evaluated and determined to have historical and architectural significance.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Fresno designates the Hewitt Residence, located at 175 North Diana, to the Local Official Register as set forth in Article 4 of Chapter 13 of the Fresno Municipal Code relating to the Preservation of Historic Structures.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss  
CITY OF FRESNO )

I, JACQUELINE L. RYLE, City Clerk of the City of Fresno certify that the foregoing resolution was adopted by the Council of the City of Fresno, California, at a regular meeting held on the 13th day of November, 1979.

JACQUELINE L. RYLE  
City Clerk

By Jacqueline L. Ryle  
Deputy

MM:mc  
11/06/79

APPROVED AS TO FORM:

CITY ATTORNEY'S OFFICE



PASSED NOV 7 1979  
EFFECTIVE NOV 16 1979

11 5 83

79-520



Fresno Fire Department  
911 H Street  
Fresno, California 93721-3083



Fire Investigations Unit  
Jay Tracy, Deputy Fire Marshal  
(559) 621-4440

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## FFD INCIDENT SUMMARY REPORT

**DATE:** Thursday, May 13, 2021 at 1547 Hours  
**LOCATION:** 175 N Diana St, Fresno, CA 93701  
**PROPERTY TYPE:** Structure  
**CLASSIFICATION:** Incendiary  
**INCIDENT #:** FFD 21-031083  
**VICTIM:** Homeowner – Roth, Matthew  
**LEAD INVESTIGATOR:** Richard Perez #F363  
**REPORT #:** 21-031083 RP ISR

### SYNOPSIS

This report documents a brief synopsis of my observations and actions of a residential structure fire investigation. The Victorian style home was subdivided into 5 units and was vacant and secured with plywood. This fire caused major damage, including a collapsed roof. There were no injuries reported. The fire is classified as incendiary. There were no witnesses, and the area was canvassed for security video. There were no suspects identified in this fire.

### SOURCE OF ACTIVITY

On Thursday, May 15, 2021 at 1547 Hours, the Fresno Fire Department (FFD) Communications Center received a 911 emergency call reporting a residential fire at 175 N Diana St; in the County of Fresno. A residential alarm with two additional engines was dispatched and responded.

The first arriving fire officer reported heavy fire conditions on the A side (front) and initiated a defensive fire attack. Working fire notifications were made. While conducting follow-up work on another case and working as Fresno Fire Department Staff Investigator (I04), I responded code-two (2). I arrived at approximately 1600 hours and I cleared the incident at approximately 1727 hours.

### OBSERVATIONS/ACTIONS

Upon my arrival I observed multiple FFD apparatus and personnel setting up for a defensive fire attack of a large, residential structure fire. The fire was actively burning and had just extended into the attic as I began documenting the scene with photos. I made contact with the incident commander (IC), BC Dan O'Meara (BC O'MEARA) to notify him that I was available to assist in the fire origin and cause investigation.

I was assigned with determining the origin and cause of this incident.

### INVESTIGATION

My investigation actions and findings are the result of conducting a fire origin and cause investigation by scientific methodology. This includes scene processing, photographing the fire scene, interviews of identified and available parties, taking field notes and analysis of fire patterns and fire dynamics.

This is a summary report of my investigation and is not meant to replace a full report that would normally be submitted under the guidelines of NFPA 921.

### STATEMENTS

FFD Incident #: 21-031083

Version: 02/16/2021

Investigator: Perez, RJ #F363  
Administrative Review: TRACY, J. #F685  
"Professional Opinion Is Built On Professional Practice"

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Fresno Fire Department  
911 H Street  
Fresno, California 93721-3083



Fire Investigations Unit  
Jay Tracy, Deputy Fire Marshal  
(559) 621-4440

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During the course of my investigation, I attempted to obtain witness statements from identified and available parties. I made contact with the neighbors and on-lookers. I contacted Turner Security, who protect the business located across the railroad tracks to the east. I made contact with Fresno RMC security personnel. In each case, there were no witnesses, fake cameras or no view of the fire from working cameras.

There was no available information to assist in determining a suspect in this fire.

### **INCIDENT PROPERTY**

General Description of property or structure: This is a large Victorian style home that has been converted into 5 separate living spaces. It had wood siding and a wood porch. At the time of the fire, the structure was vacant and each of the windows and doors were secured with plywood and/or 2x4 lumber. The property was unkept with overgrown bushes and trees and dry, un-mowed grass (weeds). Utilities were still in place but turned off at the time of the fire.

Overall fire damage from none to most: The porch sustained heavy charring with compromised footing. The fire burned inward into the front NE apartment and into the attic. The fire burned through the roof and eventually collapsed due to fire and hose stream damage.

### **FIRE ORIGIN (AOO)**

My examination of the AOO indicates the following:

- Unilateral charring across the entire porch.

### **PHOTOGRAPHS OF SCENE**

Photo 1 – Shows the rear of the structure early on into the fire. Smoke escaping the upper vents and eaves shows fire has extended into the attic. Facing east.

Photo 2 – Shows fire breaching the roof. Photo taken from parking structure across the street, facing NW.

Photo 3 – The fire damage to the front porch, facing SW.

Photo 4 – The fire damage to the front porch and attic after suppression. Facing NW.



Fresno Fire Department  
911 H Street  
Fresno, California 93721-3083



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## **PHOTOS**

65 Digital photographs were taken and uploaded to the electronic case folder.  
3 Videos were recorded and uploaded to the electronic case folder.

## **FIRE CAUSE**

It is my opinion, based upon the scene examination, witness statements and my training and experience that this fire was intentionally ignited and accelerated utilizing some sort of ignitable liquid. My opinion of this hypothesis cannot be



Fresno Fire Department  
 911 H Street  
 Fresno, California 93721-3083



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eliminated as the cause of ignition based on the rate of spread and lack of a distinguishable point of origin.

1. Ignition Source: open flame device
2. Material First Ignited: ignitable liquid poured onto wood porch
3. Oxidant: Surrounding air
4. Event Which Brought Ignition Source in Contact with Material First Ignited: an ignitable liquid was poured onto a combustible surface and then ignited with an open flame.

**CLASSIFICATION OF THE CAUSE**

Based upon my training, experience and the totality of events I believe the fire classification for this event is:

**INCENDIARY:** A fire that is deliberately set with the intent to cause a fire to occur in an area where the fire should not be (2017 NFPA 921 20.1.3)

**RELATED PARTIES**

<u>SUSPECT</u> None identified	<u>VICTIM</u> Roth, Matthew PO Box 4027 Manteca, CA 95337	
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**END OF REPORT**

175 N DIANA  
ST Case #: E21-05241    APN: 459-333-02  
Case Type:



Date: 5/14/2021 6:52:20 AM



Date: 5/14/2021 6:52:54 AM



Date: 5/17/2021 8:23:18 AM  
Sleeping arrangements in basement appear new and show no signs of fire damage or debris. TDS



Date: 6/18/2021 12:14:27 PM  
Property open at south-west corner. TDS



Date: 6/18/2021 12:15:40 PM  
Indications of person(s) living in basement of multiunit dwelling. Recovered stripped electrical wire, razor blade, metal detector and hypodermic needles from basement. TDS



Date: 6/18/2021 12:18:11 PM  
Multiunit dwelling severely damaged by fire found open at multiple locations and indications of person(s) scavenging materials from what remains. TDS



Date: 7/22/2021 11:41:20 AM  
Interior of backyard where temp fence panel has been cut at alley. TDS



Date: 8/5/2021 11:14:45 AM  
North unit. TDS



Date: 8/10/2021 1:48:10 PM  
 Transients inside north unit. TDS



Date: 8/10/2021 2:04:56 PM  
 FPD responding to call for assistance due to person in basement and previous unmarked law enforcement seeking person of interest due to recent stabbing in area. TDS



Date: 8/18/2021 10:31:55 AM  
 Property occupied by man with bike sitting at basement access in west backyard. TDS



Date: 8/27/2021 2:33:04 PM  
 Open/unsecure west fence at alley. TDS



Date: 9/24/2021 11:16:08 AM  
Interior of west unit occupied by sleeping couple. TDS



Date: 10/25/2021 10:08:22 AM  
Cut opening remains in temporary fence at north-east corner of property. TDS



Date: 10/25/2021 10:09:53 AM  
Temporary fence panel left open at north elevation.  
TDS

**EMERGENCY & DISASTER Condition Assessment/Site Visit**

Date: 12/08/2021

Attendees: Alicia C. Gonzales, Historic Preservation Specialist, COF Planning Department

Arrival time: 14:00

Departure time: 14: 50

Weather:

Address: 175 N. Diana St [b\_1890\_] (APN 4459-333-02 ) HP # 39 Common Name: Hewitt House

PERMIT # B21-16224

Planning & Development: Historic Preservation

**Overall physical appearance and condition of the structure**

**Exterior:** Severely fire damaged exteriorly on every elevation and surface. Unsalvageable. Debris, garbage, trash throughout the yard and not specific to the fire. Both front and rear yard appear to had significant trespassing and dumping. Appears people have dumped garbage throughout the property. Chain-link security fence surrounds the property but has holes cut into it and is not secure. Rear chain-link fenced piled and removed entirely. Safety Hazard! Rear porch post, brackets are still intact and in place

**Interior:** Although unable to go into the structure the burn from the front and rear yard is so severe you can see interiorly. The structural integrity of the building is unstable and highly dangerous. Fire has raged throughout the building and have left no architectural character.

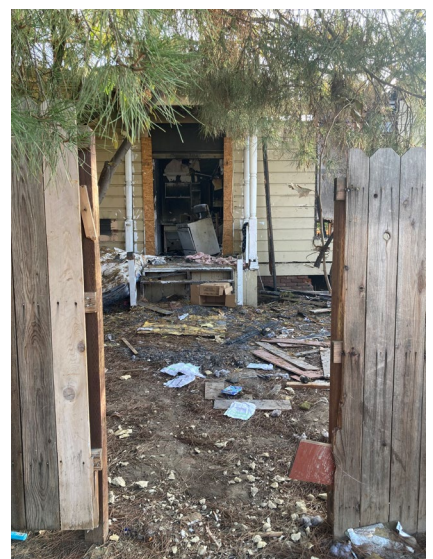
**Roof:** Entirely burned away, nonexistent

Inspected (IN), Not Inspected (NI), Not Present (NP), Repair/Replace (RR)

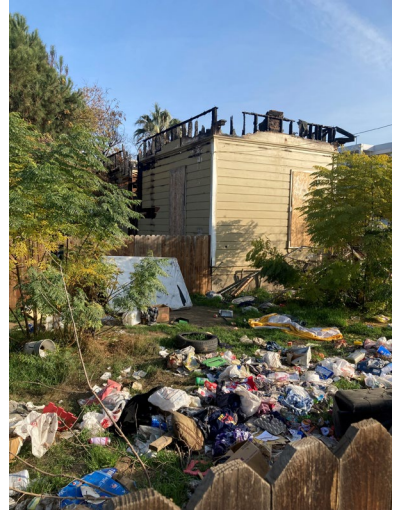
Floor	Location	Feature	Physical appearance and Condition	Damage	Inspection Status				Comments
					IN	NI	NP	RR	
Ground	Side elevations and rear yard	Foundation	Red Brick minimal charring or fire damage intact	Possible age, but none from the fire	x				Stone, <b>Brick</b> , Wood, Concrete, Mortared, Unmortered, Post, Pier, Continuous, Sill , Skid
Ground	Public	Pavement, roads, walkways	Intact	No	X				
Ground	Rear yard	Walls or Fences	Missing boards , rear property line fence (near ally) removed, relatively intact	Yes	X				Unclear if boards have been removed prior to the fire or from trespassing. Fence is standing and appears to be aged but still functional and mirrors many of the fences
Ground	Front, Rear, Side	Landscaped vegetation	Entirety of yard covered in debris, garbage, refuse and char from the fire. Front yard and side yard tree has sustained fire damage, front yard palm appears to be ok.	Yes	X				It appears from the fire, trespassing and dumping the front, rear and side yards are covered in garbage and charred materials from the home. The front and rear
First	Front, Rear, Side	Exterior Siding	Front façade is gone, the side and has some fire damage but the horizontal siding is still present, however the interior walls of the building are burnt severely. Rear	Yes	X			x	Front siding fire burned away, Rear siding is intact
First	Roof	Roof	Burned Away	Yes				x	Fire has burned the entire roof away
First	Front, Rear, Side Elevations	Windows (Ext)	Boarded up and missing	Yes		X			The visible window frames have no windows, however plywood does cover where the windows would have been. Unclear on the status of the windows which are boarded shut
First	Rear Elevation	Porch	Burned roof, and many of the features burned away. Railing still intact but aged and damaged	Yes	X				This home had a beautiful rear porch. The porch post and brackets are intact and in place and can be salvaged. The railing is intact but damaged from age and poor maintenance. Floor of the porch appear to be in similar condition.
Floor	Location	Feature	Physical appearance and Condition						Comments
First	Front, Rear, Side Elevations	Doors	Front elevation severely fire damaged the door has been burned away. Side yard door is missing, appears to have been removed/plywood cut away. Rear patio doors	Yes				x	Rear porch doors are open and either could not be boarded up or have been removed
First	Interior	Ceiling	Severely Fire Damaged- Unable to access due to safety conditions	Yes				x	Not present, the entirety of the roof is gone and the ceiling
First	Interior	Floor	Severely Fire Damaged- Unable to access due to safety conditions	Yes		x			Unable to access however from the exterior the floors appear to be severely damaged if not gone in many locations. Except the rear porch.
First	Interior	Wall and Coverings (Int)	Severely Fire Damaged- Unable to access due to safety conditions	Yes		x			Unable to access
First	Interior	Paint Color(s)	Severely Fire Damaged- Unable to access due to safety conditions	Yes		x			Unable to access
First	Interior	Framing	Severely Fire Damaged- Unable to access due to safety conditions-	Yes		x			Visible as a result of the fire, the framing appears to be wood, but has been torched by fire and is unstable
First	Interior	Hardware & fixtures	Severely Fire Damaged- Unable to access due to safety conditions	Yes		x			Unable to access

**Emergency Condition Assessment  
Historic Preservation Dept. :12/08/2021**

**HP #39 Hewitt Home  
175 N. Diana Street[b. 1891] (APN 45933302)**



**Emergency Condition Assessment**  
**Historic Preservation Dept.: 12/08/2021**  
**HP #39 Hewitt Home**  
**175 N. Diana Street[b. 1891] (APN 45933302)**



**Emergency Condition Assessment**  
**Historic Preservation Dept. :12/08/2021**  
**HP #39 Hewitt Home**  
**175 N. Diana Street[b. 1891] (APN 45933302)**





**APPLICATION FOR DEMOLITION PERMIT**

Today's Date 11/12/2021 Site Address 175 N. Diana St.

Structure(s) to be demolished is/are: (Check all that apply)

- Single Family Residence(s)
- Multi-Family Residence(s)
- Commercial

Address/Location of demolition debris disposal \_\_\_\_\_

Applicant Name Michael Saldana Phone Number 559.832.7042

Address 4627 S. Chestnut Ave. City, State and Zip Fresno Ca 93725

Property Owner Roth Matthew Phone Number 559.652.9282

Address P.O. Box 4027 City, State and Zip Manteca Ca 95337

This application must be **filled out completely before** it will be accepted. It is the responsibility of the applicant to obtain and submit the following forms/documents as indicated below:

**Note:** Requirements below are applicable to **all** building/structures (Single Family Residential, Multi-Family Residential, and Commercial):

1. The Debris and Excavation Certification Form signed by applicant. **(Form Attached)**
2. A Plumbing Permit for a sewer cap, inspection, and approval of same. (Note: The sewer cap permit may be obtained when the Demolition Permit Application is submitted.) Inspection of, and clearance for, the sewer cap, must be completed **prior to** demolition of the structure(s) as stated in Fresno Municipal Code, Section 11-218; and, in the Debris and Excavation Certification Form.
3. Provide a Waste Management Plan for Construction and Demolition Debris. **(Forms Attached)**
4. A Demolition Release Certification Form, issued and signed by San Joaquin Valley Air Pollution Control District authorized staff.
5. A site plan, drawn to scale, which **clearly indicates all** structures located on the parcel; and, the parcel's North, South, East and West property lines.
6. A signature from authorized staff at the Planning Division Public Front Counter indicating the requirements of any existing entitlement application(s) are met. **(Signature Block below)**
7. A signature from the Historic Preservation Division indicating that the structure(s) proposed for demolition **are not of** historical significance. **(Signature Block below)**

"The parcel's entitlement history has been reviewed and found to be in compliance with the conditions of the existing entitlement application(s), if any."

\_\_\_\_\_  
Planning Division Public Counter Staff Signature Date

"Structure(s) proposed for demolition **are not** considered to be of historical significance." **Initial review process could take up to 10 business days. Additional materials and further review may be required.**

\_\_\_\_\_  
Historic Preservation Representative Date



PLANNING AND DEVELOPMENT DEPARTMENT  
BUILDING AND SAFETY SERVICES DIVISION

**CONDITIONS TO BE AGREED TO BY ALL PERSONS  
MAKING APPLICATION FOR DEMOLITION PERMIT**

Any person requesting an application for a Demolition Permit shall agree to comply with section 11-218, DEBRIS AND EXCAVATIONS, of the Fresno Municipal Code:

Section 11-218. DEBRIS AND EXCAVATIONS.

It shall be the duty of any person to whom a permit issued for demolition or for the removal of any building, or any section or portion of any building pursuant to the provisions of this article, and of any person leasing, owning, or occupying or controlling any lot or parcel of ground from which a building is removed or demolished to remove all weeds, concrete or stone foundations, flat concrete, concrete patios, masonry walls, garage floors, driveways, and similar structures and all loose, miscellaneous, and useless material, from such lot or parcel of ground, and to properly cap the sanitary sewer house connection, and to properly fill or otherwise protect all basements, cellars, septic tanks, wells, and other excavations, and said lot or parcel shall be left level and in condition to be disked for control of weeds.

It shall be also understood that if any trees are allowed to remain, limbs shall be kept trimmed to provide a minimum clearance of 10 feet above the adjacent ground level to allow for disking as described in FMC section 11-218.

I hereby certify that on this 12<sup>th</sup> day of November, 20 21 I have read, understand, and agree to abide by the provisions of the above statement.

175 N. Diana St. Fresno Ca

JOB ADDRESS

Michael Saldana

APPLICANT'S NAME (PLEASE PRINT)

APPLICANT'S SIGNATURE

**BUILDING AND SAFETY SERVICES DIVISION**  
2600 FRESNO STREET • THIRD FLOOR • ROOM 3043  
FRESNO, CALIFORNIA 93721-3604  
(559) 621-8084 • FAX (559) 498-4357  
www.fresno.gov

DATE: 11.12.2021

APPLICATION #: \_\_\_\_\_

**WASTE MANAGEMENT PLAN (WMP) FOR CONSTRUCTION AND DEMOLITION DEBRIS**

The California Green Building Standards (CALGreen) mandates that new residential and non-residential building construction, demolition and certain additions and alteration projects to recycle and/or salvage for reuse a minimum of 65% of the nonhazardous construction and demolition (C&D) generated during the project.

**\*\*THIS WMP FORM MUST BE SUBMITTED FOR APPROVAL PRIOR TO PERMIT ISSUANCE\*\***

**APPLICANT'S INFORMATION**

Company/Individual Name: <u>Kroeker Inc.</u>			<input checked="" type="checkbox"/> Contractor
Address: <u>4627 S. Chestnut Ave</u>			<input type="checkbox"/> Owner
City: <u>Fresno</u>	State: <u>California</u>	Zip: <u>93725</u>	<input type="checkbox"/> Other
Phone: <u>559.832.7042</u>	Email: <u>mikes@kroekerinc.com</u>		

**PROJECT INFORMATION**

Site Address: <u>175 N. Diana St.</u>	<b>Residential (circle all that apply):</b> Construction <input type="checkbox"/> Demolition <input checked="" type="checkbox"/> Grading Renovation Remodel Addition
Project Description: <u>Demolition of Burned House and Removal of fence.</u>	<b>Non Residential (circle all that apply):</b> Construction Demolition Grading Renovation Remodel Addition
	Does this project consist of a re-roof? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Type of roof being replaced: Composition/Asphalt Wood Tile
	Square footage: _____ Value \$ <u>14,413</u>

**MATERIALS MANAGEMENT PLAN**

Waste Management Company: <u>American Avenue landfill</u>	Self-Haul (Name): <u>Kroeker Inc.</u>
Facilities to receive debris: <u>American Avenue landfill</u>	<input type="checkbox"/> Unknown at this time
	How will C&D debris be stored at project site? <input type="checkbox"/> Commingled and sorted offsite <input checked="" type="checkbox"/> Source separated onsite

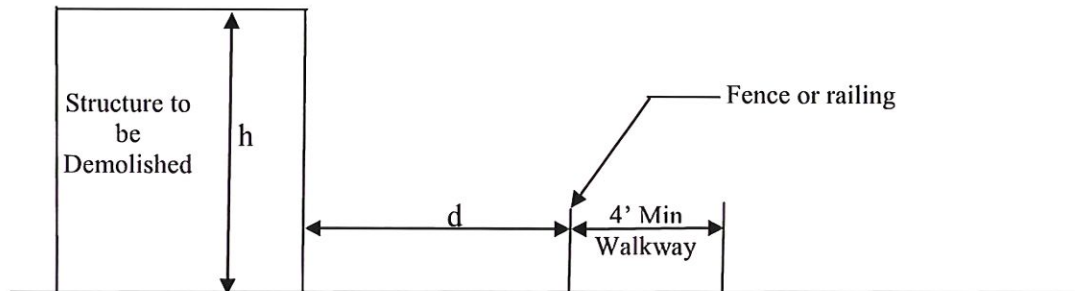
The purpose of this plan is to identify and outline the methods to be used as the minimum requirements for a construction waste management plan. This construction waste management plan is hereby submitted to comply with Section 4.408 and Section 5.408 of the 2019 California Green Building Standards Code. By signing below, I acknowledge that I have read the terms and conditions of this WMP for this project and agree to my responsibilities to follow the procedures of this plan.

  
Signature

Michael Saldana  
Printed Name

11.12.2021  
Date

**REQUIREMENTS FOR PEDESTRIAN PROTECTION**



When “h” is less than or equal to 8 feet:

- And “d” is 5 feet or more: No Protection is required.  
*(Table 3306.1 of 2013 California Building Code)*
- And “d” is less than 5 feet: Provide a substantially constructed railing or fence not less than 42 inches in height between the walkway and the building, and sufficient to direct pedestrians around construction areas.  
*(Section 3306.4 of 2013 California Building Code)*

When “h” is greater than 8 feet:

- And “d” is 5 feet or more but greater than ½ the height: No Protection is required.  
*(Table 3306.1 of 2013 California Building Code)*
- And “d” is 5 feet or more; but between ¼ and ½ the height: Provide a solid fence or barrier a minimum 8 feet in height, placed on the side of the walkway nearest the construction. Barriers shall extend the entire length of the construction site. Openings in barriers shall be protected by doors which are normally kept closed.  
*(Table 3306.1 and Section 3306.5 of 2013 California Building Code)*
- And “d” is 5 feet or more; but more than ¼ the height: Provide a solid fence or barrier and covered walkway. The covered walkway shall have a clear height of 8 feet measured from the floor surface to the canopy overhead. Adequate lighting shall be provided at all times.  
*(Table 3306.1 and Section 3306.7 of 2013 California Building Code)*
- And “d” is less than 5 feet: Provide a solid fence or barrier and covered walkway. The covered walkway shall have a clear height of 8 feet measured from the floor surface to the canopy overhead. Adequate lighting shall be provided at all times.  
*(Table 3306.1 and Section 3306.7 of 2013 California Building Code)*

*All barriers shall be designed to conform to the requirements of section 3306.5 and 3306.6 of the 2013 California Building Code.*

*All covered walkways shall be designed to conform to the requirements of section 3306.7 of the 2013 California Building Code.*



BILL NO. B-40

ORDINANCE NO. 2021-044

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING SUBSECTION (d) OF SECTION 12-1603, SUBSECTION (b) OF SECTION 12-1606 AND SECTIONS 12-1607, 12-1612, 12-1613, 12-1617, 12-1618, 12-1620, 12-1621, AND 12-1628 OF THE FRESNO MUNICIPAL CODE, RELATING TO THE HISTORIC PRESERVATION ORDINANCE OF THE CITY OF FRESNO

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Subsection (d) of Section 12-1603 of the Fresno Municipal Code is amended to read:

(d) "Certified Local Government Program" shall mean the established partnership between the City of Fresno and[,] the State Historic Preservation Office [and National Parks Service] designed to identify, evaluate and protect historic resources within the city and to enable the city to participate in the benefits which result from that partnership.

SECTION 2. Subsection (b) of Section 12-1606 of the Fresno Municipal Code is amended to read:

(b) The Commission shall have the following additional duties and powers:

(1) Conduct studies and evaluations of applications requesting the designation of Historic Districts, make determinations and recommendations as appropriate for consideration of such applications in order to effectuate the purposes of this article.

(2) Adopt specific guidelines for the designation of Historic



Resources, Historic Districts and Heritage Properties as it deems necessary to effectuate the purposes of this article.

(3) Maintain a current listing and description of designated Historic Resources, Historic Districts and Heritage Properties and transmit copies and update of such listings to all appropriate city agencies and departments as determined by the Secretary to the Commission.

(4) Develop and recommend the adoption of an Historic Preservation Element for the General Plan of the City of Fresno in accordance with the requirements of the Certified Local Government Program.

(5) Participate in environmental review procedures called for under this article or under the California Environmental Quality Act (CEQA) or under the National Environmental Protection Act (NEPA) by providing review and comments on permit actions affecting designated Historic Resources, Historic Districts and Heritage Properties as the Commission deems appropriate.

(5.1) Make environmental determinations under the California Environmental Quality Act on any discretionary project applications the Commission considers for approval, including, but not limited to demolition permits for subject properties brought before the Commission.

(6) Review and comment upon the conduct of land use, housing, redevelopment, municipal improvement and other types of planning and



programs undertaken by any agency or department of the city, county or state as they relate to designated Historic Resources, Historic Districts and Heritage Properties as the Commission deems appropriate.

(7) Establish criteria and conduct or cause to be conducted historical resource surveys of properties within the city limits in accordance with state survey standards and procedures; submit completed surveys to the Council for official adoption; and submit adopted surveys to the Office of Historic Preservation for integration into the Historic Property Data File for Fresno County maintained by that office.

(8) Recommend internal procedures to facilitate the use of such adopted historical resource surveys in planning and development processes by all relevant city agencies and departments in accordance with Certified Local Government Program requirements.

(9) Publicize, maintain and periodically update such historical resource surveys in accordance with state survey standards and procedures, including those surveys adopted prior to the award of Certified Local Government status and surveys of new areas annexed or incorporated by the city.

(10) Adopt procedural rules for the systematic review of such historical resource surveys to determine if designation proceedings should be initiated on appropriate sites. Provide for the removal of sites not found qualified for designation from the survey and from the Historic Property Data File for Fresno County maintained by the State Office of Historic



Preservation if included therein.

(11) Review and make recommendations on nominations for inclusion in the California Register of Historical Resources and the National Register of Historic Places for local historic resources or districts to the chief elected local official for transmission to the State Office of Historic Preservation in accordance with procedures established by the Certified Local Government Program.

(12) Review and make recommendations on any proceedings under Section 106 of the National Historic Preservation Act pertaining to properties within the city limits and establish programmatic agreements with the State Office of Historic Preservation as the Commission deems appropriate.

(13) Review and make recommendations on historic preservation certification applications for federal tax incentives.

(14) Develop and recommend the adoption of historic preservation incentives including but not limited to conditional use permits allowing uses not otherwise permitted by the underlying zoning, Mills Act Contracts, and other programs utilized by other Certified Local Governments.

(15) Review and make recommendations on any applications to participate in local historic preservation incentive programs established in order to effectuate the purposes of this article.

(16) Prepare an annual report on the activities of the Commission to the State Office of Historic Preservation at the end of each calendar year



in accordance with procedures established by the Certified Local Government Program.

(17) Ensure that each commissioner attends at least one [two] informational or educational meeting[s], seminar[s], workshop[s] or conference[s] per year in accordance with the requirements of the Certified Local Government Program.

(18) Perform any other functions consistent with the purposes herein or that may be directed by the Council from time to time.

(19) Adopt, promulgate, amend and rescind, from time to time, such rules, guidelines and regulations as the Commission may deem necessary to effectuate the purposes of this article.

(20) Provide for a suitable sign, plaque or other marker at public or private expense, on or near the Historic Resource or District (LHD or NRD), indicating that the Resource or District (LHD or NRD) has been so designated. The sign, plaque or other marker shall contain information and data deemed appropriate by the Commission and its placement shall be at the discretion of the owner.

(21) Meet not less than once a month at meetings held pursuant to public notice and open to the public.

(22) Keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations and decisions as a matter of public record.

(23) Render advice and guidance, upon the request of a property



owner or tenant on the financial and physical aspects of the restoration, alteration, rehabilitation, landscaping or maintenance of any Historic Resource, any Contributor to any Historic District (LHD or NRD) or any Heritage Property.

(24) Investigate and report to the Council on the use of various federal, state, local or private funding sources and mechanisms available to promote historic resource preservation in the city.

(25) Participate in, promote and conduct public information, educational and interpretive programs pertaining to Historic Resources and provide for public participation in all aspects of the city's historic preservation programs.

(Added Ord. 99-50, §§ 1, 2, 9-9-99; Am. Ord. 2015-14, § 1, 7-16-15)

SECTION 3. Section 12-1607 of the Fresno Municipal Code is amended to read:

SECTION 12-1607. - DESIGNATION CRITERIA.

(a) HISTORIC RESOURCES: Any building, structure, object, or site may be designated as an Historic Resource if it is found by the Commission and Council to meet the following criteria:

(1) It has been in existence more than fifty years and it possesses [aspects of] integrity of [to convey its significance based upon] location, design, setting, materials, workmanship, feeling and [or] association, and:

(i) It is associated with events that have made a significant contribution to the broad patterns of our history or



(ii) It is associated with the lives of persons significant in our past; or

(iii) It embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values; or

(iv) It has yielded or may be likely to yield, information important in prehistory or history.

(2) It has been in existence less than fifty years, it meets criteria of subdivision (1) of subsection (a) of this section and is of exceptional importance within the appropriate historical context, local, state or national.

SECTION 4. Section 12-1612 of the Fresno Municipal Code is amended to read:

**SECTION 12-1612. – HERITAGE PROPERTIES.**

(a) Requests for Designation: Designation of a Heritage Property may only be initiated by the property owner or an authorized representative of the owner. The application for Heritage Property designation consideration shall be filed with the Specialist, using a form approved by the Secretary and shall include the following information:

(1) The Assessor's parcel number for the property containing the building, structure, object or site proposed for designation along with the name and address of the current owner(s) of record;

(2) Whether the proposed resource takes the form of a



building, structure, object or site as same, are defined in this article;

(3) A detailed description of the specific building, structure, object or site proposed for designation including its dates of construction and significant alterations and its architectural style;

(4) The manner in which the proposed building, structure, object or site meets the definition of a Heritage Property contained in Section 12-1602(n) of this article;

(5) Current photographs of all aspects of the proposed Heritage Property, supplemented by sketches, drawings or other descriptive materials;

(6) A description of the physical condition and appearance of the proposed Heritage Property;

(7) The applicant's objectives in seeking Heritage Property designation; and

(8) Any other information determined necessary by the Specialist to be required for a complete and adequate application.

(b) Procedural requirements in advance of hearing:

(1) The application and supporting information shall be reviewed by the Specialist for adequacy and completeness under the requirements of this section. A hearing on the application will be scheduled within forty-five days of the date the Specialist determines that the application is adequate and complete or as soon thereafter as is practicable.



(2) At least ten days prior to the date set therefore, notice of the time, place and purpose of such hearing will be mailed to the owner of the property proposed for designation at the address shown on the latest assessment roll. The Secretary may also give such additional notices as he or she deems desirable and practicable.

(3) The Specialist shall prepare a staff report for the Commission which shall also be mailed to the owner of the property with the above-described notice of the hearing.

(c) Commission Hearing:

(1) The Commission shall review all materials prepared and submitted and only members of the Commission who have physically visited and seen the proposed property may vote on the Heritage Property designation recommendation.

(2) At the conclusion of the hearing, the Commission shall approve, disapprove or modify the proposal for Heritage Property designation by an affirmative roll call vote of a majority of the Commissioners present.

~~(3) Unless the Commission decision is set for hearing to the Council in accordance with subsection (d), the decision of the Commission shall be final and effective at 12:01 a.m. on the sixteenth day after the date of the decision, subject to writ proceedings pursuant to the Code of Civil Procedure. Failure by the property owner, or authorized representative of the property owner to petition~~



~~Councilmembers or the Mayor for said appeal will constitute a failure to exhaust administrative remedies.~~

~~(d) Council Review following Commission Decision:~~

~~(1) Within fifteen (15) days of the decision of the Commission, either a Councilmember or the Mayor may, on his or her own initiative, or upon receiving a petition from the property owner or authorized representative of the property owner, file a letter with the Secretary to set a hearing in front of Council to consider the Commission's decision. When a letter from a Councilmember or Mayor is timely filed with the Secretary, the decision of the Commission shall be set aside. A public hearing on the matter shall be set before the Council so that it occurs within thirty (30) days of the date the letter is filed with the Secretary. The same noticing procedures set forth in subsections (b)(2) and (3) that set forth the noticing procedures for the Commission's consideration of the Heritage Property designation shall be followed, except that the staff report referenced in subsection (b)(3) shall be prepared for the Council. If prior to the Council's consideration of the Commission's decision, the Councilmember or Mayor withdraws his or her letter requesting the matter be heard by the Council, the decision of the Commission shall be reinstated immediately.~~

~~(2) The Council shall approve, disapprove or modify the proposal for Heritage Property designation by an affirmative vote of~~



a majority of the Councilmembers present.

~~(3) — The Council decision shall be final and effective and subject to writ proceedings immediately upon Council action. Within 10 days of the Council decision, the Secretary shall mail a courtesy notice to the property owner setting forth the Council's decision. Any statute of limitations begins to run as of the date of the Council decision, not as of the date of the mailing of the courtesy notice to the property owner.~~

([d]e) The designation of a resource as a Heritage Property, in and of itself, does not create any presumption the resource qualifies as a "historic resource" pursuant to the California Environmental Quality Act or its implementing CEQA Guidelines.

([e]f) The owner or their authorized representative may amend or rescind the designation of a Heritage Property in the same manner and procedure as was followed in the original designation.

([f]g) Notwithstanding subsection ([e]), a Councilmember may request that Council consider rescinding the designation of a Heritage Property by filing a letter with the Secretary to set a hearing before Council to consider the Councilmember's request. A public hearing on the matter shall be set before the Council so that it occurs within thirty days of the date the letter is filed with the Secretary. The same noticing procedures set forth in subsections (b)(2) and (3) that set forth the noticing procedures for the Commission's consideration of the Heritage Property designation shall be



followed, except that the staff report referenced in subsection (b)(3) shall be prepared for the Council. The Council shall rescind the designation of a Heritage Property only if it finds that the resource does not satisfy the requirements for a Heritage Property as set forth in section 12-1603(n) or that circumstances exist to make the Heritage Property designation no longer applicable. The Council decision shall be final and effective and subject to writ proceedings immediately upon Council action. Within ten days of the Council decision, the Secretary shall mail a courtesy notice to the property owner setting forth the Council's decision. Any statute of limitations begins to run as of the date of the Council decision, not as of the date of the mailing of the courtesy notice to the property owner.

**SECTION 5.** Section 12-1613 of the Fresno Municipal Code is amended to read:

**SECTION 12-1613. – ADOPTION BY COUNCIL.**

(a) The sole authority to declare Historic Resources or Historic Districts and to endorse Local Historic Districts to the National Register of Historic Places shall be vested in the Council and shall be exercised only after completion of the Commission's responsibilities under the designation process set forth above in section 12-1607.

(b) Within thirty days following receipt by the City Clerk of the Commission's recommendations or as soon thereafter as is practicable, a hearing shall be set by the Clerk and held by the Council. Following such hearing, the Council shall adopt, modify or reject the designation recommended by the Commission and, in the instance of a district



designation, make findings as to which properties shall be considered contributors and non-contributors to the district. In the alternative, the Council may continue its consideration of the matter, or, in the event that new information is presented, refer the proposed designation to the Commission for further hearings, consideration or study within a period of time designated by Council. Adoption of the designation shall be made by resolution which shall contain findings of fact as specified in Section 12-1607.

(c) Within ten days of the Council's designation decision, notice thereof shall be mailed by the Secretary to the owner of record of each property proposed for designation at the address shown on the latest assessment roll and to such other persons that the Secretary may deem appropriate, and shall be recorded with the County Recorder. Such notice shall include the basis for any historical designation, a summary of the regulations which result from such designation and a copy of project activities which are exempt from regulation under this article.

(d) No proposal for designation once considered and disapproved by the Council shall be reconsidered except upon the affirmative vote of four Council members. Any decision to reconsider shall be treated as a new proposal for designation pursuant to Sections 12-1608, 12-1609, 12-1610 or 12-1611 of this article. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

[(e) The Development Department shall provide the Commission



and City Council annual status reports at public meetings on all facilities placed on the National, State, County, and City/Local Register in the prior year.]

SECTION 6. Section 12-1617 of the Fresno Municipal Code is amended to read:

SECTION 12-1617. – HISTORIC RESOURCE PERMIT REVIEW PROCESS.

(a) It shall be unlawful for any person, corporation, association, partnership or other legal entity to directly or indirectly alter, remodel, demolish, grade, remove, construct, reconstruct or restore any Historic Resource without first obtaining a city permit and the written approval of the Historic Preservation Commission. [An Historic Resource shall not be eligible for “at risk” development under Fresno Municipal Code Chapter 12, Article 22.]

(b) Upon receipt of an application or proposal for a demolition, grading, removal or building permit for any Historic Resource, the ~~city~~ [City] department or agency receiving same shall, within five calendar days, notify the Secretary and forward said permit application or proposal and accompanying documentation to the Secretary and shall not process the application or proposal without the authorization of the Specialist. [Also, written notice shall be provided to all property owners within a 2,000 foot radius of the subject property, measured from property line to property line, and to the Councilmember for the applicable District, of the application at least fourteen days prior to any scheduled hearing before the Commission.]



The Specialist [Director of the Development Department] may approve, in the name of the Commission, non-substantial alterations to the Historic Resource based on the application presented.

(c) Any application or proposal which proposes the substantial alteration of an Historic Resource shall also be referred to the Director of the Development Department for environmental review. No hearing shall be held by the Commission for applications or proposals to demolish, grade, remove or substantially alter the Historic Resource until such application or proposal has undergone environmental review in accordance with the California Environmental Quality Act.

(d) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any Historic Resource covered by this article that does not involve a change in design, materials or external appearance.

(e) Nothing in this section shall be construed to prevent the Director of the Development Department from issuing a building permit if he or she determines that demolition, removal or substantial alteration of the Historic Resource is immediately necessary to protect the public health, safety or general welfare.

(f) Upon completion of any required environmental review and thirty calendar days prior to a scheduled hearing, the owner or applicant shall provide whatever detailed information (plans, drawings, agreements, etc.) is required or necessary to describe the intended work. The Specialist



may require additional information determined to be necessary for the Commission to act on the matter. The Specialist shall refer the matter to the Commission with a report and recommendation which is accompanied by the final environmental document.

(g) After consideration of the final environmental document, all evidence and testimony, the Commission shall have the authority to approve, deny or approve with modifications, any application or proposal.

(h) No application or proposal shall be approved or approved with modifications unless the Commission makes the following findings:

(1) The proposed work is found to be consistent with the purposes of this article and the Secretary of the Interior's Standards, not detrimental to the special historical, architectural or aesthetic interest or value of the Historic Resource; or

(2) The action proposed is necessary to correct an unsafe or dangerous condition on the property; or

(3) Denial of the application will result in unreasonable economic hardship to the owner. In order to approve the application, the Commission must find facts and circumstances, not of the applicant's own making, which establish that there are no feasible measures that can be taken that will enable the property owner to make a reasonable economic beneficial use of the property or derive a reasonable economic return from the property in its current form; or



(4) The site is required for a public use which will directly benefit the public health, safety and welfare and will be of more benefit to the public than the Historic Resource.

(5) For applications for relocation of an Historic Resource, the Commission shall find that one or more of the above conditions exist, that relocation will not destroy the historical, architectural or aesthetic value of the Resource and that the relocation is part of a definitive series of actions which will assure the preservation of the Resource.

(i) Any finding that denial of the application or proposal will result unreasonable economic hardship to the owner, pursuant to Section ~~43-442~~12-1617(h)(3) above, may be based upon the application of the following factors:

(1) Any economic feasibility analysis conducted pursuant to this section shall include the determination of an "after-rehabilitation" value of the property calculated on an income approach utilizing the capitalization rate determined appropriate by the Director of the Development Department. This "after-rehabilitation" value shall be determined in the following manner:

(i) The potential residential or commercial rental rate(s) which could be generated by the property after an appropriate rehabilitation shall be determined by a review of current market rates for comparable properties within



comparable neighborhoods.

(ii) The potential annual net income that could be generated by the property after an appropriate rehabilitation, taking into consideration standard vacancy and expense factors, shall be determined.

(iii) The appropriate capitalization rate shall be applied to the potential annual net income to determine the "after-rehabilitation" value of the property.

(2) The fair market value of the land, exclusive of improvements and without development restrictions pursuant to this ordinance, shall be determined by a standard appraisal.

(3) The monetary cost of an appropriate rehabilitation of the resource, in accordance with the standards of this ordinance, shall be determined by professionals qualified to make such a determination.

(4) If the fair market value of the land, combined with the costs of rehabilitation, exceed the "after-rehabilitation" value of the property by more than twenty percent, the Commission shall find that denial of the application will result in an unreasonable economic hardship to the owner.

(j) If the Commission determines a permit should not be issued for the demolition, alteration, relocation or new construction, or the Council on appeal concurs, a new application affecting the same property may be



submitted during the twelve month period after the disapproval only if a substantial change is made in the plans for the project.

(k) The Specialist shall give written notice of the decision regarding the regulated permit to the property owner/applicant[,] and to }the Director of the Development Department[, the Councilmember for the applicable Council District, and the Mayor]. The notice shall contain the Commission's findings in support thereof. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SECTION 7. Section 12-1618 of the Fresno Municipal Code is amended to read:

**SECTION 12-1618. – HISTORIC DISTRICT PERMIT REVIEW PROCESS.**

(a) It shall be unlawful for any person, corporation, association, partnership or other legal entity to directly or indirectly alter, remodel, demolish, grade, remove, construct, reconstruct or restore any property within any Historic District without first obtaining a city permit, review by the appropriate Design Review Committee and the written approval of the Historic Preservation Commission.

(b) Upon receipt of an application or proposal for a demolition, grading, removal or building permit for any property within any Historic District, the city department or agency receiving same shall, within five calendar days, notify the Secretary and forward said permit application or proposal and accompanying documentation to the Secretary and shall not process the permit or proposal without the authorization of the Specialist. The Specialist may approve, in the name of the Commission, non-



substantial alterations to the property based on the application presented.

(c) Any application which proposes the substantial alteration of any property within any Historic District shall also be referred to the Director of the Development Department for environmental review. No hearing shall be held by the Commission for applications which propose to demolish, grade, remove or substantially alter a property within any Historic District until such proposal has undergone environmental review in accordance with the California Environmental Quality Act.

(d) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this article that does not involve a change in design, materials or external appearance.

(e) Nothing in this section shall be construed to prevent the Director of the Development Department from issuing a building permit if he or she determines that demolition, removal or substantial alteration of a property within any Historic District is immediately necessary to protect the public health, safety or general welfare.

(f) Upon completion of any required environmental review and thirty calendar days prior to a scheduled hearing, the owner or applicant shall provide whatever detailed information (plans, drawings, agreements, etc.) is required or necessary to describe the intended work. The Specialist may require additional information determined to be necessary for the Commission to act on the matter. The Specialist shall refer the matter to the



Commission with a report and recommendation which is accompanied by the final environmental document.

(g) After consideration of the final environmental document, all evidence and testimony, the Commission shall have the authority to approve, deny or approve with modifications, any proposed application or permit application.

(h) No application shall be approved or approved with modifications unless the Commission makes the following findings:

(1) For a Contributor to any Historic District, the proposed work is found to be consistent with the general purposes of this article and the Secretary of the Interior's Standards, not detrimental to the special historical, architectural or aesthetic interest or value of the Contributor or the respective Historic District in general and consistent with the District's adopted design standards; or

(2) For a Non-Contributor to any Historic District, the proposed work is found not detrimental to the historical or architectural values of the respective Historic District in general and consistent with the District's adopted design standards; or

(3) For new in-fill construction within any Historic District, the proposed work is found not detrimental to the historical or architectural values of the respective Historic District in general and consistent with the District's adopted design standards; or

(4) The action proposed is necessary to correct an unsafe



or dangerous condition on the property; or

(5) Denial of the application will result in unreasonable economic hardship to the owner. In order to approve the application, the Commission must find facts and circumstances, not of the applicant's own making, which establish that there are no feasible measures that can be taken that will enable the property owner to make a reasonable economic beneficial use of the property or derive a reasonable economic return from the property in its current form; or

(6) The site is required for a public use which will directly benefit the public health, safety and welfare and will be of more benefit to the public than the Contributor to the respective Historic District.

(7) For applications for relocation of a Contributor from any Historic District, the Commission shall find that one or more of the above conditions exist, that relocation will not destroy the historical, architectural or aesthetic value of the resource and that the relocation is part of a definitive series of actions which will assure the preservation of the resource.

(i) Any finding that denial of the permit application will result in unreasonable economic hardship to the owner, pursuant to Section 12-1618(h)(5) above, may be based upon the application of the following factors:



(1) Any economic feasibility analysis conducted pursuant to this section shall include the determination of an "after-rehabilitation" value of the property calculated on an income approach utilizing the capitalization rate determined appropriate by the Director of the Development Department. This "after-rehabilitation" value shall be determined in the following manner:

(i) The potential residential or commercial rental rate(s) which could be generated by the property after an appropriate rehabilitation shall be determined by a review of current market rates for comparable properties within comparable neighborhoods.

(ii) The potential annual net income that could be generated by the property after an appropriate rehabilitation, taking into consideration standard vacancy and expense factors, shall be determined.

(iii) The appropriate capitalization rate shall be applied to the potential annual net income to determine the "after-rehabilitation" value of the property.

(2) The fair market value of the land, exclusive of improvements and without development restrictions pursuant to this ordinance, shall be determined by a standard appraisal.

(3) The monetary cost of an appropriate rehabilitation of the resource, in accordance with the standards of this ordinance,



shall be determined by professionals qualified to make such a determination.

(4) If the fair market value of the land, combined with the costs of rehabilitation, exceed the "after-rehabilitation" value of the property by more than twenty percent, the Commission shall find that denial of the application will result in an unreasonable economic hardship to the owner.

(j) A decision relating to the approval with modifications or disapproval of an application for any permit may be appealed pursuant to ~~section 13-415~~ of this article.

(k) If the Commission determines a permit should not be issued for the demolition, alteration, relocation or new construction, or the City Council on appeal concurs, a new application affecting the same property may be submitted during the twelve month period after the disapproval only if a substantial change is made in the plans for the project.

(l) The Specialist shall give written notice of the decision regarding the regulated permit to the property owner/applicant[,] and to the Director of the Development Department, the Councilmember for the applicable Council District, and the Mayor. The notice shall contain the Commission's findings in support thereof. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SECTION 8. Section 12-1620 of the Fresno Municipal Code is amended to read:

SECTION 12-1620. – APPEAL PROCEDURE.



(a) Any decision [of the Commission] ~~relating to the approval with modifications or disapproval of an application for any permit pursuant to Sections 12 1617 and 12 1618~~ may be appealed to the Council by the property owner, the Councilmember for the applicable Council District, or the Mayor not later than twenty days following service by mail by the Specialist of the notice of decision and findings on the property owner [ and written notice to the Councilmember for the applicable Council District and Mayor]. Service [ of the notice of decision ] shall be deemed complete on the date of mailing [ to the property owner ]. Such appeal shall be taken [by the Councilmember for the applicable Council District or the Mayor by notifying the Director of the Development Department in writing, or by the property owner] by filing a notice of appeal in duplicate, in the following format, with the Secretary who shall forthwith transmit to the City Clerk all papers and documents on file with the Secretary relating to the appeal:

- (1) A caption reading "Appeal of \_\_\_\_\_" giving the name and address of the applicant;
- (2) A brief description of the specific order, decision or determination being appealed;
- (3) A statement of the relief sought;
- (4) The reasons why such relief should be granted.

(b) The City Clerk shall cause the appeal to be set for hearing before the Council within thirty days of receipt of the notice of appeal. Not later than ten days prior to the date of the hearing on the appeal, the City



Clerk shall notify the appellant[(s)] and all persons requesting such information in writing, of the date, time and location of the appeal.

(c) [On appeal, the matter shall be considered de novo by the Council, and the failure to obtain a majority vote for approval of an application shall constitute a denial of the application.] Following consideration of the appeal, the Council may approve, disapprove or approve with modifications the application, or may refer the appeal to the Commission for further consideration. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SECTION 9. Section 12-1621 of the Fresno Municipal Code is amended to read:

**SECTION 12-1621. – FINAL OF DECISION.**

Any decision of the Council under this article shall be final. Any decision of the Commission under ~~sections 12 1617 or 12 1618~~ of this article shall become final if no appeal is taken from such order or decision within the time limits prescribed by the applicable appeal provision of this article. No permit regulated by the provisions of this article shall issue, nor shall any rights vest therein, until the decision of the Commission is final or any appeal therefrom is disposed of in the manner prescribed by this article.

(Added Ord. 99-50, §§ 1, 2, 9-9-99)

SECTION 10. Section 12-1628 of the Fresno Municipal Code is amended to read:

**SECTION 12-1628. – CIVIL AND CRIMINAL PENALTIES.**

It shall be unlawful for any person to permit or maintain violations of any of the provisions of this article by undertaking the alteration, grading, removal, demolition or partial demolition of an Historic Resource or a



building, structure, object or site within a Historic District without first obtaining the written approval of the Specialist, Commission or Council as provided in this article, or to defy any order or decision rendered by the Specialist, Commission or Council. Any violations of this article may be enforced as provided in this Code, [including prosecution of violations as a misdemeanor with maximum penalties as provided in the Fresno City Charter, and] ~~except in the case of~~ administrative citations issued pursuant to this Code, wherein the administrative penalty imposed shall be up to \$10,000[100,000] for each violation. As part of any enforcement proceeding, violators may be required to reasonably restore the building, structure, object or site to its appearance or condition prior to the violation, under the guidance of the Development Department. [Additionally, all available legal remedies may be pursued by the City Attorney.] (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SECTION 11. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.



STATE OF CALIFORNIA )  
 COUNTY OF FRESNO ) ss.  
 CITY OF FRESNO )

I, BRIANA PARRA, Interim City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the 14<sup>th</sup> day of October, 2021.

AYES :Arias, Bredefeld, Esparza, Maxwell, Soria, Chavez  
 NOES :None  
 ABSENT :Karbassi  
 ABSTAIN :None

Mayor Approval:	<u>October 22<sup>nd</sup></u>	, 2021
Mayor Approval/No Return:	<u>N/A</u>	, 2021
Mayor Veto:	<u>N/A</u>	, 2021
Council Override Veto:	<u>N/A</u>	, 2021

BRIANA PARRA, CMC  
 Interim City Clerk

BY: Briana Parra 11/2/2021  
 Deputy Date

APPROVED AS TO FORM:  
 DOUGLAS T. SLOAN,  
 City Attorney

BY: R. Gonzalez 11/2/2021  
 RINA GONZALES Date  
 Senior Deputy City Attorney




October 18, 2021

Council Adoption: 10/14/2021

Mayor Approval:

Mayor Veto:

Override Request:

TO: JERRY DYER  
FROM:  BRIANA PARRA, CMC  
Interim City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the City Council meeting of October 14, 2021 Council adopted the attached Bill No. B-40, Ordinance No. 2021-044, entitled **\*\*\*BILL B-40 (Intro. 9/30/2021) (For Adoption) – Amending the Fresno Municipal Code relating to the Historic Preservation Ordinance of the City of Fresno (Subject to Mayor’s Veto).** Item 1-W, File ID21-23408-02, by the following vote:

Ayes : Arias, Bredefeld, Esparza, Maxwell, Soria, Chavez  
Noes : None  
Absent : Karbassi  
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk’s office on or before October 28, 2021. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10<sup>th</sup> day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk’s office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor’s signed approval.

**APPROVED /** NO RETURN: \_\_\_\_\_

**VETOED** for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

\_\_\_\_\_  
\_\_\_\_\_

Jerry Dyer, Mayor

Date: 10/20/21

**COUNCIL OVERRIDE ACTION:**

Date: \_\_\_\_\_

Ayes :  
Noes :  
Absent :  
Abstain :

RECEIVED  
2021 OCT 22 PM 3:21  
CITY OF FRESNO  
CITY CLERK'S OFFICE

## List of Authority, Duties and Powers and Code Compliance

The City of Fresno's General Plan which was adopted in 2014 states in HCR-2g:

*Demolition Review. Review all demolition permits to determine if the resource scheduled for demolition is potentially eligible for listing on the Local Register of Historic Resources. Consistent with the Historic Preservation Ordinance, refer potentially eligible resources to the Historic Preservation Commission and as appropriate to the City council.*

FMC Section 10-605 (a) which details a Public Nuisance provides:

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

FMC Section 10-608 outlines the Notice and Order.

FMC Section 10-608 (a)

***Issuance:*** *Whenever the Director has inspected or caused to be inspected any property and has found and determined that conditions constituting a public nuisance exists thereon, the Director may serve a notice and order...*

FMC Section 10-609 (a) provides:

*Whenever the Director determines that a public nuisance is imminently dangerous to life, health, safety, or adjacent property such that it requires immediate correction or elimination, the Director may remove or otherwise abate the public nuisance without prior notice to the responsible person. The Director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the nuisance, including but not limited to*

FMC Section 12-1606(a) (2) which details the Duties and Powers of the Commission provides that:

*The regulation of exterior alterations visible from a public right-of-way including demolition, relocation and new construction, and interior alterations which would affect the significance of Historic Resources or Historic Districts.*

FMC Section 12-1616 provides that:

*When a designated Historic Resource has been demolished or relocated outside the city limits or when its designation has been rescinded pursuant to the provisions of this article, the Secretary, upon notice thereof, shall cause such resource to be deleted from the Local Register of Historic Resources and from the Historic Property Data File for Fresno County maintained by the State Office of Historic Preservation. The Secretary shall also cause a Rescission of*

*Designation to be recorded with the County Recorder. Upon such deletions and such rescission, the provisions of this article shall not be deemed to encumber or otherwise restrict the use of such property.*

FMC Section 12-1617 outlines the Historic Permit Review Process.

FMC Section 12-1617 (c) provides that:

*Any application or proposal which proposes the substantial alteration of an Historic Resource shall also be referred to the Director of the Development Department for environmental review. No hearing shall be held by the Commission for applications or proposals to demolish, grade, remove or substantially alter the Historic Resource until such application or proposal has undergone environmental review in accordance with the California Environmental Quality Act.*

FMC Section 12-1617( e) provides that:

*Nothing in this section shall be construed to prevent the Director of the Development Department from issuing a building permit if he or she determines that demolition, removal, or substantial alteration of the Historic Resource is immediately necessary to protect the public health, safety, or general welfare.*

FMC Section 12-1617 (g) provides that:

*After consideration of the final environmental document, all evidence and testimony, the Commission shall have the authority to approve, deny or approve with modifications, any application or proposal.*

FMC Section 12-1617 (h) provides that:

*No application or proposal shall be approved or approved with modifications unless the Commission makes the following findings:*

- (1) The proposed work is found to be consistent with the purposes of this article and the Secretary of the Interior's Standards, not detrimental to the special historical, architectural, or aesthetic interest or value of the Historic Resource; or*
- (2) The action proposed is necessary to correct an unsafe or dangerous condition on the property; or*
- (3) Denial of the application will result in unreasonable economic hardship to the owner. In order to approve the applicant, the Commission must find facts and circumstances, not the applicant's own making, which establish that there are no feasible measures that can be taken that will enable the property owner to make a reasonable economic beneficial use of the property or derive a reasonable economic return from the property in its current form; or*
- (4) The site is required for a public use which will directly benefit the public health, safety and welfare and will be of more benefit than the Historic Resource.*

*(5) For applications for relocation of an Historic Resource, the Commission shall find that one or more of the above conditions exist, that relocation will not destroy the historical, architectural, or aesthetic value of the Resource and that the relocation is part of a definitive series of actions which will assure the preservation of the Resource.*

In addition, in November 2002 the Planning and Development Department adopted a policy which required that all demolition permits be reviewed for “historic significance.”