

**City Council Special Called Public Hearing Meetings Agenda****Tuesday, April 18, 2023****Wednesday, April 19, 2023****6:00 p.m. – Special Called Public Hearing**

*Welcome! The public is strongly encouraged to participate remotely but there is seating at Civic Hall for those who are not able to participate remotely. However, if you are not feeling well, please stay home and take care of yourself.*

*The public is strongly encouraged to relay public comments or testimony to the Council in one of the following ways:*

1. *Submit written public testimony **5:00 PM on Monday, April 17, 2023** to be provided to the City Council in advance of the meeting to [Heather.Richards@mcminnvilleoregon.gov](mailto:Heather.Richards@mcminnvilleoregon.gov) or mailed to Heather Richards, 231 NE 5th Street McMinnville, OR 97128. (Parties wishing to submit written testimony during the hearing should include at least twelve (12) copies for distribution).*
2. *Pre-register to speak during the public hearing by providing your name and phone number, or Zoom name, to the Planning Office before **12:00 pm on Tuesday, April 18, 2023**. You can speak in person or via zoom, please sign up by emailing [Heather.Richards@mcminnvilleoregon.gov](mailto:Heather.Richards@mcminnvilleoregon.gov) or calling 503-434-7311.*
3. *Appearing by telephone only please sign up before **12:00 pm on Tuesday, April 18, 2023** by emailing [Heather.Richards@mcminnvilleoregon.gov](mailto:Heather.Richards@mcminnvilleoregon.gov) or calling 503-434-7311 as the chat function is not available when calling in zoom.*
4. *Join the live zoom meeting on day of your choice; send a chat directly to the City Recorder, Claudia Cisneros, to request to speak or use the raise hand feature in zoom, you will need to provide your name, address and phone or email for the record prior to speaking, once that information is provided the city recorder will announce you and be able to unmute your mic, you will have three minutes to speak.*
5. *Appear to speak in person at the Council Chambers and sign up to speak.*

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*You can live broadcast the City Council Meeting on cable channels Xfinity 11 and 331,  
Frontier 29 or webstream here:*

[mcm11.org/live](http://mcm11.org/live)

**CITY COUNCIL SPECIAL CALLED GWENDOLYN HOTEL PUBLIC HEARING MEETINGS:**

*You may join online via Zoom Meeting:*

<https://mcminnvilleoregon.zoom.us/j/85605064343?pwd=dGJobjN2eDJqZm9kTC9rcjhYlJqUT09>

*Zoom ID: 856 0506 4343*

*Zoom Password: 425877*

*Or you can call in and listen via zoom: 1-253- 215- 8782*

*ID: 856 0506 4343*

**6:00 PM – SPECIAL CALLED PUBLIC HEARING MEETING – VIA ZOOM AND SEATING AT CIVIC HALL**

1. CALL TO ORDER & ROLL CALL
2. PUBLIC HEARING
  - a. Gwendolyn Hotel Appeal: Appeal of the Planning Commission approval of four land-use decisions associated with the Gwendolyn Hotel, (AP 5-23 (HL 6-22), AP 6-23 (HL 7-22), AP 7-23 (HL 8-22), AP 8-23 (DDR 2-22))
3. ADJOURNMENT OF SPECIAL CALLED MEETING



**City of McMinnville**  
**Community Development**  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7311  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

# STAFF REPORT

**DATE:** April 18, 2023  
**TO:** Mayor and City Councilors  
**FROM:** Heather Richards, Community Development Director  
**SUBJECT:** Gwendolyn Hotel Public Hearing, Appeal of Planning Commission Approval for AP 1-23 (HL 6-22), AP 2-23 (HL 7-22), AP 3-23 (HL 8-22) and AP 4-23 (DDR 2-22)

## STRATEGIC PRIORITY & GOAL:



### GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

**OBJECTIVE/S:** Strategically plan for short and long-term growth and development that will create enduring value for the community

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## Report in Brief:

This is a public hearing to consider the appeal of the Planning Commission’s approval of four land-use applications associated with the Gwendolyn Hotel project. All four land-use applications support the Gwendolyn Hotel project, a new hotel proposed to be constructed at 609, 611 and 619 NE Third Street. The Gwendolyn Hotel is a 90 room, five-story hotel with ground floor commercial, a roof deck with a pool, spa and restaurant, and an underground parking structure. To accommodate the new construction of the hotel, the applicant is requesting to demolish three historic resources that are part of the National Register of Historic Places’ McMinnville Downtown Historic District and are on the local historic resources inventory.

On March 16, 2023, the Planning Commission voted 5- 3 to approve the applicant’s requests for Certificates of Approval for the demolition of a historic resource at 609, 611 and 619 NE Third Street (Dockets AP 1-23 (HL 6-22), AP 2-23 (HL 7-22), and AP 3-23 (HL 8-22)), and voted 5-3 to approve the applicant’s Gwendolyn Hotel new construction project as compliant with the City’s Downtown Design Standards and Guidelines (Docket AP 4-23 (DDR 2-22)). (Please see attached Decision Documents for AP 1-23 (HL 6-22), AP 2-23 (HL 7-22), AP 3-23 (HL 8-22) and AP 4-23 (DDR 2-22)).

Originally, the Historic Landmarks Committee had denied all four land-use applications by a vote of 3-2 on January 26, 2023. The applicant then appealed those decisions to the Planning Commission. The Planning Commission hosted a public hearing on March 2 and March 16, 2023,

and then rendered their decision. On April 3, 2023, all four planning commission decisions were appealed by Daniel Kiser to the City Council. (Please see the attached appeal submittal).

After reviewing the public record associated with all four land-use applications, the City Council will be making a decision of approval or denial on the land-use applications with findings for those decisions based on the applicable criteria and the evidence in the record.

The entire public record collected prior to the appeal public hearing with the City Council is located on the project website at: <https://www.mcminnvilleoregon.gov/cd/page/gwendolyn-hotel-hl-6-22-hl-7-22-hl-8-22-and-ddr-2-22-609-611-and-619-ne-third-street>. This includes all of the applicant's submittals to both the Historic Landmarks Committee and the Planning Commission, staff reports and presentations and all of the public testimony received during the Historic Landmarks Committee and Planning Commission public hearings.

Attached to this staff report is new testimony that the City has received prior to the City Council public hearing but after the Planning Commission public hearings that are not yet part of the public record.

The criteria used to review alterations and demolitions of local historic resources is found in both state laws (OAR 660-023-0200) and McMinnville's Municipal Code (Chapter 17.65, *Historic Preservation*). And the criteria for the review of new construction projects in the downtown design overlay district is found in the McMinnville Municipal Code (Chapter 17.59, *Downtown Design Standards and Guidelines*).

The criteria for the approval or denial of a request to demolish a historic resource in both the state law and the McMinnville Municipal Code is reliant upon the balancing of many different factors. It is the discretion of the decision-making body as to how those factors affect the final decision of approval or denial of the requests for demolition.

The criteria used for evaluating the new construction design for compliance with Chapter 17.59 of the McMinnville Municipal Code includes guidelines with "should" language and standards with "shall" language.

The criteria for both demolition and new design is provided below. The City Council will be rendering the final decision for the City of McMinnville relative to this project. The City Council's decision can be appealed to the Oregon Land Use Board of Appeals (LUBA).

### **Criteria for Decision-Making:**

The City must consider several different regulations when deliberating on whether to approve, approve with conditions or deny the applications.

For the Certificate of Demolition Approvals, the regulations are:

**Oregon Administrative Rule, 660-023-0200**, which states the following for considering the demolition of properties that are on the National Register of Historic Places

**Oregon Administrative Rule 660-203-0200 (Section 8(a)) states that:**

- (8) *National Register Resources are significant historic resources. For these resources, local governments are not required to follow the process described in OAR 660-023-0030 through 660-023-0050 or sections (4) through (6). Instead, a local government:*
- (a) *Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;*

This states that the City must factor into their decision a consideration of a series of factors but it does not state how the City must interpret these factors or balance them in order to render a decision.

**McMinnville Municipal Code, Section 17.65.040 and 17.65.050, Historic Preservation**, which considers the following guiding principles:

17.65.040 Certificate of Approval Process. *A property owner shall obtain a Certificate of Approval from the Historic Landmarks Committee, subject to the procedures listed in Section 17.65.050 and Section 17.65.060 of this chapter, prior to any of the following activities:*

- A. *The alteration, demolition, or moving of any historic landmark, or any resource that is listed on the National Register for Historic Places;*  
1. *Accessory structures and non-contributing resources within a National Register for Historic Places nomination are excluded from the Certificate of Approval process.*
- B. *New construction on historical sites on which no structure exists;*
- C. *The demolition or moving of any historic resource.*

17.65.050 Demolition, Moving, or New Construction. *The property owner shall submit an application for a Certificate of Approval for the demolition or moving of a historic resource, or any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.*

- A. *The Historic Landmarks Committee may approve, approve with conditions, or deny the application.*
- B. *The Historic Landmarks Committee shall base its decision on the following criteria:*
1. *The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;*
  2. *The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;*
  3. *The value and significance of the historic resource;*
  4. *The physical condition of the historic resource;*
  5. *Whether the historic resource constitutes a hazard to the safety of the public or its occupants;*
  6. *Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;*
  7. *Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and*
  8. *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography,*



*item removal, written description, measured drawings, sound retention or other means of limited or special preservation.*

- C. *If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, the Planning Director may approve the application without processing the request through the Historic Landmarks Committee.*
- D. *The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any resource listed on National Register consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.*
- E. *Any approval may be conditioned by the Planning Director or the Historic Landmarks Committee to secure interior and/or exterior documentation of the resource prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. The Historic Landmarks Committee may require documentation in another format or medium that is more suitable for the historic resource in question and the technology available at the time. Any approval may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings or other details.*
- F. *If any proposed new construction is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).*

And just like the demolition criteria within the Oregon Administrative Rules, the City has discretion to interpret what is required in order to satisfy these standards, so long as that interpretation is plausible given the express code text, its context, purpose and policy.

In summary, factors to consider when balancing a decision of approval or denial of the demolition of a historic resource on the National Register of Historic Places are outlined below in the table:

<b>State OAR 660 -023-0200</b>	<b>McMinnville Municipal Code, 17.65.050</b>
Condition	Comprehensive Plan Policies
Historic Integrity	Economic Use of the Historic Resource
Age	Value and Significance of the Historic Resource
Historic Significance	Physical Condition of the Historic Resource
Value to the Community	Whether the Historic Resource is a Public Hazard
Economic Consequences	Whether the Historic Resource is a Deterrent to an Improvement Program Whose Benefit Substantially Overrides the Public Interest in Preservation
Design or Construction Rarity	Whether the Retention of the Historic Resource would Cause Financial Hardship to the Owner not Outweighed by the Public Interest in Preservation
Comprehensive Plan Policies	Whether Retention of the Historic Resource would be in the Best Interest of the Majority of the Citizens of the City and the Resource Could be Documented and Preserved in Another Way

For the compliance of new construction within the Downtown Design Overlay District, the criteria and regulations are found in Chapter 17.59 of the McMinnville Municipal Code, "Downtown Design Guidelines and Standards", as provided below.

17.59.010 Purpose. *To provide for the protection, enhancement and preservation of buildings, structures, and other elements in the downtown core which contribute to its special historic and cultural value. Further, it is not the purpose of this ordinance to create a "themed" or artificial downtown environment. Rather, its purpose is to build on the "main street" qualities that currently exist within the downtown and to foster an organized, coordinated, and cohesive historic district that reflects the "sense of place," economic base, and history unique to McMinnville and the downtown core. (Ord. 4797 §1, 2003).*

17.59.020 Applicability.

- A. *The provisions of this Chapter shall apply to all lands located within the area bounded to the west by Adams Street, to the north by 4<sup>th</sup> Street, to the east by Kirby Street, and to the south by 1<sup>st</sup> Street. Lands immediately adjacent to the west of Adams Street, from 1<sup>st</sup> Street to 4<sup>th</sup> Street, are also subject to the provisions of this Chapter.*
- B. *The provisions of this ordinance shall apply to the following activities conducted within the above described area:*
  - 1. *All new building construction;*
  - 2. *Any exterior building or site alteration; and,*
  - 3. *All new signage.*
- C. *This ordinance shall not apply to the following activities or uses:*
  - 1. *Maintenance of the exterior of an existing structure, such as re-roofing, re-siding, or repainting where similar materials and colors are used that comply with this ordinance;*
  - 2. *Interior remodeling; and,*
  - 3. *Single-family detached housing.*
- D. *The Planning Director shall determine whether any proposed maintenance activity complies with this ordinance and whether the proposed activity is subject to the review procedures contained in this chapter.*
- E. *This ordinance shall apply only to those portions of a building or sign that are proposed for construction or modification and shall not extend to other elements of the building or sign that may be out of compliance with the requirements of this ordinance (i.e., a permit to replace a single window shall not require that all other windows on the building that may be out of compliance with this ordinance to be replaced, unless such action is initiated by the property owner). However, if a building should be destroyed due to fire, accident, or an act of God, the new or replacement structure shall be rebuilt to conform to the requirements of this ordinance. (Ord. 5034 §2, 2017; Ord. 4797 §1, 2003).*

17.59.030 Review Process.

- A. *An application for any activity subject to the provisions of this ordinance shall be submitted to the Planning Department and shall be subject to the procedures listed in (B) through (E) below.*
- B. *Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040. The application shall include the following information:*
  - 1. *The applicant shall submit two (2) copies of the following information:*
    - a. *A site plan (for new construction or for structural modifications).*
    - b. *Building and construction drawings.*
    - c. *Building elevations of all visible sides.*
  - 2. *The site plan shall include the following information:*
    - a. *Existing conditions on the site including topography, streetscape, curbcuts, and building condition.*
    - b. *Details of proposed construction or modification to the existing structure.*
    - c. *Exterior building elevations for the proposed structure, and also for the adjacent structures.*
  - 3. *A narrative describing the architectural features that will be constructed and how they fit into the context of the Downtown Historic District.*
  - 4. *Photographs of the subject site and adjacent property.*

5. *Other information deemed necessary by the Planning Director, or his/her designee, to allow review of the applicant's proposal. The Planning Director, or his/her designee, may also waive the submittal of certain information based upon the character and complexity (or simplicity) of the proposal.*

**C. Review Process**

1. *Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040. The Planning Director shall review the application and determine whether the proposed activity is in compliance with the requirements of this ordinance.*
2. *The Planning Director may review applications for minor alterations subject to the review criteria stated in Section 17.59.040. The Historic Landmarks Committee shall review applications for major alterations and new construction, subject to the review criteria stated in Section 17.59.040. It shall be the Planning Director's decision as to whether an alteration is minor or major.*
3. *Notification shall be provided for the review of applications for major alterations and new construction, subject to the provisions of Section 17.72.110.*
  - a. *The Historic Landmarks Committee shall meet within 30 (thirty) days of the date the application was deemed complete by the Planning Department. The applicant shall be notified of the time and place of the review and is encouraged to be present, although their presence shall not be necessary for action on the plans. A failure by the Planning Director or Historic Landmarks Committee, as applicable, to review within 30 (thirty) days shall be considered an approval of the application.*
  - b. *If the Planning Director or Historic Landmarks Committee, as applicable, finds the proposed activity to be in compliance with the provisions of this ordinance, they shall approve the application.*
  - c. *If the Planning Director or Historic Landmarks Committee, as applicable, finds the proposed activity in noncompliance with the provisions of this ordinance, they may deny the application, or approve it with conditions as may be necessary to bring the activity into compliance with this ordinance.*

**D. Waiver Process**

*A guideline or standard contained in this ordinance may be waived as part of the design review process when it can be demonstrated that the proposed design satisfies or exceeds the downtown design goals and objectives of this ordinance. If a waiver is requested, the applicant must explain in their application how the proposed design satisfies or exceeds these goals and objectives. A request for a waiver to the standards of this ordinance shall be reviewed by the McMinnville Historic Landmarks Committee, as described in Section 17.59.030(C)(2).*

**E. Appeal**

*An appeal of a decision by the Planning Director or Historic Landmarks Committee, including an appeal of conditions placed on the permit by the committee, may be made to the Planning Commission as outlined in Section 17.72.170. (Ord. 5034 §2, 2017; Ord. 4920, §4, 2010; Ord. 4797 §1, 2003).*

**17.59.040 Review Criteria**

- A. *In addition to the guidelines and standards contained in this ordinance, the review body shall base their decision to approve, approve with conditions, or deny the application, on the following criteria:*
  1. *The City's historic preservation policies set forth in the Comprehensive Plan;*
  2. *If a structure is designated as a historic landmark on the City's Historic Resources Inventory or is listed on the National Register for Historic Places, the City's historic preservation regulations in Chapter 17.65, and in particular, the standards and guidelines contained in Section 17.65.060(2); and*
  3. *If applicable (waiver request), that all of the following circumstances are found to exist:*
    - a. *There is a demonstrable difficulty in meeting the specific requirements of this Chapter due to a unique or unusual aspect of the site, an existing structure, or proposed use of the site;*
    - b. *There is demonstrable evidence that the alternative design accomplishes the purpose of this Chapter in a manner that is equal or superior to a project designed consistent with the standards contained herein; and*
    - c. *The waiver requested is the minimum necessary to alleviate the difficulty of meeting the requirements of this Chapter. (Ord. 5034 §2, 2017; Ord. 4797 §1, 2003).*

17.59.050 Building and Site Design.

A. *Building Setback.*

1. *Except as allowed by this ordinance, buildings shall maintain a zero setback from the sidewalk or property line.*
2. *Exceptions to the setback requirements may be granted to allow plazas, courtyards, dining space, or rear access for public pedestrian walkways.*

B. *Building Design.*

1. *Buildings should have massing and configuration similar to adjacent or nearby historic buildings on the same block. Buildings situated at street corners or intersections should be, or appear to be, two-story in height.*
2. *Where buildings will exceed the historical sixty feet in width, the façade should be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings, and as appropriate to reflect the underlying historic property lines. This can be done by varying roof heights, or applying vertical divisions, materials and detailing to the front façade.*
3. *Storefronts (that portion of the building that faces a public street) should include the basic features of a historic storefront, to include:*
  - a. *A belt course separating the upper stories from the first floor;*
  - b. *A bulkhead at the street level;*
  - c. *A minimum of seventy (70) percent glazing below the transom line of at least eight feet above the sidewalk, and forty (40) percent glazing below the horizontal trim band between the first and second stories. For the purposes of this section, glazing shall include both glass and openings for doorways, staircases and gates;*
  - d. *A recessed entry and transom with transparent door; and*
  - e. *Decorative cornice or cap at the roofline.*
4. *Orientation of rooflines of new construction shall be similar to those of adjacent buildings. Gable roof shapes, or other residential roof forms, are discouraged unless visually screened from the right-of-way by a false front or parapet.*
5. *The primary entrance to a building shall open on to the public right-of-way and should be recessed.*
6. *Windows shall be recessed and not flush or project from the surface of the outer wall. In addition, upper floor window orientation primarily shall be vertical.*
7. *The scale and proportion of altered or added building elements, such as new windows or doors, shall be visually compatible with the original architectural character of the building.*
8. *Buildings shall provide a foundation or base, typically from ground floor to the lower windowsills.*

C. *Building Materials.*

1. *Exterior building materials shall consist of building materials found on registered historic buildings in the downtown area including block, brick, painted wood, smooth stucco, or natural stone.*
2. *The following materials are prohibited for use on visible surfaces (not applicable to residential structure):*
  - a. *Wood, vinyl, or aluminum siding;*
  - b. *Wood, asphalt, or fiberglass shingles;*
  - c. *Structural ribbed metal panels;*
  - d. *Corrugated metal panels;*
  - e. *Plywood sheathing, to include wood paneling such as T-111;*
  - f. *Plastic sheathing; and*
  - g. *Reflective or moderate to high grade tinted glass.*
3. *Exterior building colors shall be of low reflective, subtle, neutral or earth tone color. The use of high intensity colors such as black, neon, metallic or florescent colors for the façade of the building are prohibited except as may be approved for building trim. (Ord. 4797 §1, 2003).*

17.59.060 Surface Parking Lots.

- A. *Surface parking lots shall be prohibited from locating on Third Street. In addition, vehicular access to parking lots from Third Street is prohibited.*
- B. *All parking lots shall be designed consistent with the requirements of Section 17.60.080 of the McMinnville Zoning Ordinance.*
- C. *A hedge or wall, thirty (30) inches in height, or dense landscaping within a buffer strip a minimum of five feet in width shall be placed along the street-side edge of all surface parking lots. Landscaping within the buffer strip shall include street trees selected as appropriate to the situation and spaced according to its type, shrubs spaced a minimum of three feet on center, and groundcover. A landscaping plan for this buffer shall be subject to review and approval by the McMinnville Landscape Review Committee. (Ord. 4797 §1, 2003).*

17.59.070 Awnings.

- A. *Awnings or similar pedestrian shelters shall be proportionate to the building and shall not obscure the building's architectural details. If transom windows exist, awning placement shall be above or over the transom windows where feasible.*
- B. *Awnings shall be placed between pilasters.*
- C. *Where feasible, awnings shall be placed at the same height as those on adjacent buildings in order to maintain a consistent horizontal rhythm along the street front.*
- D. *Awnings should be constructed of soft canvas, fabric, or matte finished vinyl. The use of wood, metal or plastic awnings is prohibited.*
- E. *Awnings may be indirectly illuminated; internal illumination of awnings is prohibited.*
- F. *Awning colors shall be of a low reflective, subtle, neutral or earth tone color. The use of high intensity colors such as black, neon, metallic or florescent colors for the awning are prohibited. (Ord. 4797 §1, 2003).*

17.59.080 Signs.

- A. *The use of flush-mounted signs, flag-mounted signs, window signs, and icon signs are encouraged. Sign materials shall be compatible with materials used in the building.*
- B. *Where two or more businesses occupy the same building, identifying signs should be grouped together to form a single panel.*
- C. *Wall signs shall be placed in traditional locations in order to fit within architectural features, such as: above transoms; on cornice fascia boards; or, below cornices. Wall signs shall not exceed the height of the building cornice.*
- D. *For every lineal foot of building frontage, 1.5 square feet of signage may be allowed, to a maximum of 200 square feet.*
- E. *The use of the following are prohibited in the downtown area:*
  - 1. *Internally-lit signs;*
  - 2. *Flashing signs*
  - 3. *Pedestal signs and pole-mounted signs;*
  - 4. *Portable trailer signs;*
  - 5. *Cabinet-type plastic signs;*
  - 6. *Billboards of all types and sizes;*
  - 7. *Historically incompatible canopies, awnings, and signs;*
  - 8. *Signs that move by mechanical, electrical, kinetic or other means; and,*
  - 9. *Inflatable signs, including balloons and blimps. (Ord. 4797 §1, 2003).*

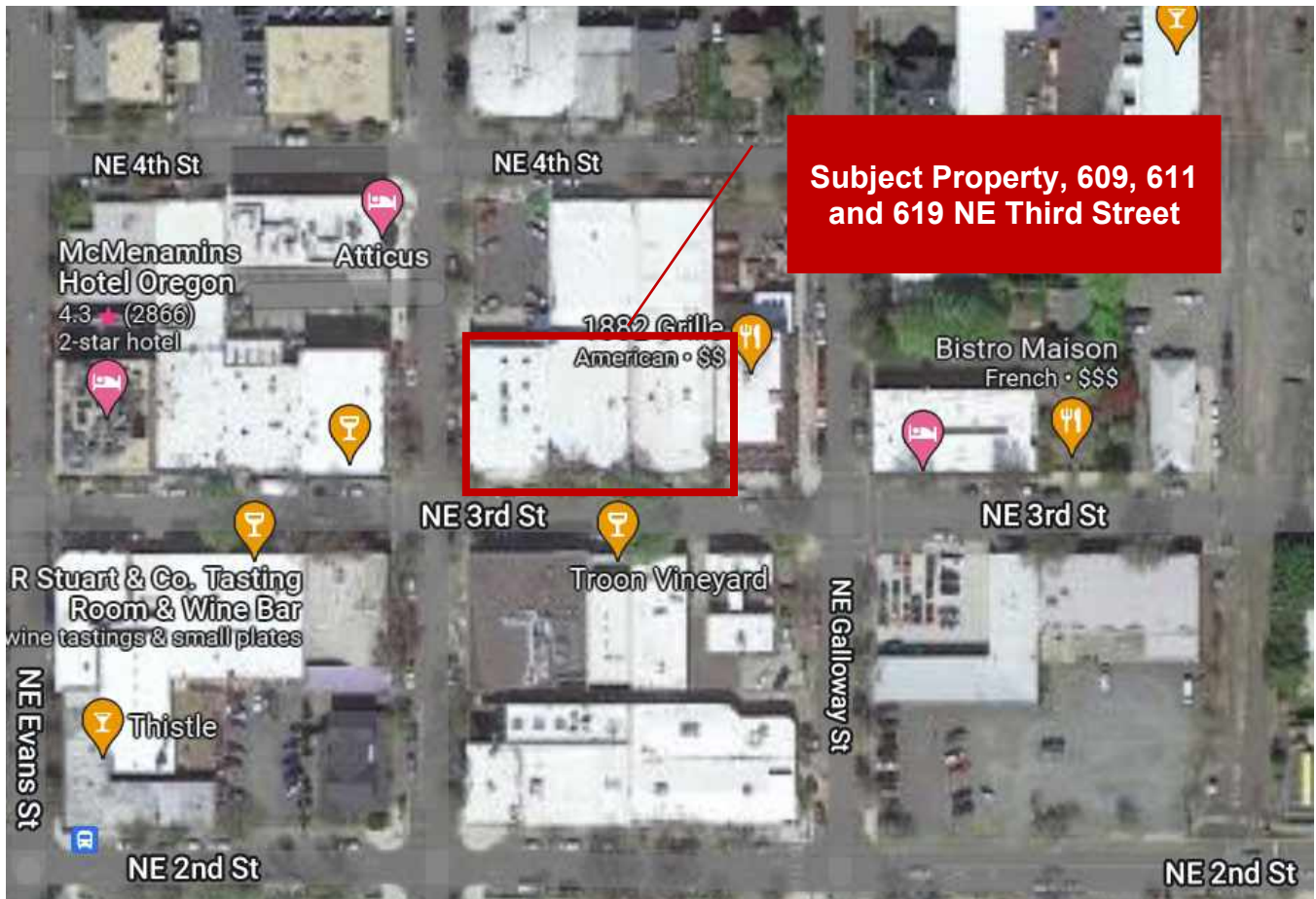
**Background:**

The subject property is located at 609, 611 and 619 NE Third Street. The property is identified as Tax Lots 4500, 4300, and 4201, Section 21BC, T. 4 S., R. 4 W., W.M. It is on the east end of Third Street, northern frontage between Ford Street and Galloway Street.

The site is at the northeast corner of NE 3<sup>rd</sup> Street and NE Ford Street and consists of three buildings: two tax lots addressed as 609 NE 3<sup>rd</sup> Street and 619 NE 3<sup>rd</sup> Street, and the southern

portion of the tax lot addressed as 611 NE 3<sup>rd</sup> Street. All three tax lots are currently developed with buildings.

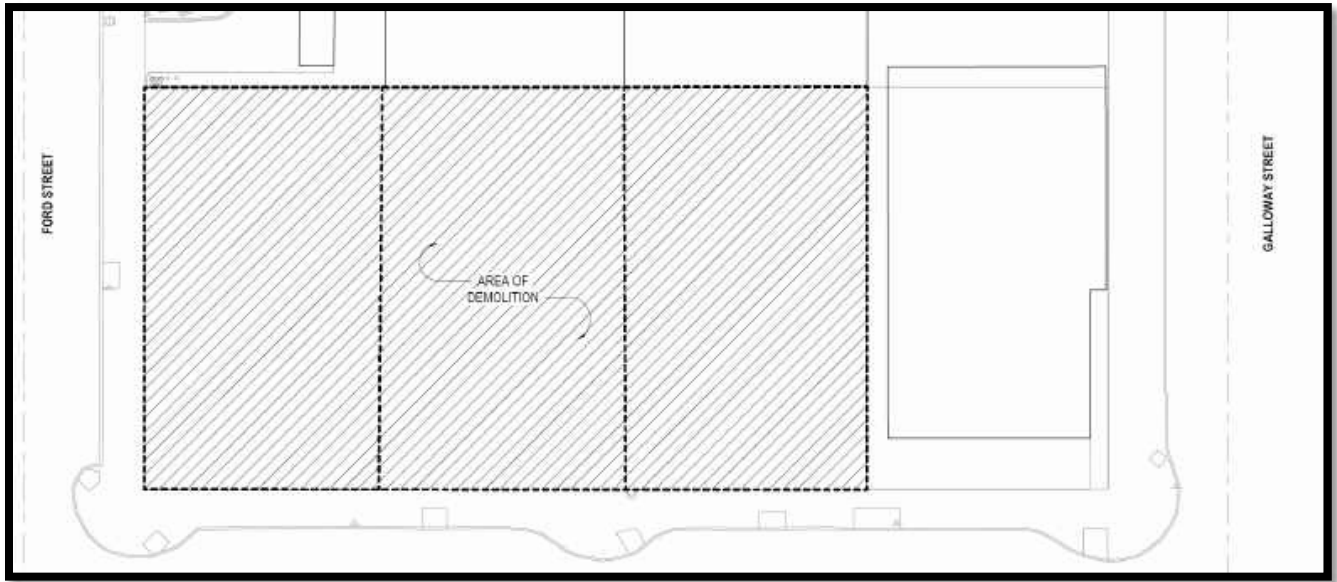
The property to the east of the development site, the KAOS Building at 645 NE 3<sup>rd</sup> Street, is a new construction project with restaurants and other commercial uses. The sites south of NE 3<sup>rd</sup> Street are developed with a variety of commercial uses consisting of the Tributary Hotel, in a rehabilitated historic resource on the southeast corner of NE 3<sup>rd</sup> Street and NE Ford Street, and Okta Restaurant to the east of it in a new building, where a previous building had been approved for demolition. On the north side of the site is a surface parking lot, and two historic warehouse buildings housing the Bindery event space and Type A Press. Please see vicinity map below.



All three buildings are listed both on the National Register of Historic Places as part of the McMinnville Downtown Historic District and on the McMinnville historic resources inventory.



## Demolition Site



## Structures to be Demolished:



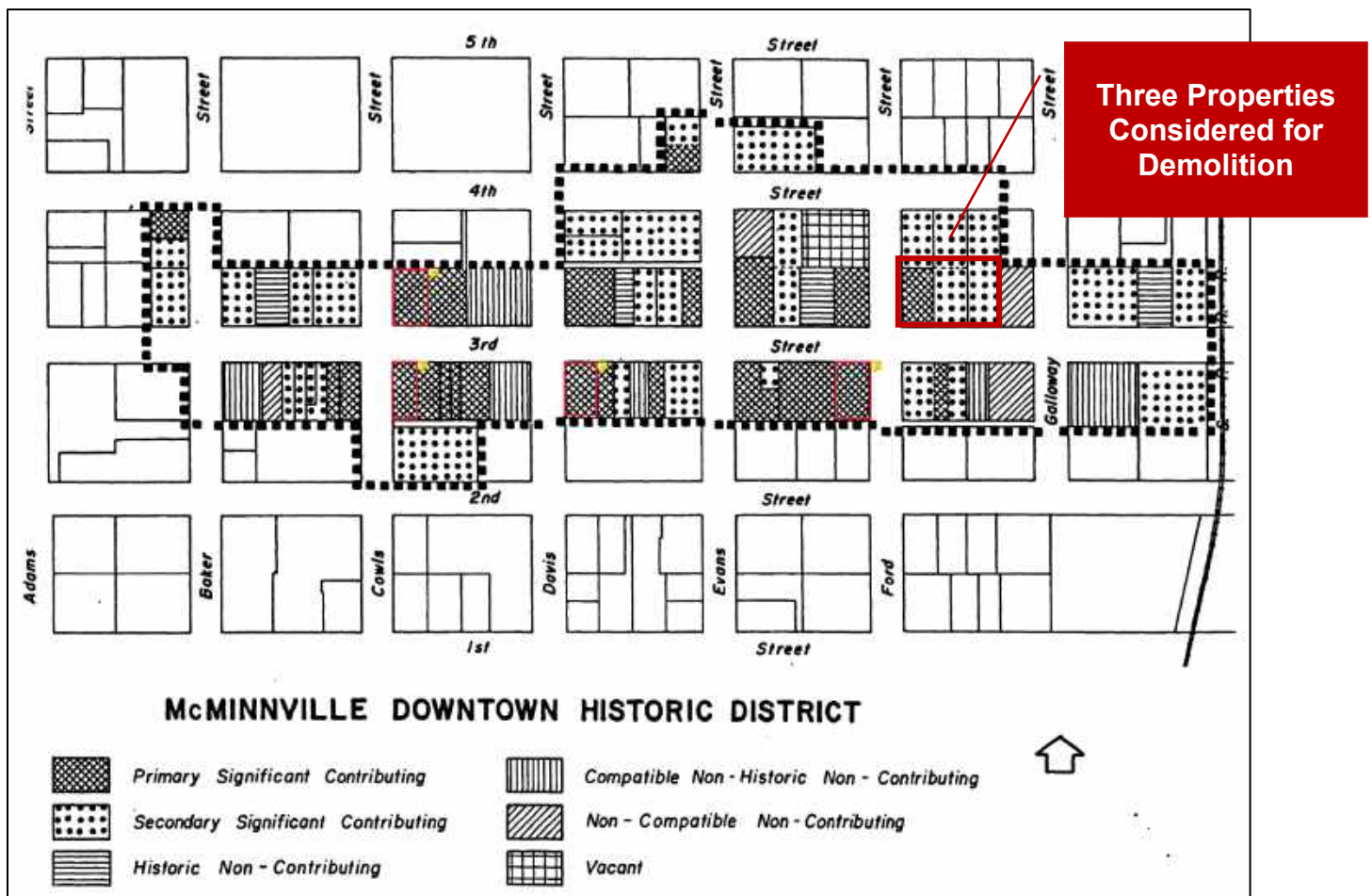
- 609 NE Third Street is considered a “Primary Significant Contributing” structure in the McMinnville Downtown Historic District and is listed as a B (Significant) resource on the McMinnville Historic Resources Inventory (B865).
- 611 NE Third Street is considered a “Secondary Significant Contributing” structure in the McMinnville Downtown Historic District and is listed as a B (Significant) resource on the McMinnville Historic Resources Inventory (B872).
- 619 NE Third Street is considered a “Secondary Significant Contributing” structure in the McMinnville Downtown Historic District and is listed as a D (Environmental) resource on the McMinnville Historic Resources Inventory (D876).



Per the McMinnville Municipal Code, the four different categories for a McMinnville Historic Resource are:

- **Distinctive:** Resources outstanding for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places;
- **Significant:** Resources of recognized importance to the City due to historical association or architectural integrity, uniqueness, or quality;
- **Contributory:** Resources not in themselves of major significance, but which enhance the overall historic character of the neighborhood or City. Removal or alteration would have a deleterious effect on the quality of historic continuity experienced in the community; or
- **Environmental:** This category includes all resources surveyed that were not classified as distinctive, significant, or contributory. The resources comprise an historic context within the community.

Below is a map of the McMinnville National Register of Historic Places Downtown Historic District.



When the McMinnville Historic District nomination was prepared, assignment of primary and secondary contributing versus non-contributing was done based on the following: The National Register nomination describes the categories as such:

1. *Primary Significant Contributing: Structures are classified as Primary Significant if they were built on or before 1912, or reflect the building styles, traditions, or patterns of structures typically constructed before this date. These buildings represent the primary period of construction and development in downtown McMinnville from initial settlement in 1881 to 1912, when city improvements and use of the Oregon Electric and Southern Pacific Railroad service prompted new construction in the downtown area.*
2. *Secondary Significant Contributing: Structures are classified as Secondary Significant if they were built in or between 1913 and 1937. These buildings represent the secondary period of construction and development from the increase of city improvements and auto traffic.*
3. *Historic Non-Contributing: Structures are classified as Historic Non-Contributing if they were built either during the primary or secondary periods of construction but have been so altered over time that their contributing elements (siding, windows, massing, entrances, and roof) have been lost or concealed. If their contributing elements were restored, these buildings could be reclassified as Primary of [sic] Secondary Significant.*
4. *Compatible Non-Historic and Non-Contributing: Structures are classified as Compatible Non-Contributing if they were built after 1937 (When the nomination was being prepared in 1987, buildings constructed in 1937 were then 50 years old and met the threshold for National Register eligibility). but are compatible architecturally (i.e. scale, materials, use) with the significant structures and the historic character of the district.*
5. *Non-Compatible Non-Contributing: Structures are classified as Non-Compatible Non-Contributing if they were built after 1937 and are incompatible architecturally (i.e. scale, materials, and use) with the significant structures and the historic character of the District.*
6. *Vacant: Properties are classified as Vacant if there are no buildings sited on them (i.e., vacant lots, alleys, parking lots).*

### **Proposed Project**

Below is an excerpt from the application describing the proposed improvement program. The applicant would like to demolish the structures at 609, 611 and 619 NE Third Street and redevelop the property with a mixed-use hotel project that includes ground floor commercial amenities and dedicated underground parking for the project.

*Within the last year, the properties at 609, 611, and 619 NE 3rd Street were listed for sale by the Bladine family and Wild Haven LLC. After analyzing the opportunity and studying both the history and potential of downtown McMinnville, the applicant saw an opportunity to greatly enhance both the economic and experiential vitality of 3rd Street.*

*McMinnville is in an early stage of responding to its goal of being the Willamette Valley's leader in hospitality and place-based tourism. The most recent renovation*

*and redevelopment on the south side of 3rd Street, with new lodging, dining, and wine tasting, has been encouraging. However, the same opportunity for renovation for hospitality, commercial, and retail uses is not available to the subject buildings. As noted in the structural analysis included as Appendix C, changing the occupancy of these buildings from office to commercial, retail, or hospitality is likely to trigger significant seismic upgrades.*

*The applicant has indicated that this cost to fully renovate the buildings would be approximately \$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft, for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.*

*In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.*

*The proposal is to replace the three underutilized buildings at 609, 611, and 619 NE 3<sup>rd</sup> Street with a 90-95 room boutique hotel. The ground floor will include the hotel lobby, a signature restaurant at the corner of 3rd and Ford streets, with seasonal sidewalk dining, and small retail shop(s). The entire rooftop will be a mix of public uses, anchored by a small restaurant/bar opening onto a large terrace of seating and raised-bed landscaping. Though parking is not required in this location, a below-grade parking garage accommodating 68 parking stalls (this was changed to 67 parking stalls with the modified design after the September 29 public hearing) is proposed. The garage ramp will be at the north end of the property, mid-block on Ford Street, to avoid interrupting the 3<sup>rd</sup> Street pedestrian experience.*

***(Application Narrative, page 3)***

The proposed project is a five-story building with ground floor commercial and retail space, four floors of hotel rooms (90-95 rooms), a roof-top deck with a spa, pool and restaurant, and an underground parking structure (67 parking stalls).

**New Construction, Gwendolyn Hotel – Third Street Elevation:**



**View of Gwendolyn Hotel from Ford Street and Third Street**





## Mid-Block Street Perspective Along Third Street



*The application consists of:*

Dockets HL 6-22, HL 7-22, HL 8-22:

Original Submittal, August 9, 2022:

- *Project Narrative*
- *Project Structural Analysis (609, 611 and 619 NE Third Street)*
- *Project Site Plan and Concept Drawings*
- *Project Traffic Impact Analysis*
- *Memorandum of Compliance with Criteria*
- *Neighborhood Meeting Materials*

Supplemental Submittal, November 4, 2022

- *609 NE Third Street Response for Additional Information Memorandum, by OTAK, dated November 4, 2022*
- *611 NE Third Street Response for Additional Information Memorandum, by OTAK, dated November 4, 2022*
- *619 NE Third Street Response for Additional Information Memorandum, by OTAK, dated November 4, 2022*

- Attachment 2: *Historic Resources Assessment for 609, 611, and 619 NE Third Street* by *Architectural Resource Group*, dated November 2022.
- Attachment 3: *Contaminated Media Management Plan for 609, 611 and 619 NE Third Street*, by EVREN Northwest, dated October 13, 2022
- Attachment 4: *McMinnville Lease Rates* by Pacific Crest Real Estate Advisors, dated November 2, 2022
- Attachment 5:  
*609 NE Third Street Yamhill County Property Summary*, dated October 31, 2022  
*611 NE Third Street Yamhill County Property Summary*, dated October 31, 2022  
*619 NE Third Street Yamhill County Property Summary*, dated October 31, 2022
- Attachment 6: *Contractor Assessment, Existing Buildings*, by Hugh Construction, dated October 11, 2022
- Attachment 7: *Overview of Historic Preservation Incentives for 609, 611 and 619 NE Third Street*, by OTAK, dated October 31, 2022.
- Attachment 8: *Economic Value of Structures in Downtown McMinnville, Oregon*, by Johnson Economics, dated November 2, 2022

Supplemental Submittal, November 7, 2022

- *Gwendolyn Hotel HHPR Structure Report – Response to City of McMinnville Staff Report dated September 29, 2022*, by Harper Houf Peterson Righellis Inc., dated November 6, 2022.

Supplemental Submittal, December 15 and 19, 2022

- *Supplemental Findings for HL 6-22, HL 7-22, and HL 8-22*
  - Exhibit 1, *Historic Resources Assessment, Architectural Resource Group*, November 2022
  - Exhibit 2, *Existing Building Structural Summary, HHPR*, November 6, 2022
  - Exhibit 3, *Documentation of Existing Building Structures, HHPR*, July 29, 2022
  - Exhibit 4, *Contaminated Media Management Plan (Draft)*
  - Exhibit 5, *Economic Value of Structures in Downtown McMinnville, Oregon, Johnson Economics*, November 2, 2022
  - Exhibit 6, *Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings*, Hugh Construction, November 2022

- Exhibit 7, *McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins*, November 2, 2022
- Exhibit 8, *Memorandum Regarding Historic Preservation Incentives, Otak*, October 31, 2022.
- Exhibit 9, *2022 Tax Statements*
- Exhibit 10, *The Gwendolyn Financial Pro-Forma*, December 15, 2022
- Otak Letter, December 19, 2022, Responding to Public Comments

Docket DDR 2-22:

Original Submittal, August 9, 2022:

- *Project Narrative*
- *Project Site Plan and Concept Drawings*
- *Project Traffic Impact Analysis*
- *Memorandum of Compliance with Criteria*
- *Neighborhood Meeting Materials*

Supplemental Submittal, November 4, 2022

- *Revised Architectural Plans*
- *The Gwendolyn Hotel, Response for Additional Information Memorandum*, by OTAK, dated November 4, 2022
- Attachment 1: *Contaminated Media Management Plan for 609, 611 and 619 NE Third Street*, by EVREN Northwest, dated October 13, 2022
- Attachment 2: *Transportation Impact Analysis Addendum, Gwendolyn Hotel*, by OTAK, November 4, 2022

All documents associated with these dockets can be found on the project web page at:

<https://www.mcminnvilleoregon.gov/cd/page/gwendolyn-hotel-hl-6-22-hl-7-22-hl-8-22-and-ddr-2-22-609-611-and-619-ne-third-street>

**City Review of Application Materials:** City staff and City partners such as McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and Oregon State Historic Preservation Office have all reviewed the application materials and provided comments as appropriate.

Some of the materials were reviewed by third-party experts that the City hired to help the City render the most accurate decision based on the materials provided per the following:



*Traffic Impact Analysis:* A transportation engineer from David Evans and Associates reviewed the traffic impact analysis that was initially provided and suggested some additional information that needed to be provided. The applicant provided additional information in their supplemental materials in November 2022, and the transportation engineer concluded that there was no adverse effect on the transportation network that required mitigation.

*Contaminated Media Management Plan:* There are a couple of known leaky underground storage tanks located on at least two of the properties under consideration. Both the applicant and the property owner provided a Contaminated Media Management Plan that described the extent of the leaks' current exposure on the site and in the public right-of-way and how to mitigate that exposure with a construction project, especially one that included an underground parking structure. The City contracted with legal expertise from Cable Huston LLP and Brewer & Coulombe P.C. to ensure that the appropriate conditions of approval were part of the land-use decision that protected the city's environmental interests and exposure associated with those known leaks.

*Demolition Effect on National Register of Historic Places Historic District Classification:* The City reached out to the Oregon representative in the Washington DC office of the National Register of Historic Places to ascertain what would be the effect of demolishing three contributing structures in the McMinnville Historic District to the National Register of Historic Places classification. There is no effect to the classification.

**Public Testimony:** The Historic Landmarks Committee and Planning Commission received written and oral testimony both in opposition and in support of the demolition of the historic resources and the new hotel project.

Common themes in the oppositional testimony focused on retaining the historic properties as part of the overall fabric of the downtown historic district even if they themselves were not particularly historically compelling. Their massing, size, and historic skeleton contribute to the overall sense of place downtown. Opposition to the new construction, the Gwendolyn Hotel, focused primarily on the size of the building, both in terms of massing and height, (overall and against the street), and its incompatibility with Third Street in general, and when considered with adjacent buildings.

Supportive testimony focused on the poor condition of the existing buildings both in terms of historic integrity (all buildings have been considerably modified), structurally, and the inability to properly invest in the buildings to restore their original integrity as well as upgrade their life/safety conditions (seismic) with the limited income that the smaller building footprints of one and two-stories would yield in the McMinnville downtown marketplace. Supportive testimony also commented on the value of the proposed investment in downtown McMinnville, the proactive willingness to provide dedicated parking when the code did not require it, and the customers that the project would bring to the downtown and surrounding businesses. Others commented that private property owners should be able to move forward with projects on their property if it is considered an allowed use on the property and that government should not be micromanaging how private property is used especially if it creates a financial detriment to the property owner.

**Applicant Project Modification:** In response to the public testimony at the first public hearing in front of the Historic Landmarks Committee on September 29, 2022, and the initial staff review of the project, the applicant modified the exterior design of the Gwendolyn Hotel to address issues about massing and scale within the downtown built environment.

**Initial Design:**

**Third Street Elevation**



**View of Gwendolyn Hotel from Ford Street and Third Street**



## **Discussion:**

The community dialogue and the Historic Landmarks Committee / Planning Commission deliberations have revolved around two primary issues: 1) What is best for the long-term benefit of the community – retaining the three historic buildings based on their historic significant and integrity or allowing the demolition of the three buildings for the Gwendolyn Hotel replacement project; and 2) Are the “should” statements in Chapter 17.59, *Downtown Design Standards and Guidelines*, mandatory criteria that need strict compliance or permissive statements of flexibility that provide guidelines for decision-making.

### ***Planning Commission Decision:***

The Planning Commission voted 5 – 3 to approve the demolition applications and 5 – 3 to approve the new construction application. The Planning Commission’s decided that after considering all of the factors for demolition that the Gwendolyn Hotel replacement project was of greater value to the community than the preservation of the three historic buildings. They came to this conclusion in part based on the modifications that had occurred to the buildings since they were originally constructed and the economic value that the hotel project would provide to the community. And that the Gwendolyn Hotel project was in compliance with the McMinnville Municipal Code except for the guidelines in the Downtown Design Standards and Guidelines of Chapter 17.59, which based on past practices at the City they felt were guidelines and not mandatory criteria.

### ***Appeal of the Planning Commission Decision:***

The Planning Commission’s decisions and findings have been appealed to the McMinnville City Council by Daniel Kiser on the basis that the Planning Commission unreasonably and incorrectly interpreted the state and local regulations and failed to issue findings consistent with the evidentiary record. Notably that since the Planning Commission adopted the Planning Staff decision documents prepared and amended for the January 5 Historic Landmarks Committee meeting recommending approval, the findings fail to incorporate/weigh subsequent information and facts added to the record after January 5. The appellant then identified approximately seven areas where he felt that the commission had erred in their interpretation and application of the regulations for the demolition decisions and approximately four areas where the commission erred in their interpretation and application of the regulations for the new construction decision.

### ***Specific Issues Raised on Appeal:***

Demolition Related Concerns (AP 1-23 (HL 6-22), AP 2-23 (HL 7-22), AP 3-23 (HL 8-22))

*OAR 660-023-0200(8)(a) – Historic Integrity*– Although this term is not defined by the OAR or the McMinnville Municipal Code (MMC), the record includes a number of alternative interpretations that might be accepted by the Council or they may have a different take entirely. The Planning Commission’s decision document states that significant modifications to the three buildings, particularly with respect to the first floor, resulted in buildings that no longer convey the railroad or automobile-related significance of their time period. The report that the applicant provided identified original building elements primarily on the second floor of 609 and 611 and that most of the ground floor elements of all three buildings had been significantly modified removing the architectural elements that conveyed the building’s significance as part of the emergence of the automobile industry in McMinnville. The National Register of Historic Places assignment of

significance was primarily based on the year that the building was built and how the remaining historic integrity of the buildings represented that particular period of significance. The Appellant argues that notwithstanding the modification to the ground floor and the exterior materials, the upper floors of 611 and 619 NE Third St remain original and this, coupled with the uniformity of scale and massing provides visual continuity that contributes to the Historic District. The Council may decide what weight, if any, to give the evaluation of historic integrity set forth in the National Register nomination form or the City's Historic Resource Inventory as well as preservation-qualified expert evaluation of the same when weighing this particular factor in their final decision.

*OAR 660-023-0200(8)(a) – Historic Significance* – Historic significance is similarly not defined in OAR 660-023-0200(8)(a). The Appellant argues that the Council should determine significance with reference to OAR 660-023-0200(5), which governs how a local government must consider significance, after an inventory, in advance of designating a historic resource. But this is not explicitly cross-referenced in the demolition factors in subsection (8)(a). The Planning Commission decision document does not dispute that the historic significance assigned by the National Register of Historic Places Historic District nomination was a policy action, but they determined that since the historic significance was assigned based primarily on the year that the building was built and not the remaining historic integrity of the building that depicted that period of significance that this factor was not a significant consideration for preservation of the buildings.

*OAR 660-023-0200(8)(a) – Value to the Community* – This factor confers a great deal of Council discretion to first identify the appropriate community values at issue and then determine how those values should be considered here. To the Appellant, the Applicant, the HLC and PC, this factor called for a comparison between the effect to the community of no demolition against the impact of approving the demolition and the new construction. The Council may take the same approach or see another way of evaluating this factor. The Planning Commission's decision states balancing the assumptions that the subject structures do not retain much historic integrity, and, based on the evidence in the public record, are financially infeasible to rehabilitate the replacement project has more value to the community than the preservation of the buildings. "The costs to rehabilitate the building and fully activate both floors will require higher lease rates than are currently in the McMinnville downtown market, which will either significantly impact the local lease market downtown negatively impacting existing businesses downtown or prevent a rehabilitation project from moving forward leading to further deterioration of the building. A hotel with revitalized ground floor commercial space will generate a downtown consumer market for downtown businesses and create more vitality on the street. The project will need to meet the Downtown Design Overlay District code criteria for new construction, including mimicking the character and scale of the existing structures downtown." (AP 1-23, page 45.) The appellant argues that the proposed new construction does not meet the Downtown Design Standards and Guidelines nor the character and scale of the existing structures downtown.

*MMC 17.65.010(d) – Protect and enhance the City's attractions for tourists and visitors* – Like the "value to the community" factor, this policy – per MMC 17.65.050(b)(1) – confers discretion to the City Council to decide whether denial of the demolition will better serve to protect and enhance the City's attractions, or the new Gwendolyn Hotel. The Applicant has submitted testimony indicating that these buildings have little in the way of useful life and without a cost-prohibitive seismic upgrade, they will never be suitable for accommodating tourists or visitors. The Appellant argues that the replacement project, the Gwendolyn Hotel, will harm the integrity of Third Street and the historic district, which is, by itself, a city attraction for tourists. The Appellant points out that a condition of approval that is included in the body of the decision document was not carried forward into the final list of conditions of approval in Section II, *Conditions*, of the Decision

Document, “The replacement plan project must not only meet the minimum standards of Section 17.59, Downtown Design Guidelines, McMinnville Municipal Code, but it must enhance the overall historic sense of place of downtown McMinnville by replicating the form and design of the building stock on Third Street.” That is true and is a scribe’s error in the findings. The Planning Commission voted to adopt the findings in the January 5 staff report with the recommended amended conditions of approval. (See draft Planning Commission Minutes, 03.16.23, page 6). Staff provided recommendations at the January 5 Historic Landmarks Committee public hearing to amend the suggested conditions of approval. These were provided to the Planning Commission as well and were captured in the conditions section of the decision documents as well as the approval letter but inadvertently left in the body of the findings. (See attached Approval Letter and Attached Conditions of Approval provided to the Planning Commission as well as slide #57 of 58 slides in the Historic Landmarks Committee Public Hearing Presentation, January 5, 2023 provided below.)

*Slide #57 of 58 slide from the staff presentation at the January 5, 2023 Historic Landmarks Committee public hearing.*

**COA AMENDMENTS**


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**HL 6-22, 7-22, 8-22:**

- **Amend Condition of Approval #1:** The Certificate of Approval for Demolition of \_\_\_\_\_ NE Third Street is contingent upon a replacement project that meets all of the city’s local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMF) or instrument such as an Easement and Equitable Servitudes **and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project.** A demolition permit will not be issued until that has been established. The penalty for demolition without a permit will be equal to the real market value of the most recent assessor’s statement for both the structure and the land paid to the City’s Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. (OAR 660-023-0200(8)(a))
- **New Condition of Approval #11:** Prior to the issuance of a building permit, the applicant will need to meet with the McMinnville Downtown Association to develop a program that will educate local citizens on the benefits associated with an active historic preservation program, that will then be approved by the Planning Director.
- **Delete Condition of Approval #12:**

**DDR 2-22:**

- **Add Condition of Approval #14:** Per the applicant’s narrative, all three properties will need to be consolidated into one property prior to building permit issuance.



*MMC 17.65.050(b)(3) – The value and significance of the historic resource –* As with the historic integrity and significance factors in the OAR, the Council can decide to what value and significance to place on these structures and whether to consider how their loss, and replacement, would impact the value and significance of the District as a whole. The Appellant argues that the historic significance is established by the National Register nomination and local inventory documentation, which has not markedly changed since the time of designation. The Applicant claims that the marginal historic value of these buildings, resulting from modification, coupled with the substantial cost of restoration, and the context-appropriate new construction, will make a greater contribution to the significance of the Historic District overall. The Planning Commission concurred with the applicant. The Council could agree with either of these positions or come up with its own approach to evaluating this criteria.



*MZO 17.65.050(b)(8) – Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City –* The Applicant submitted expert testimony indicating that it would not be commercially reasonable to engage in the cost of rehabilitating these buildings and without restoration, these buildings will remain solely as essentially vacant shells that will not serve the citizens of the City. The applicant then provided the following findings.

***APPLICANT’S RESPONSE (Original Application):*** *Given the economic and physical benefits of the proposed development, as described elsewhere in this narrative, the HLC can find that the retention of the existing buildings is not in the best interests of a majority of community residents and that redevelopment of the site advances the goals of the community related to the economy, tourism, and energy efficiency. On balance, the proposed development meets or exceeds all relevant policies and regulations.*

*The architectural and structural team have examined the three buildings extensively, and have listed their deficiencies. See the structural report included as Appendix C. All the alternative means of preservation listed here are possible and acceptable, if directed by the HLC.*

*As noted previously in this narrative, retaining the buildings in their current state is likely to result in continuing decline in their condition, and renovation of the buildings is cost-prohibitive and will result in a substantial loss for the development team. As noted in the structural report, relocating one or more of these buildings, which technically possible, is extremely complicated and costly and has a high potential for failure due to their construction of unreinforced brick.*

***APPLICANT’S RESPONSE (December 15, 2022 Application).*** *For the above reasons, the HLC can find that the retention of these three buildings would not be in the best interests of the citizens of the City. These reasons can be summarized as follows:*

- *The buildings do not reflect their appearance or use during their respective periods of significance.*
- *The building have few remaining residual historic features charactering the Historic District, aside from their masses, structural frames, and roof lines.*
- *The buildings have limited value under current uses.*
- *Current or similar uses are probably unable to generate sufficient value to repair the buildings.*
- *Adaptive re-use would require seismic upgrades and the buildings cannot be economically used for hospitality.*

*On the other hand, the economic opportunity for the Historic District presented by the proposed Gwendolyn Hotel far outweighs the limited benefits of building preservation, as discussed above.*

*Historic features identified by the HRA, such as belt courses and cornices, are emulated by the proposed architectural design of the Gwendolyn. Any moveable historic features of these buildings, such as windows, can be incorporated into the proposed building. The remaining characteristics of the buildings-their massing and roof line-can be easily documented with photographs.*

*For these reasons, the HLC can find that on balance, retention of these buildings would not be in the best interest of the City’s citizens when weighed against the benefits of the proposed Gwendolyn Hotel.*

The Planning Commission concurred with the applicant’s findings.

The Appellant disagrees that seismic upgrades would be necessary citing an email in the public record from the Building Official, which is attached and a portion provided below. The Building Official provided several scenarios that may trigger the need for structural upgrades.

*Email from Stuart Ramsing, Building Official, March 1, 2023*

*To the question of what may require a seismic upgrade, there are several variables depending on the work that may occur. In any case, work must occur for an upgrade to be required. Without an alteration or addition occurring, there is no “trigger” to require a seismic upgrade of any type for any of the three buildings.*

*If an alteration or addition is to occur, the OSSC may require a building upgrade\*\*\* for seismic safety in several scenarios:*

- When a change of use or occupancy occurs that places the building in an increased seismic risk category (this is unlikely to occur). For example, the occupant load for any of the three buildings increasing to more than 300 total occupants would result in an increased seismic risk categorization.*
- Where a change increases the live load (e.g., weight of people and furnishings). For example, changing from office to an performance venue with a higher concentration of people (i.e., weight on the structure). This could occur without increasing the seismic risk category.*
- If an addition is physically attached, then the existing structure plus the addition must be evaluated. Upgrading is avoided by separating any adjacent addition by several inches per story height. The building and addition could be “bridged” with seismic joints and exterior weather protection to functionally perform as a connected building without upgrading the existing building..*
- If the building is altered in a manner creating structural irregularities (e.g., removing interior floors to create a large atrium).*

*\*\*\*Upgrade for seismic safety may be to a lesser standard than for new construction, based on a number of variables.*

*In any scenario, an Oregon licensed engineer would be leading any design effort for any seismic upgrade. There are many options to consider starting with soils, then foundations, and then into bracing and securing the above-grade structure.*

The Appellant also provided language from the MAC-Town 2032 Economic Strategic Development Plan, Goal 6, relating to encouraging hospitality and place-based tourism to support his position.

The Council can decide to what degree to agree with the applicant’s findings and how to interpret the MAC-Town plan policies and decide which evidence is most probative in responding to this criterion.

### ***How to Interpret the Demolition Criteria***

The City must consider the enumerated factors in OAR 660-023-0200 and the criteria in MMC 17.65.050(B) in their determination of approval, approval with conditions or denial of a request to demolish a contributing historic structure in a National Register of Historic Places Historic District. Due to the nature of the criteria in MMC 17.65.050(B), the City has received legal advice in the past that the criteria are to be considered and balanced as well in a decision-making process as they are not clear and objective standards, and the code does not provide any language stating that the project must meet all of the criteria, a certain number of criteria or a majority of the criteria. In past decisions, the Historic Landmarks Committee has described how their project findings relative to these criteria led to their decision.

The Oregon Land Use Board of Appeals (LUBA) has held that where it is not clear whether the enacting body intended comprehensive plan or land use regulation provisions to be mandatory approval criteria, LUBA will examine the wording and context of the particular provisions to determine whether they must be applied as mandatory approval criteria. Rather than establishing the standard or regulatory threshold upon which a demolition might be approved, the language of



the MMC 17.65.050(B) standards read more like considerations that must inform the Council's decision i.e. "economic use," "value and significance," "physical condition," "detriment to an improvement program," "financial hardship," and "best interests." Although each of these criteria should be considered, the degree to which each of these considerations apply and / or the degree to which they must be satisfied is up to the City Council.

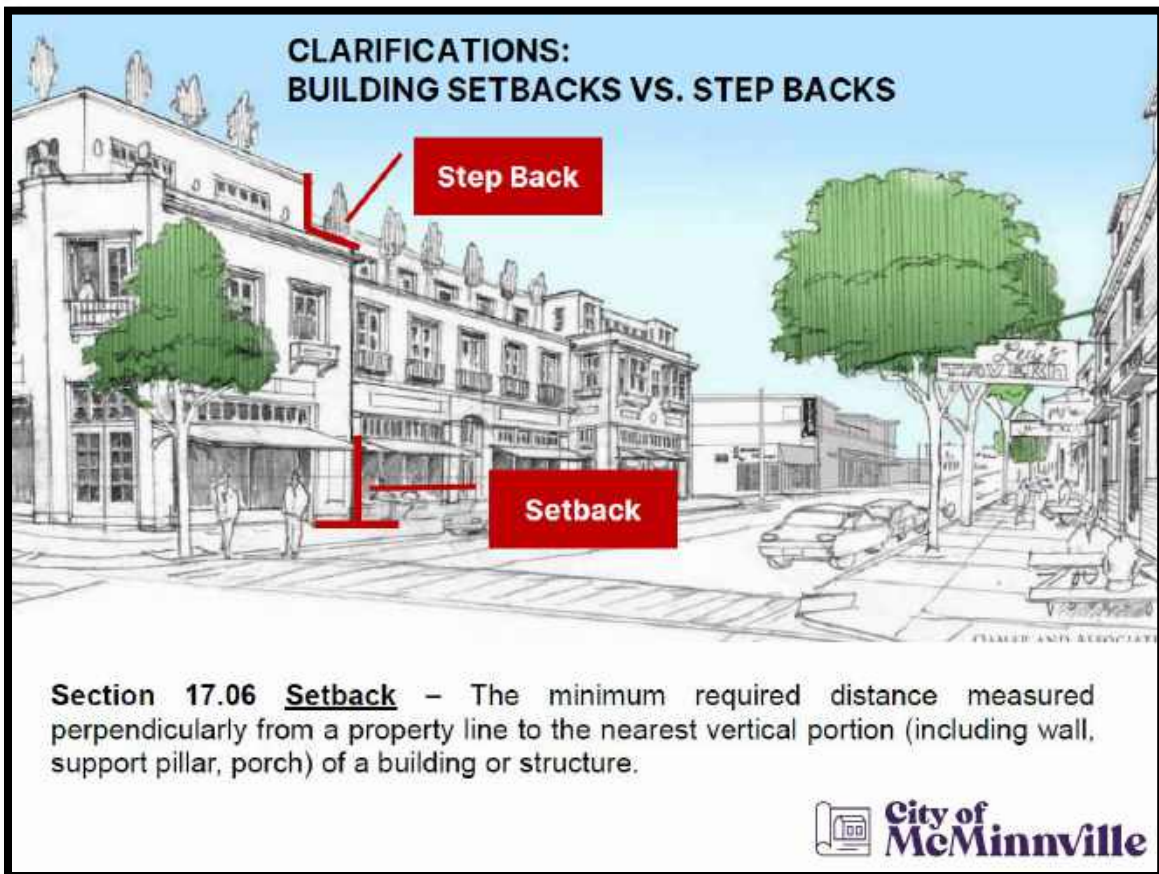
The Council may conclude that some of these criteria conflict. For example, finding "retention would impose a financial hardship to the owner" would create a different result than finding that "retention is in the best interest of a majority of citizens in the City." Reconciliation of those types of inconsistent policies can sometimes be made by application of less directory standards through a 'balancing' of each of the directives with the remaining criteria to determine the cumulative effect of all of those standards. In the alternative, the Council could conclude that the MMC 17.65.050(B) criteria do not conflict, triggering the need for balancing and that all of them must be satisfied, to the extent that they apply.

#### New Construction Related Issues (AP 4-23 (DDR 2-22))

*MMC 17.59.010 – Purpose* – The Appellant argues that the proposed new construction does not further the purpose of the new construction standards because it creates a "themed or artificial downtown environment." Unless expressly adopted as approval criteria (as is the case with MZO 17.65.050(b)(1) for demolition), purpose statements do not serve as independent standards or criteria that must be satisfied in order to grant approval. For this reason, currently the purpose statements of this MMC chapter are not part of the decision document and findings.

*MMC 17.59.050(a)(1) – Except as allowed by this ordinance, buildings shall maintain a zero setback from the sidewalk or property line* – The Appellant argues that this standard requires a zero setback from the property line for the entirety of the vertical elevation fronting the street and as such, a "step back" of the façade above the ground floor requires a waiver. The Applicant's proposed design relies on "stepping back" the façade at the third and fifth floors along the Third Street elevation as a way to reduce the overall building height. The Planning Commission adopted findings that identify the setback as the minimum required distance measured perpendicularly from a property line to the nearest vertical portion of a building or structure, allowing for step backs as an architectural design element to alleviate vertical massing of a structure in upper floors. Below is a slide from the staff presentation at the March 16, 2023, Planning Commission public hearing that provides the MMC definition for "Setback" and how the City has interpreted it relative to "step back" on previous land-use decisions in the downtown design overlay district. The Council can decide to what degree the term "building" references the whole street facing elevation or just the first floor where the building meets the street.

Slide 28 of 34 slides from city staff presentation at the March 16, 2023 Planning Commission Public Hearing.



*MMC 17.59.050(b)(1) – Buildings should have massing and configuration similar to adjacent or nearby historic buildings on the same block. Buildings situated at street corners or intersections should be, or appear to be, two-story in height.* – The operative qualifying term here is “should” and there has been some disagreement about to what degree the term “should” denotes a mandate or provides some permissive flexibility. The Appellant advocates for absolute similarity in overall massing between adjacent structures and that this building will not “appear” to be two-stories at the corner. The Applicant argues for a more flexible approach that focuses on how the massing is comparable to other buildings within the District and how the use of step-backs will give the impression of a comparable massing when viewed from the street near adjacent or nearby buildings. The City’s past practice of interpreting “should” have “similar” massing did not require absolute matching of adjacent buildings in terms of overall height. The Planning Commission adopted findings that the criterion is a “should” criterion and not a “shall” criterion, meaning that it is considered a guideline and not a requirement, providing the City some discretion based on past precedence. Due to the ambiguity of the language the Council can make its own policy interpretation on how this criterion should be applied to land-use decisions.

*MMC 17.59.050(b)(2) – Where buildings will exceed the historical sixty feet in width, the façade should be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings, and as appropriate to reflect the underlying historic property lines. This can be done*

*by varying roof heights, or applying vertical divisions, materials and detailing to the front façade.*

–The Planning Commission adopted findings that state, “The criteri(on) requires buildings that exceed sixty feet in width to be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings. With their revised design submitted on November 4, 2022, the applicant has argued that the new design is divided into similar proportional bays as other adjacent buildings, specifically based on a study of the building configurations across Third Street that have a 90 feet, 30 feet and 40 feet, whereas the Gwendolyn Hotel is divided into proportional bays of 90 feet, 30 feet and 60 feet with a longer block length to design. Additionally the amended design is much more distinctive than the original design.” (AP 4-23, page 42). The Planning Commission then goes on to describe how this criterion was applied for the new construction design review of the Atticus Hotel and the First Federal Bank building. The Appellant contends that past precedence should not matter and that the Gwendolyn Hotel bays do not reflect the underlying historic property lines, and that scale is both the measure of height and width and not just width. This is another situation where the Council will need to decide to what degree the term “should” requires strict compliance or whether it is close enough, given the overall design.

### ***How to View the Role of Previous Precedent***

The Appellant argues that how the City has interpreted the design criterion for new construction on past projects does not matter for this land-use decision. The Planning Commission adopted findings that described past precedence as a framework for the permissive flexibility of the “should” guidelines in Chapter 17.59. Participants in the land use process benefit from predictability resulting from the uniform application of land use criteria. However, such reconciliation may not be possible given the level of discretion afforded by standards and the facts that may distinguish one application from another. LUBA’s review is constrained to evaluating land use decisions for compliance with applicable approval standards, not for consistency with prior local government decisions. There is no requirement that local government actions must be consistent with past decisions, but only that a decision must be correct when made. It will be up to City Council to decide if past precedence is a framework for applying the “should” criterion to this land-use decision.

### ***Has the City required waivers for the “should” Guidelines in Chapter 17.59 in previous land-use decisions?***

The record shows a mixed historical interpretation of these Chapter 17.59 guidelines, especially as it pertains to the requirement to request waivers. Most waivers requested and approved were specific to “shall” statements but two were relative to the “should” statement regarding the need for a minimum of 70% glazing on the ground floor.

There are three key guidelines in Chapter 17.59 that have been applied inconsistently in past decisions in McMinnville, either by not requiring compliance or by requiring a waiver for non-compliance. Those three guidelines are outlined below.

#### *Section 17.59.050(B)*

##### *Building Design.*

1. Buildings ***should*** (emphasis added) have massing and configuration similar to adjacent or nearby historic buildings on the same block. Buildings situated at street corners or intersections ***should*** {emphasis added} be, or appear to be, two-story in height.
2. Where buildings will exceed the historical sixty feet in width, the façade ***should*** {emphasis added} be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings,

and as appropriate to reflect the underlying historic property lines. This can be done by varying roof heights, or applying vertical divisions, materials and detailing to the front façade.

3. Storefronts (that portion of the building that faces a public street) **should** {emphasis added} include the basic features of a historic storefront, to include:
  - a. A belt course separating the upper stories from the first floor;
  - b. A bulkhead at the street level;
  - c. A minimum of seventy (70) percent glazing below the transom line of at least eight feet above the sidewalk, and forty (40) percent glazing below the horizontal trim band between the first and second stories. For the purposes of this section, glazing shall include both glass and openings for doorways, staircases and gates;
  - d. A recessed entry and transom with transparent door; and
  - e. Decorative cornice or cap at the roofline.

*Past New Construction Land-Use Decisions in the Downtown Design Overlay District:*

645 NE Third Street, Docket DDW 1-12, (KAOS Building)

- Waiver for building setback for outdoor dining plaza on Third Street (*Shall*)
- Waiver for minimum 70% glazing from the sidewalk to eight (8) feet above the sidewalk (*Should*)
- Waiver for using a prohibited material (wood siding) (*Shall*)

645 NE Third Street, Docket DDW 2-13, (KAOS Building)

- Waiver for building setback for Galloway Street (*Shall*)

375 NE Ford Street, DDW 117 (Atticus Hotel)

- Waiver for minimum 70% glazing from the sidewalk to eight (8) feet above the sidewalk (*Should*)

618 NE Third Street, Docket DDR 2-19 (Okta Restaurant) – No Waivers

118 NE Third Street, Docket DDR 4-19, (First Federal Building)

- Waiver requested and approved for minimum 70% glazing from the sidewalk to eight (8) feet above the sidewalk (*Should*)
- Waiver to allow parking lot on Third Street (*Shall*)
- Waiver to allow access to parking lot from Third Street (*Shall*)
- Waiver to reduce the landscaping buffer strip between the new parking lot and Second Street (*Shall*)
- Waiver to allow a steel awning material (*Shall*)

631 NE First Street, Docket DDR 1-21, (New Mixed-Use Development):

- Waiver requested and approved for building setback to allow for a front yard plaza. (*Shall*)

There are also some notable instances when the guideline for the appearance of two stories at street corners and intersections was not applied nor was a waiver required (Atticus Hotel and First Federal). The Atticus Hotel is four stories in height at the corner and intersection and did not receive a waiver for non-compliance. The First Federal building is three stories in height at the corner and intersection and did not receive a waiver for non-compliance.

### ***What is the height of the building?***

There was significant confusion about the height of the new proposed building. As a point of clarification, the roof deck is 61' 6", the tallest roof structure is 73'10" (roof covering on the restaurant, spa and pool on the roof deck set back approximately 40' from the vertical front elevation plane), and the tallest point of the building in the northeast corner is the elevator tower at approximately 81'. The maximum building height in the zone is 80'. Elevator towers are expressly exempted from building height limitations per Section 17.54.040 of the McMinnville Zoning Ordinance.

### **Attachments:**

- Appeal Submittal by Daniel Kiser
- Approval Letter, Dated March 18, 2023
- Planning Commission Decision Documents
  - AP 1-23 (HL 6-22) - Demolition of Historic Resource at 609 NE Third Street
  - AP 2-23 (HL 7-22) - Demolition of Historic Resource at 611 NE Third Street
  - AP 3-23 (HL 8-22) - Demolition of Historic Resource at 619 NE Third Street
  - AP 4-23 (DDR 2-22) - Downtown Design Review of New Construction – Gwendolyn Hotel
- Testimony Received for City Council Appeal Public Hearing
- Conditions of Approval Provided to the Planning Commission on March 16, 2023
- Minutes (Planning Commission, 03.02.23 and 03.16.23)
- Email from Stuart Ramsing, Building Official, dated 3.1.23

### **City Council Procedures and Actions:**

#### **Hearing Procedures**

Per the McMinnville Municipal Code, the City Council will conduct the public hearing in the following manner:

1. Open the Public Hearing
2. Staff Report (20 – 25 minutes)  
Q & A
3. Applicant Report (20 – 25 minutes)  
Q & A
4. Public Testimony in Support of Application (3 minutes each)
5. Appellant Report (20 – 25 minutes)  
Q & A
6. Public Testimony in Opposition of Application (3 minutes each)
7. Applicant Rebuttal (20 – 25 minutes)

Assuming that the Council is inclined to close the public hearing portion of the meeting, the Applicant must be given an opportunity to submit final written argument. This written argument period must extend for at least 7 days.

If the Applicant elects to waive its right to final written argument, the City Council will then close the public hearing and deliberate to a tentative oral decision. This tentative oral decision will then be memorialized in written findings for the City Council to vote on at a future City Council meeting via Ordinance. Written findings memorializing the Council's decision must: (1) interpret the applicable approval criteria; (2) identify what evidence the Council relied on to make the decision; and (3) explain why the evidence indicates that the criteria are satisfied. It is this written decision that will become the basis for review by the Land Use Board of Appeals, in the event of further appeal.

At present, there are two sets of written findings – the first set, granting approval of the four applications was recommended by city staff and affirmed by the Planning Commission, without modification. The second set, denying the four applications, memorializes the Historic Landmarks Committee decision. Whether the City Council votes to approve or deny the applications, the written findings will need to be modified to acknowledge all of the new evidence submitted on both sides. For this reason, City staff will need some time to draft these supplemental findings, in addition to the PC or HLC adopted findings, after the Council's tentative decision is made. Staff recommends a period of at least two weeks but this may need to be adjusted to accommodate the Council meeting schedule and the current decision deadline of May 9, 2023. The Council will need to adopt the findings at a duly noticed meeting. This final step is largely administrative, no public testimony is taken, and can be accomplished through a general business item identified on the Council agenda.

### **Scope of Review**

The City Council must make a decision based on the application criteria set forth in the Oregon Administrative Rules and the McMinnville Municipal Code. The hearing is *de novo* meaning that the Council owes no deference to the decisions of the Historic Landmarks Committee (HLC) or the Planning Commission (PC), but the Council must make its decision based on what is in the public record. The public record for the Council's consideration includes all of the written materials submitted during the proceedings before the HLC and PC, all oral testimony submitted during HLC/PC public hearings as well as any written and oral testimony presented as part of the Council's review.

In the event of a further appeal, LUBA will defer to the City Council's interpretation of discretionary criteria so long as the interpretation is "plausible." A "plausible" interpretation is one that does not contravene the plain language of the criteria, considering its context, including the purpose and policy.

The staff recommended approval, which was adopted by the Planning Commission, included a series of conditions of approval that were intended to bring the proposal into greater conformity with the standards and criteria. For example, one of these conditions prohibits issuing the permits for demolition until the building permits for new construction are in hand. The condition goes on to impose a significant financial disincentive should the buildings be demolished and new construction not occur. As part of this review, the Council is free to remove, modify or add any additional conditions of approval it identifies as necessary to grant approval.

The current conditions of approval are enumerated below:

**AP 1-23, AP 2-23, AP 3-23, AP 4-23 (Appeal of HL 6-22, 7-22, 8-22) Demolitions:**

1. The Certificate of Approval for Demolition of 609, 611, and 619 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not constructed with a final occupancy permit within three years of the issuance of the building permit will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. If the successful completion of the replacement project is stalled due to unforeseen conditions the Applicant can appeal this condition of approval in writing to the Planning Commission for review. (OAR 660-023-0200(8)(a)).
2. 609, 611 and 619 NE Third Street, McMinnville Historic Resource Inventory B865, B872, D876 will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished. (OAR 660-023-0200(9))
3. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
4. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 8.00)
5. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)
6. The Applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the Applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)



7. Prior to submittal for a building demolition permit provide Engineering with detailed demolition plans for review and approval. (Comprehensive Plan Policy #25.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)
10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy 151.00)
11. Prior to the issuance of a building permit, the Applicant will need to meet with the McMinnville Downtown Association to develop a program that will educate local citizens on the benefits associated with an active historic preservation program, that will then be approved by the Planning Director.
12. Prior to the approval of a demolition permit, the Applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses. (McMinnville Municipal Code, 17.65.010(B))
13. The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives. (McMinnville Municipal Code 17.65.050(B)(7))
14. Prior to demolition the Applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection. (McMinnville Municipal Code 17.65.050(B)(8))
15. Prior to demolition the Applicant will provide the City with an archaeological plan describing how the Applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (McMinnville Municipal Code 17.65.050(B)(8))

**AP 4 – 23 (Appeal of DDR 2-22) Gwendolyn Hotel – New Construction:**

1. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
2. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. . (Comprehensive Plan Policy 8.00)
3. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)
4. The Applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the Applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)
5. The Applicant shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be borne by the developer. The developer will be responsible for any necessary improvements identified by the capacity analysis. (Comprehensive Plan Policy #25.00)
6. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance. (Comprehensive Plan Policy #33.00)
7. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance. (Comprehensive Plan Policy #33.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse

effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)

10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy #151.00)
11. That the Applicant shall include window details in the construction plans submitted for building permit review that depict how all of the windows on the building will be recessed. (McMinnville Municipal Code, 17.59.050(B)(6))
12. That the Applicant shall provide samples or examples of the exterior building colors to the Planning Department for review and approval by the Planning Director prior to application on the building. (McMinnville Municipal Code, 17.59.050(C)(3))
13. The Applicant will need to submit a sign permit for review and approval prior to the application of any signs to the project. (McMinnville Municipal Code, 17.59.080)
14. Per the Applicant's narrative, all three properties will need to be consolidated into one property prior to building permit issuance.
15. Per the Applicant's testimony at the March 16, 2023, Planning Commission public hearing, the Applicant will need to memorialize the automobile heritage of this site with appropriate public art, murals, rooms named for historic McMinnville families and businesses as appropriate, and salvaging of the historic brick and interior materials as much as possible to be incorporated into the new project design.



Planning Department
231 NE Fifth Street o McMinnville, OR 97128
(503) 434-7311 Office o (503) 474-4955 Fax
www.mcminnvilleoregon.gov

Office Use Only:
File No. AP 5-23
Date Received 4/3/23
Fee \$1,095.00
Receipt No. 207769
Received by AW

569-23-000140-PLNG

Appeal Application

Applicant Information

Applicant is: Property Owner Contract Buyer Option Holder Agent Other

X Provided testimony prior to this appeal.

Applicant Name Daniel Kiser Phone (971) 264- 4954

Contact Name Phone
(If different than above)

Address 10771 NW Brentano Lane

City, State, Zip McMinnville, OR 97128

Contact Email dkiser@fergusonshamamian.com

Original Application Information

File No.: AP 1-23 (formerly HL 6-22) Review Body: Historic Landmarks Committee Planning Commission

Decision: HLC: Denied / PC: Approved Date of Decision: HLC: 01/26/23, PC: 03/16/23

Date Decision Mailed: HLC: 01/27/23, PC: 03/18/23 Appeal Date Deadline: 04/03/23

Description of Original Application Request:

Applications HL 6-22, HL 7-22, and HL 8-22 requested demolition of the existing historic buildings and construction of the Gwendolyn Hotel (DDR 4-22) on the combined sites of 609, 611, and 619 NE Third Street, McMinnville, Oregon.

These applications were denied by the Historic Landmarks Committee, then appealed by the Applicant to the Planning Commission, which approved the appeals.

Appeal of a decision made by the following review body is requested:

PLANNING DIRECTOR (See Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance for further information.)

X PLANNING COMMISSION (See Section 17.72.180 (Appeal from Ruling of Planning Commission) of the Zoning Ordinance for further information.)

Please state in detail the basis for and issues raised in this appeal. You must identify the criteria and findings that you are appealing. Attach additional sheets as necessary. \_\_\_\_\_

See attached narrative.

(This section contains 23 horizontal lines for providing additional details.)

In addition to this completed application, the applicant must provide the following:

Payment of the applicable review fee, which can be found on the Planning Department web page.

**I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.**

*David Kan*

04/03/23

Appellant's Signature

Date



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 (503) 434-7311 Office ◦ (503) 474-4955 Fax  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

<b>Office Use Only:</b>	
File No.	<u>AP 6-23</u>
Date Received	<u>4/3/23</u>
Fee	<u>\$1,095.00</u>
Receipt No.	<u>207770</u>
Received by	<u>AW</u>

569-23-000140-PLNG-01

## Appeal Application

### Applicant Information

**Applicant is:**  Property Owner  Contract Buyer  Option Holder  Agent  Other \_\_\_\_\_  
 Provided testimony prior to this appeal.

Applicant Name Daniel Kiser Phone (971) 264- 4954  
 Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
*(If different than above)*  
 Address 10771 NW Brentano Lane  
 City, State, Zip McMinnville, OR 97128  
 Contact Email dkiser@fergusonshamamian.com

### Original Application Information

File No.: AP 2-23 (formerly HL 7-22) Review Body: Historic Landmarks Committee  
Planning Commission  
 Decision: HLC: Denied / PC: Approved Date of Decision: HLC: 01/26/23, PC: 03/16/23  
 Date Decision Mailed: HLC: 01/27/23, PC: 03/18/23 Appeal Date Deadline: 04/03/23

Description of Original Application Request: \_\_\_\_\_

Applications HL 6-22, HL 7-22, and HL 8-22 requested demolition of the existing historic buildings and construction of the Gwendolyn Hotel (DDR 4-22) on the combined sites of 609, 611, and 619 NE Third Street, McMinnville, Oregon.

These applications were denied by the Historic Landmarks Committee, then appealed by the Applicant to the Planning Commission, which approved the appeals.

Appeal of a decision made by the following review body is requested:

- PLANNING DIRECTOR (See Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance for further information.)
- PLANNING COMMISSION (See Section 17.72.180 (Appeal from Ruling of Planning Commission) of the Zoning Ordinance for further information.)







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<b>Office Use Only:</b>	
File No.	<u>AP 7-23</u>
Date Received	<u>4/3/23</u>
Fee	<u>\$1,095.00</u>
Receipt No.	<u>207771</u>
Received by	<u>AW</u>

569-23-000140-PLNG-02

## Appeal Application

### Applicant Information

**Applicant is:**  Property Owner  Contract Buyer  Option Holder  Agent  Other \_\_\_\_\_  
 Provided testimony prior to this appeal.

Applicant Name Daniel Kiser Phone (971) 264- 4954  
 Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
*(If different than above)*  
 Address 10771 NW Brentano Lane  
 City, State, Zip McMinnville, OR 97128  
 Contact Email dkiser@fergusonshamamian.com

### Original Application Information

File No.: AP 3-23 (formerly HL 8-22) Review Body: Historic Landmarks Committee  
Planning Commission  
 Decision: HLC: Denied / PC: Approved Date of Decision: HLC: 01/26/23, PC: 03/16/23  
 Date Decision Mailed: HLC: 01/27/23, PC: 03/18/23 Appeal Date Deadline: 04/03/23

Description of Original Application Request: \_\_\_\_\_

Applications HL 6-22, HL 7-22, and HL 8-22 requested demolition of the existing historic buildings and construction of the Gwendolyn Hotel (DDR 4-22) on the combined sites of 609, 611, and 619 NE Third Street, McMinnville, Oregon.

These applications were denied by the Historic Landmarks Committee, then appealed by the Applicant to the Planning Commission, which approved the appeals.

Appeal of a decision made by the following review body is requested:

- PLANNING DIRECTOR (See Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance for further information.)
- PLANNING COMMISSION (See Section 17.72.180 (Appeal from Ruling of Planning Commission) of the Zoning Ordinance for further information.)





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<b>Office Use Only:</b>	
File No.	<u>AP 8-23</u>
Date Received	<u>4/3/23</u>
Fee	<u>\$1,095.00</u>
Receipt No.	<u>207772</u>
Received by	<u>AW</u>

569-23-000140-PLNG-03

## Appeal Application

### Applicant Information

**Applicant is:**  Property Owner  Contract Buyer  Option Holder  Agent  Other \_\_\_\_\_  
 Provided testimony prior to this appeal.

Applicant Name Daniel Kiser Phone (971) 264- 4954  
 Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
*(If different than above)*  
 Address 10771 NW Brentano Lane  
 City, State, Zip McMinnville, OR 97128  
 Contact Email dkiser@fergusonshamamian.com

### Original Application Information

File No.: AP 4-23 (formerly DDR 2-22) Review Body: Historic Landmarks Committee  
Planning Commission  
 Decision: HLC: Denied / PC: Approved Date of Decision: HLC: 01/26/23, PC: 03/16/23  
 Date Decision Mailed: HLC: 01/27/23, PC: 03/18/23 Appeal Date Deadline: 04/03/23

Description of Original Application Request: \_\_\_\_\_

Applications HL 6-22, HL 7-22, and HL 8-22 requested demolition of the existing historic buildings and construction of the Gwendolyn Hotel (DDR 4-22) on the combined sites of 609, 611, and 619 NE Third Street, McMinnville, Oregon.

These applications were denied by the Historic Landmarks Committee, then appealed by the Applicant to the Planning Commission, which approved the appeals.

Appeal of a decision made by the following review body is requested:

- PLANNING DIRECTOR (See Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance for further information.)
- PLANNING COMMISSION (See Section 17.72.180 (Appeal from Ruling of Planning Commission) of the Zoning Ordinance for further information.)



Dear Mayor and City Councilors,

I, Daniel Kiser, having been party to the initial proceedings through both oral and written testimony, wish to appeal the decisions of the McMinnville Planning Commission on the basis that the Commission unreasonably and incorrectly interpreted the Oregon Administrative Rules (OAR) and relevant McMinnville Zoning Ordinance (MZO), and failed to issue findings consistent with the evidentiary record. The decisions are not supported by substantial evidence in the record before the Commission.

Notably, because the March 18, 2023 Planning Commission findings are primarily an adoption of the Planning Staff recommendations—prepared prior to the Historic Landmark Committee’s (HLC) meeting on January 5, 2023—the findings fail to incorporate/weigh subsequent information and facts added to the record after January 5.

As the Planning Commission’s findings for 609 NE Third St (AP 1-23) are substantially similar to the findings for 611 NE Third St (AP 2-23) and 619 NE Third St (AP 3-23), comments regarding the findings on demolition apply to all three buildings and such findings are referenced in this document.

While the information set forth includes my primary points of contention, I reserve the right to supplement the record and provide further arguments before the City Council’s hearing.

### **Demolition**

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#### **OAR 660-023-0200(8)(a): Factors to Consider – Historic Integrity of the Property**

Historic Integrity is defined by the Planning Commission as the “*materials, form and massing that are original to the building from the time period of its significance*” (AP 3-23 Decision Document, p. 35). Some materials of the buildings have been modified, but the Historic Resources Assessment (HRA) reports confirm that remaining original elements are in fair and good condition. With regards to form, all three buildings have had the ground floor facades modified from automobile bays into storefronts, but the forms of the upper floors and parapets of 611 and 619 NE Third St remain original. The Commission’s findings fail to mention that the massing of all three buildings has not been altered from the time period of significance.

Massing is an integral part of the buildings’ designations as Historic Resources since it pertains to the scale of other buildings on Third Street. Cohesive scale and massing is one of the reasons the McMinnville Downtown Historic District was listed on the National Register of Historic Places in 1987. The nomination states “*Buildings along Third Street represent several phases of development but have a marked cohesion by virtue of their density, common scale, materials and overall design elements. While ground story storefronts have been altered over the years, distinguishing features of the upper stories are intact and provide visual continuity*” (AP 1-23 Decision Document, p. 43).



Despite their modifications, all three buildings retain the historic integrity they had when they were designated as Historic Resources and part of the Historic District.

**OAR 660-023-0200(8)(a):** Factors to Consider – Historic Significance of the Property

I concur with the Commission’s findings that “*The HRA report clearly states that all three properties are important in terms of historic significance as they represent the time period of the McMinnville National Register of Historic Places Historic District context statement relative to the emergence of automobile transportation in McMinnville*” (AP 1-23 Decision Document, p. 38).

However, the Commission’s findings incorrectly cite historic integrity as the reason these buildings no longer hold historic significance (AP 1-23 Decision Document, p. 44). The two terms are not interchangeable.

Historic significance is not defined in OAR 660-033-023. However, OAR 660-033-023(5)(a) explains that the evaluation of significance should be based on the following points (followed by statements supported by evidence in the record).

*(A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state or national history.* The three buildings were the first auto row in McMinnville and represent the advent of the automobile, which had a tremendous impact on the growth and development of McMinnville and the American landscape.

*(B) Significant association with the lives of persons significant to local, regional, state, or national history.* 609 NE Third St was developed by prominent local lawyer Frank W. Fenton.

*(C) Distinctive characteristics of a type, period, or method of construction.* The three buildings are distinctive for their typology as auto garages. 611 NE Third St retains its prominent bracketed and modillioned cornice line and parapet wall, distinctive characteristics of architecture from the era.

*(E) Relevance within the local historic context and priorities described in the historic preservation plan.* The automobile is the watershed event separating the Primary and Secondary periods of the development of McMinnville, when the city and Historic District’s growth was fueled by the car rather than the Oregon Electric and Southern Pacific Railroad.

**OAR 660-023-0200(8)(a):** Factors to Consider – Value to the Community

The Commission’s findings state that the historic buildings are “*...part of the building fabric of Third Street in McMinnville, a built environment which collectively has a lot of value to the community. Any replacement project would need to be able to become an*

*asset to that built environment and not a disruptor”* (AP 1-23 Decision Document, p. 44). The Commission continues that the proposed Gwendolyn Hotel “...will need to meet the Downtown Design Overlay District code criteria for new construction, including mimicking the character and scale of the existing structures downtown” (AP 1-23 Decision Document, p. 45). The Gwendolyn does not meet the code criteria and is out of scale in relation to existing buildings, disrupting the building fabric of the Historic District (figure 1).

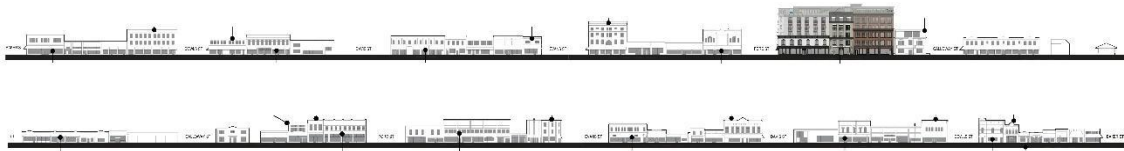


Figure 1: North Third Street & Gwendolyn Hotel at top, south Third Street at bottom

**MZO 17.65.010(d):** *Protect and enhance the City’s attractions for tourists and visitors;*

The Commission found this section of the zoning ordinance satisfied by adopting condition of approval #12: “*The replacement plan project must not only meet the minimum standards of Section 17.59, Downtown Design Guidelines, McMinnville Municipal Code, but it must enhance the overall historic sense of place of downtown McMinnville by replicating the form and design of the building stock on Third Street*” (AP 1-23 Decision Document, p. 61).

However, the adopted conditions of approval do not include this condition and have replaced it with a condition #12 that reads “*Prior to the approval of a demolition permit, the Applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses*” (Approval Letter, p. 3). This condition does not relate to the necessary finding; the finding is therefore not satisfied.

Regardless, to demolish three historic buildings does not protect and enhance the Historic District, let alone replacing them with a building that does not meet the code criteria and is not sympathetic with the existing buildings in the District.

**MZO 17.65.050(b)(1):** *The City’s historic policies set forth in the comprehensive plan and the purpose of this ordinance;*

A typo states that the Historic Landmarks Committee approved demolition with conditions (AP 1-23 Decision Document, p. 63). The reference should be to the Planning Commission.

**MZO 17.65.050(b)(3):** *The value and significance of the historic resource;*

The Commission’s findings state “*The historic significance of the property is questionable due to the amount of modifications that have occurred*” (AP 1-23 Decision

Document, p. 69). The modifications are not shown to be significantly more than existed at the time the buildings were classified as Historic Resources (see previous discussion regarding history integrity).

I find no facts to support the finding that “*the attributed historic significance identified in the McMinnville Downtown Historic District National Register of Historic Places nomination for 609 NE Third Street as a Primary Significant Contributing resource in the district is misrepresented due to the amount of modifications that have occurred on the property*” (AP 1-23 Decision Document, p. 69).

The applicant states they are “...*requesting the demolition of these 3 buildings for a replacement building that will implement and advance the future vision for Downtown McMinnville*” (AP 1-23 Decision Document, p. 67). This is a conclusory statement that has offered no findings or evidence as to how this building would achieve that goal. Is the future vision of McMinnville’s Historic District to demolish every historic building whose owner makes a claim of financial hardship? To agree with the applicant’s reasoning sets a dangerous precedent.

**MZO 17.65.050(b)(8):** *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City,*

The Commission agreed with the applicant’s finding that “*Adaptive re-use would require seismic upgrades and the buildings cannot be economically used for hospitality*” (AP 1-23 Decision Document, p. 77). This is debunked by McMinnville’s building official, Stuart Ramsing, who said that seismic upgrades are unlikely if occupancy is kept below 300 for any of the three buildings and/or alterations are constructed independently of the existing structures (Memorandum - Additional Materials for the Public Record).

Hospitality is defined as the business of providing food, drink, and accommodation for customers of restaurants, bars, etc. or guests at hotels. In fact, 619 NE Third Street currently has hospitality uses. The applicant performed a cost analysis of converting the existing buildings into a hotel, but no study was conducted to determine the economic viability of reusing the buildings’ floor area as it currently exists for other hospitality functions, such as restaurants or bars.

**MAC-Town 2032 Economic Strategic Development Plan, Goal 6:** *Be a leader in hospitality and place-based tourism*

The Commission erred in not providing specific evidence why the preservation of the buildings would be a deterrent to advancing the MAC Town 2032 Economic Development Strategic Plan (AP 1-23 Decision Document, p. 75). I believe McMinnville is a leader in place-based tourism in Oregon due to the Downtown Historic District. Demolition of historic buildings in the district does not further that goal.

## New Construction

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**MZO 17.59.010**, Purpose: *To provide for the protection, enhancement and preservation of buildings, structures, and other elements in the downtown core which contribute to its special historic and cultural value. Further, it is not the purpose of this ordinance to create a “themed” or artificial downtown environment. Rather, its purpose is to build on the “main street” qualities that currently exist within the downtown and to foster an organized, coordinated, and cohesive historic district that reflects the “sense of place,” economic base, and history unique to McMinnville and the downtown core. (Ord. 4797 §1, 2003)*

The Planning Commission’s findings fail to address how the Gwendolyn Hotel does not create a themed or artificial downtown environment by its Third Street façade being broken down into three faux building expressions.

**MZO 17.59.050(a)(1)**: *Except as allowed by this ordinance, buildings shall maintain a zero setback from the sidewalk or property line.*

This mandate requires buildings to maintain a zero setback for the entirety of the building’s vertical exposure, reinforcing downtown’s strong vertical presence and sense of enclosure along the streetscape. This pattern builds upon one of the “main street” qualities of downtown McMinnville. The proposed Gwendolyn hotel has setbacks greater than zero on both the Third and Ford Street facades, for which no waiver has been submitted or approved. In its findings, the Planning Commission appears to have taken a position that these violations of setback requirements are allowed as they are “step backs.”

“Step backs” are not a term defined by the MZO and no mention of them is provided in Chapter 17.59. If the city wanted to use this device in the downtown design guidelines, the code would have been specific. Past practice has been to require a waiver to the setback requirement where a deviation from this standard is requested. This was the case involving the KAOS building where a waiver to the setback requirement was requested and granted for its construction. Further, the zoning ordinance already carves out exceptions to the zero setback requirement for plazas, courtyards, dining space, or rear access for public pedestrian walkways, but offers no mention of any other allowances.

**MZO 17.59.050(b)(1)**: *Buildings should have massing and configuration similar to adjacent or nearby historic buildings on the same block.*

For context, MZO 17.06.015 defines “adjacent” as being “*Contiguous to a property boundary at a property line or property corner. Two properties separated by street or right-of-way are considered adjacent*” (figure 2).

It is my opinion that the Commission erred in accepting the applicant’s interpretation of this code. “...Perhaps “adjacent” can be thought of more broadly, in a cohesive way, to

include all of downtown McMinnville. In that case, doesn't that mean in a way that all buildings downtown are adjacent? Adjacent to each other and adjacent to the whole" (AP 4-23 Decision Document, p. 40).

This is an absurd interpretation as, under this premise the entire city (and not just the downtown) would be captured in that definition. A reasonable reading of the definition would find that the proposed Gwendolyn Hotel property is adjacent to eight buildings (figure 3), ranging from one to three stories or approximately 17' - 45'-3" tall. The Gwendolyn is on the same block as two historic buildings (figure 4), which are one story and approximately 22' tall. The Gwendolyn, 80'-10" at its highest point, is 179% taller than the tallest adjacent building, Odd Fellows Lodge, (figure 5) and 367% taller than historic buildings on the same block.

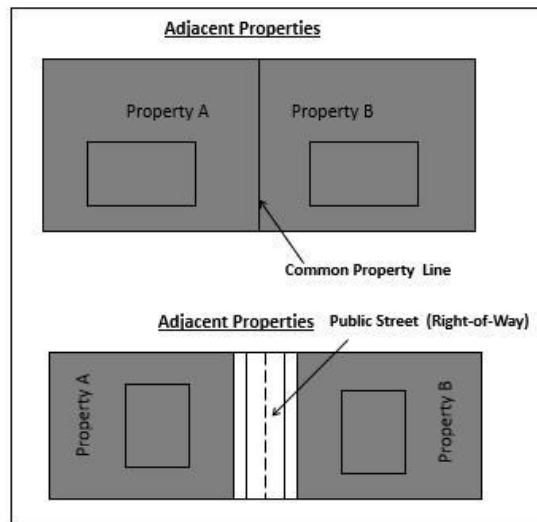


Figure 2: Figure 2 from MZO 17.06.015 demonstrating city definition of "adjacent"



Figure 3: Adjacent buildings highlighted in yellow

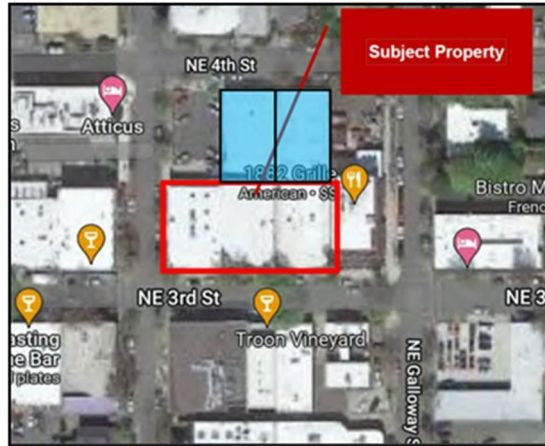


Figure 4: Historic buildings on the same block highlighted in blue

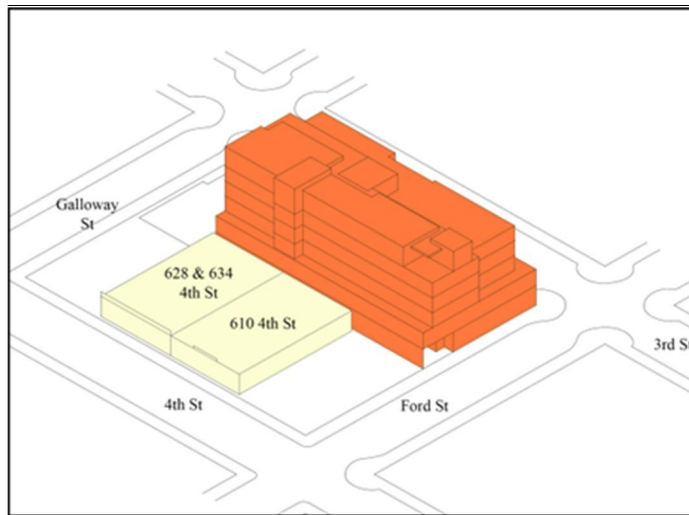
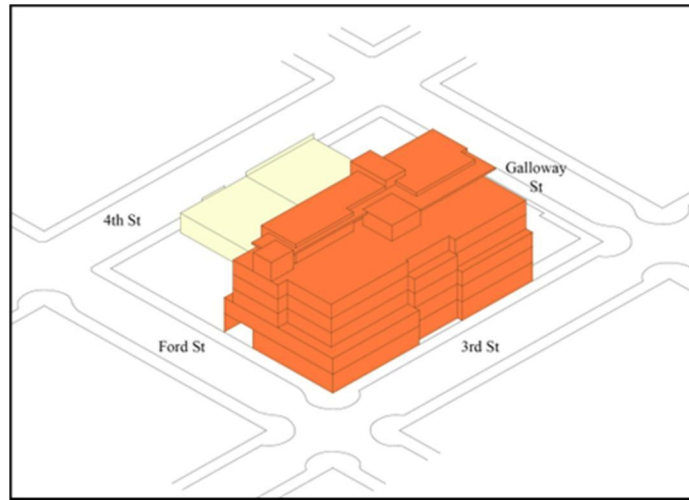


Figure 5: Applicant drawing A3.01, Gwendolyn Hotel next to the tallest adjacent building, Odd Fellows Lodge, on the left

‘Massing’ refers to the structure in three dimensions (form), not just its outline from a single perspective (shape). No buildings adjacent to the proposed hotel have a massing with step backs taller and larger than its base. Evidence in the record clearly demonstrates the Gwendolyn’s massing and configuration is not similar to the two historic buildings on the same block (figure 6).

The Commission’s findings referenced the KAOS building, the First Federal building, and the Atticus Hotel as precedent for the Gwendolyn to not satisfy this guideline (AP 4-23 Decision Document, p. 40). Reference to precedent is irrelevant as each project is weighed on its individual merits and ability to satisfy the required criteria. In some cases, waiver requests were submitted by past applicants and approved by the Planning Director or Historic Landmarks Committee, as provided in this chapter of the ordinance. This applicant has instead argued that “precedent” is an appropriate vehicle through which deviation from the massing and configuration requirements can be granted. This is not true and should be rejected by the City Council.





*Figure 6: Massing of the Gwendolyn (orange) next to massing of the two historic buildings on the same block (yellow)*

**MZO 17.59.050(b)(1):** *Buildings situated at street corners or intersections should be, or appear to be, two-story in height.*

To address this guideline, the applicant stepped back the upper four floors several feet from the Ford Street and Third Street property lines to make the building visually “appear” to be two floors in height when viewed from the street. This representation by the applicant was accepted by the Commission and memorialized in its findings demonstrating compliance with this guideline (see AP 4-23 Decision Document, p. 41).

As noted previously, such setbacks of upper (or lower) floors are not permitted unless authorized by an approved waiver. The applicant withdrew a previously submitted waiver request to this criterion. Irrespective of that, and in deference to the applicant’s written and oral testimony, views of the building’s full height would be possible from numerous

locations, including from north along 4<sup>th</sup> Street. The applicant’s own rendering from the Third and Ford Street intersection (figure 7) clearly demonstrates the building’s full height of some five to six stories.



*Figure 7: Applicant drawing A7.01, corner intersection of 3rd and Ford streets*

**MZO 17.59.050(b)(2):** *Where buildings will exceed the historical sixty feet in width, the façade should be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings, and as appropriate to reflect the underlying historic property lines. This can be done by varying roof heights, or applying vertical divisions, materials and detailing to the front façade.*

At 180 feet long, the Gwendolyn is divided into three distinctive building designs along the Third Street frontage measuring, from west to east, 79 feet, 37 feet, and 64 feet wide. These dimensions do not reflect the underlying historic property lines. Further, there is no evidence in the record that demonstrates why the new construction could not meet this guideline. Even so, the westernmost and easternmost building designs exceeds 60 feet and are not visually subdivided, as called for in the guideline. On the westernmost portion, the six bays on the two lower floors do not relate in any way to the five bays on the upper floors (figure 8).

The Commission erred in comparing the applicant’s original design with its amended design (AP 4-23 Decision Document, p. 42). While precedent is irrelevant, the Commission also erred in comparing the Gwendolyn to the Atticus Hotel and First Federal Buildings, which are neither historic buildings nor adjacent to the Gwendolyn. Finally, I find the Commission did not compare the scale of the Gwendolyn’s proposed bays to the scale of the bays of adjacent historic buildings.

‘Scale,’ as referenced in this guideline, is a measure of both width and height, just as ‘proportional’ is a measure of size which combines width and height. As pointed out by Planning staff in the September 9, 2022 Draft Decision Document, “*The intent of this code criteria is scalability with the built environment around the project.*” A side by side comparison of the Gwendolyn’s bays with the adjacent historic building across the street,

the Jameson Hardware building, clearly indicates that scalability has not been achieved (figure 8), nor can it be found elsewhere on other adjacent historic buildings as called for in this guideline.



Figure 8: Applicant drawing A3.01 left, Jameson Hardware building in red brick right

## Conclusion

It is my opinion that the Planning Commission erred in approving the demolition of these three historic buildings and approving the design of the Gwendolyn Hotel.

Preservation of buildings in the Downtown Historic District is an indispensable part of the City's codes, goals, and economic success. Despite modifications that are very similar to other historic building modifications in the District, all three buildings retain their historic significance and historic integrity. As a row of former auto garages, they are the only buildings connected to the beginning of the automobile era and their massing, scale, proportional bays, and details are an integral part of Third Street's sense of place. They do not need to be demolished, they need another chance at revitalization.

The proposed Gwendolyn Hotel does not meet the Downtown Design Standards and Guidelines and specifically violates criteria relating to massing and scale (which are identified as integral components of Downtown McMinnville's designation as a Historic District). To approve such a massive, out-of-scale building with a dominating presence unlike anything else on Third Street will disrupt the building fabric and destroy its "main street" qualities. It threatens the integrity of the entire District and sets dangerous precedent for its future survival and success as one of the best main streets in America.

I respectfully request the City Council hold a public hearing on these appeals, reverse the Planning Commission's decisions, and adopt/build upon the Historic Landmark Committee's findings.

Sincerely,

Daniel Kiser  
April 3, 2023



COMMUNITY DEVELOPMENT DEPT.  
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(503) 434-7311

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**SENT VIA EMAIL**

March 18, 2023, 2023

HD McMinnville LLC  
c/o David Sacamano, OTAK  
808 SW Third Avenue, Ste 800  
Portland, OR 97204  
[David.Sacamano@otak.com](mailto:David.Sacamano@otak.com);

**RE: Dockets AP 1-23, AP 2-23, AP 3-23, AP 4-23, appeals of the Historic Landmarks Committee denial of HL 6-22, HL 7-22, HL 8-22 and DDR 2-22; Certificates of Approval for Demolition of Historic Resources at 609, 611 and 619 NE Third Street, and compliance with Downtown Design Standards and Guidelines for the Gwendolyn Hotel.**

Dear Mr. Sacamano:

This letter is to advise you that, at a meeting of the McMinnville Planning Commission on Thursday, March 16, 2023, your applications to appeal the Historic Landmarks Committee's denial of your requests for approval of a Certificate of Approval for Demolition of the historic resources at 609, 611 and 619 NE Third Street (HL 6-22, HL 7-22, and HL 8-22) and for the compliance of the Gwendolyn Hotel project with the City's Downtown Design Standards and Guidelines (DDR 2-22) were considered by the McMinnville Planning Commission.

Based on the material submitted by the applicant, the testimony received, and the public record, the McMinnville Planning Commission voted 5 to 3 to **APPROVE WITH CONDITIONS** dockets AP 1-23, AP 2-23, and AP 3-23 (HL 6-22, HL 7-22, and HL 8-22), and voted 5 to 3 to **APPROVE WITH CONDITIONS** docket AP 4-23 (DDR 2-22).

The decisions of the McMinnville Planning Commission shall be final unless an appeal is filed.

Per Section 17.72.180 of the McMinnville Municipal Code, "An action or ruling of the Planning Commission pursuant to this title may be appealed to the City Council within 15 (fifteen) calendar days of the date the written notice of the decision is mailed.." The appeal shall be filed with the Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person

Page 2

seeking review specifying that they were party to the proceedings. If the appeal is filed, the City Council shall receive a report and the decision of the Planning Commission and then shall hold a public hearing on the appeal consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.

If no appeal is filed with the Planning Department on or before 5:00 PM, April 3, 2023, the McMinnville Planning Commission's decision is final.

The conditions of approval are enumerated below:

**AP 1-23, AP 2-23, AP 3-23, AP 4-23 (Appeal of HL 6-22, 7-22, 8-22) Demolitions:**

1. The Certificate of Approval for Demolition of 609, 611, and 619 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not constructed with a final occupancy permit within three years of the issuance of the building permit will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. If the successful completion of the replacement project is stalled due to unforeseen conditions the Applicant can appeal this condition of approval in writing to the Planning Commission for review. (OAR 660-023-0200(8)(a)).
2. 609, 611 and 619 NE Third Street, McMinnville Historic Resource Inventory B865, B872, D876 will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished. (OAR 660-023-0200(9))
3. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
4. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 8.00)
5. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building

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demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)

6. The Applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the Applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)
7. Prior to submittal for a building demolition permit provide Engineering with detailed demolition plans for review and approval. (Comprehensive Plan Policy #25.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)
10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy 151.00)
11. Prior to the issuance of a building permit, the Applicant will need to meet with the McMinnville Downtown Association to develop a program that will educate local citizens on the benefits associated with an active historic preservation program, that will then be approved by the Planning Director.
12. Prior to the approval of a demolition permit, the Applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses. (McMinnville Municipal Code, 17.65.010(B))
13. The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of



Page 4

the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives. (McMinnville Municipal Code 17.65.050(B)(7))

14. Prior to demolition the Applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection. (McMinnville Municipal Code 17.65.050(B)(8))

15. Prior to demolition the Applicant will provide the City with an archaeological plan describing how the Applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (McMinnville Municipal Code 17.65.050(B)(8))

**AP 4 – 23 (Appeal of DDR 2-22) Gwendolyn Hotel – New Construction:**

1. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
2. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. . (Comprehensive Plan Policy 8.00)
3. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)
4. The Applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the Applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)

Page 5

5. The Applicant shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be borne by the developer. The developer will be responsible for any necessary improvements identified by the capacity analysis. (Comprehensive Plan Policy #25.00)
6. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance. (Comprehensive Plan Policy #33.00)
7. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance. (Comprehensive Plan Policy #33.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)
10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy #151.00)
11. That the Applicant shall include window details in the construction plans submitted for building permit review that depict how all of the windows on the building will be recessed. (McMinnville Municipal Code, 17.59.050(B)(6))
12. That the Applicant shall provide samples or examples of the exterior building colors to the Planning Department for review and approval by the Planning Director prior to application on the building. (McMinnville Municipal Code, 17.59.050(C)(3))
13. The Applicant will need to submit a sign permit for review and approval prior to the application of any signs to the project. (McMinnville Municipal Code, 17.59.080)
14. Per the Applicant's narrative, all three properties will need to be consolidated into one property prior to building permit issuance.

Letter Re: AP 1-23, AP 2-23, AP 3-23, AP 4-23

Date: March 18, 2023

Page 6

15. Per the Applicant's testimony at the March 16, 2023, Planning Commission public hearing, the Applicant will need to memorialize the automobile heritage of this site with appropriate public art, murals, rooms named for historic McMinnville families and businesses as appropriate, and salvaging of the historic brick and interior materials as much as possible to be incorporated into the new project design.

If you have any questions or comments, you may reach me at (503) 434-7311.

Sincerely,



Heather Richards, PCED  
Community Development Director

HR

Attachments:

- AP 1-23 (Appeal of HL 6-22) Decision Document
- AP 2-23 (Appeal of HL 7-22) Decision Document
- AP 3-23 (Appeal of HL 8-22) Decision Document
- AP 4-23 (Appeal of DDR 2-22) Decision Document

- c:
- Kira Barsotti (sent via email)
  - Shanna Dixon (sent via email)
  - Marianne Mills (sent via email)
  - Megan McCrossin (sent via email)
  - Courtney Cunningham (sent via email)
  - Jordan Robinson (sent via email)
  - Phyllice Bradner (sent via email)
  - Victoria Anderson (sent via email)
  - Patti Webb (sent via email)
  - Sylla McClellan (sent via email)
  - Meg and Zach Hixson (sent via email)
  - Sharon Julin (sent via email)
  - Daniel Kiser (sent via email)
  - Carol Dinger (sent via email)
  - Katherine Huit (sent via email)
  - Practice Hospitality (sent via email)
  - Kellie Peterson (sent via email)
  - JP and Ames Bierly
  - Elizabeth Goings (sent via email)
  - Abigail Neilan (sent via email)
  - Ilsa Perse (sent via email)
  - The Scott Family (sent via email)
  - Mandee Tatum (sent via email)

Crystal55dreams (sent via email)  
Peter and Linda Enticknap (sent via email)  
Karen Saxberg (sent via email)  
Jeb Bladine (sent via email)  
Nathan Cooprider (sent via email)  
Ernie Munch (sent via email)  
Marilyn Kosel (sent via email)  
Carol Paddock (sent via email)  
Michael Kofford (sent via email)  
Beth Caster (sent via email)  
Rachel Flores (sent via email)  
Margaret Cross (sent via email)  
Oregon Restaurant and Lodging Association (sent via email)  
Jenny Wilson (sent via email)  
Alex Sokol Blosser (sent via email)  
Janice Weiser (sent via email)  
Peter Kircher (sent via email)  
Karen Milton (sent via email)  
Marie Fruga (sent via email)  
Restore Oregon (sent via email)  
Susan Marrant (sent via email)  
Mike Colvin (sent via email)  
Brian Libby (sent via email)  
Mike Goins(sent via email)  
Loretta Johnson (sent via email)  
Carole Ray (sent via email)  
Frank Lisciandro (sent via email)  
Linda Leavitt (sent via email)  
Phil Frischmuth (sent via email)  
John Lindner (sent via email)



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**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS OF THE MCMINNVILLE PLANNING COMMISSION FOR THE APPROVAL OF A DEMOLITION OF THE HISTORIC LANDMARK LOCATED AT 609 NE THIRD STREET. THIS IS A RULING IN FAVOR OF THE APPELLANT IN THE APPEAL OF THE HISTORIC LANDMARKS COMMITTEE'S DENIAL OF THIS LAND-USE APPLICATION**

- DOCKET:** AP 1-23 (Appeal of HL 6-22 Certificate of Approval for Demolition)
- REQUEST:** Appeal of the Historic Landmarks Committee decision to deny the applicant's request for the demolition of an existing historic landmark and building that is listed on the McMinnville Historic Resources Inventory as a "Significant" historic resource (resource number B865). This building is also listed on the National Register of Historic Places as a Primary Significant Contributing building in the McMinnville Downtown Historic District.
- LOCATION:** 609 NE Third Street. The resource is located at the property that is identified as Tax Lot 4500, Section 21BC, T. 4 S., R. 4 W., W.M.
- ZONING:** C-3 General Commercial (Downtown Overlay District)
- APPLICANT:** Mark Vuong, HD McMinnville LLC
- PROPERTY OWNER:** Jon Bladine, Oregon Lithoprint, Inc.
- STAFF:** Heather Richards, Community Development Director
- DATE DEEMED COMPLETE:** September 7, 2022
- HEARINGS BODY & ACTION:** McMinnville Planning Commission
- HEARING DATE & LOCATION:** March 2, 6:30 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853  
  
Hearing continued to March 16, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853
- HEARINGS BODY & ACTION:** McMinnville Historic Landmarks Committee
- HEARING DATE & LOCATION:** September 29, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 859 9565 0539, Meeting Password: 661305

Hearing continued to December 8, 2022, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 892 5565 1124, Meeting Password: 257277

Hearing continued to January 5, 2023, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 831 7965 5545, Meeting Password: 725658

Meeting continued to January 26, 4:00 PM for Historic Landmarks Committee deliberation, a decision and adoption of written findings. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 885 9559 0268, Meeting Password: 925948.

**PROCEDURE:** An application for a Certificate of Approval for Demolition is processed in accordance with the procedures in Section 17.65.040 - 17.65.050 of the McMinnville Municipal Code and Oregon Administrative Rule 660-203-0200 (8)(a).

**CRITERIA:** The applicable criteria for a Certificate of Approval for Demolition are specified in Section 17.65.040 and 17.65.050 of the McMinnville Municipal Code. In addition, since this is a structure listed as part of a historic district on the National Register of Historic Places, Oregon Administrative Rule 660-203-0200(8)(a) is applicable. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. “Proposals” specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

**APPEAL:** As specified in Section 17.59.030(E) of the McMinnville Municipal Code, the Historic Landmarks Committee’s decision may be appealed to the Planning Commission within fifteen (15) days of the date written notice of decision is mailed, and according to Section 17.72.180 of the McMinnville Municipal Code, the Planning Commission decision may be appealed to the City Council within fifteen (15) days of the date written notice of decision is mailed. The City’s final decision is subject to a 120 day processing timeline, including resolution of any local appeal. The 120-day deadline is January 5, 2023. Per an email dated September 29, 2022 from Garrett H. Stephenson, the applicant requested a 70-day extension to the 120 day decision deadline. The 190-day deadline is March 16, 2023. Per an email dated December 1, 2022 from Garrett H. Stephenson, the applicant requested an additional 30-day extension for a total of 100 days added to the 120 day decision deadline. The 220 day deadline is April 15, 2023. Per an email from Garrett H. Stephenson, the applicant requested an additional 24 day extension to May 9, 2023.

**COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; Oregon Department of Transportation; and State Historic Preservation Office. Their comments are provided in this document.

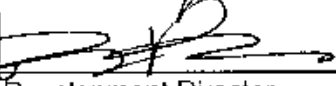


Based on the findings and conclusionary findings, the Planning Commissions finds in favor of the applicant that the applicable criteria are **SATISFIED** and **APPROVES WITH CONDITIONS** the Certificate of Approval for the demolition of the structure at 609 NE Third Street (HL 6-22).

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**APPROVAL WITH CONDITIONS**  
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Planning Commission:   
Sidonie Winfield, Chair

Date: 3/18/23

Planning Department:   
Heather Richards, Community Development Director

Date: 3/18/23

**I. SUMMARY:**

**APPEAL:** The applicant is appealing the decision of the Historic Landmarks Committee to deny their request for a Certificate of Demolition for the historic resource at 609 NE Third Street.

In their notice of appeal dated February 10, 2023, the applicant asserted that their application met the applicable criteria and that the Historic Landmarks Committee unreasonably or incorrectly interpreted and applied the McMinnville Zoning Ordinance, failed to issue adequate findings, and failed to reasonably weigh the evidence in the record such that its decision is not substantially supported by the evidence in the record.

Per the McMinnville Municipal Code, an appeal of the Historic Landmarks Committee is noticed as a de novo public hearing of the Planning Commission. The Planning Commission opened a public hearing on March 2, 2023, continued it to March 16, 2023, closed the public hearing and the public record, and voted to adopt these findings in support of the applicant's land-use application with the amended conditions of approval entered into the record by city staff at the January 5, 2023, public hearing with the Historic Landmarks Committee.

**APPLICATION:** The applicant has provided information in their application narrative and findings regarding the history of the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current land use request, and excerpted portions are provided below to give context to the request, in addition to the City's findings.

***Proposed Project***

Below is an excerpt from the application describing the proposed improvement program. The applicant would like to demolish the structures at 609, 611 and 619 NE Third Street and redevelop the property with a mixed-use hotel project that includes ground floor commercial amenities and dedicated underground parking for the project.

*Within the last year, the properties at 609, 611, and 619 NE 3rd Street were listed for sale by the Bladine family and Wild Haven LLC. After analyzing the opportunity and studying both the history and potential of downtown McMinnville, the applicant saw an opportunity to greatly enhance both the economic and experiential vitality of 3rd Street.*

*McMinnville is in an early stage of responding to its goal of being the Willamette Valley's leader in hospitality and place-based tourism. The most recent renovation and redevelopment on the south side of 3rd Street, with new lodging, dining, and wine tasting, has been encouraging. However, the same opportunity for renovation for hospitality, commercial, and retail uses is not available to the subject buildings. As noted in the structural analysis included as Appendix C, changing the occupancy of these buildings from office to commercial, retail, or hospitality is likely to trigger significant seismic upgrades.*

*The applicant has indicated that this cost to fully renovate the buildings would be approximately \$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.*

*In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.*

*The proposal is to replace the three underutilized buildings at 609, 611, and 619 NE 3<sup>rd</sup> Street with a 90-95 room boutique hotel. The ground floor will include the hotel lobby, a signature restaurant at the corner of 3rd and Ford streets, with seasonal sidewalk dining, and small retail*

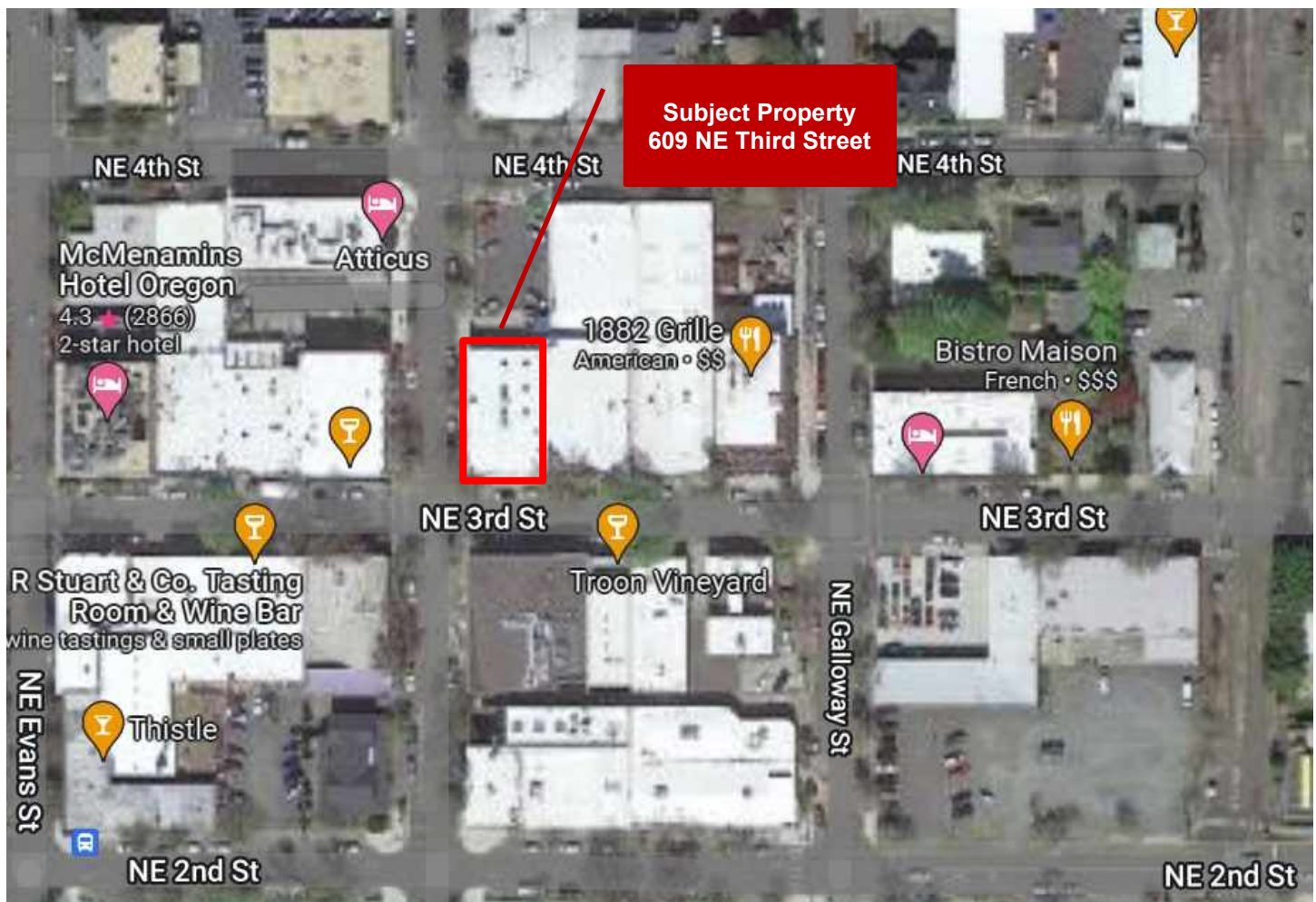
shop(s). The entire rooftop will be a mix of public uses, anchored by a small restaurant/bar opening onto a large terrace of seating and raised-bed landscaping. Though parking is not required in this location, a below-grade parking garage accommodating 68 (reduced to 67 parking spaces per supplemental materials provided on November 4, 2022) parking stalls is proposed. The garage ramp will be at the north end of the property, mid-block on Ford Street, to avoid interrupting the 3<sup>rd</sup> Street pedestrian experience.

(Application Narrative, page 3)

**Subject Property & Request**

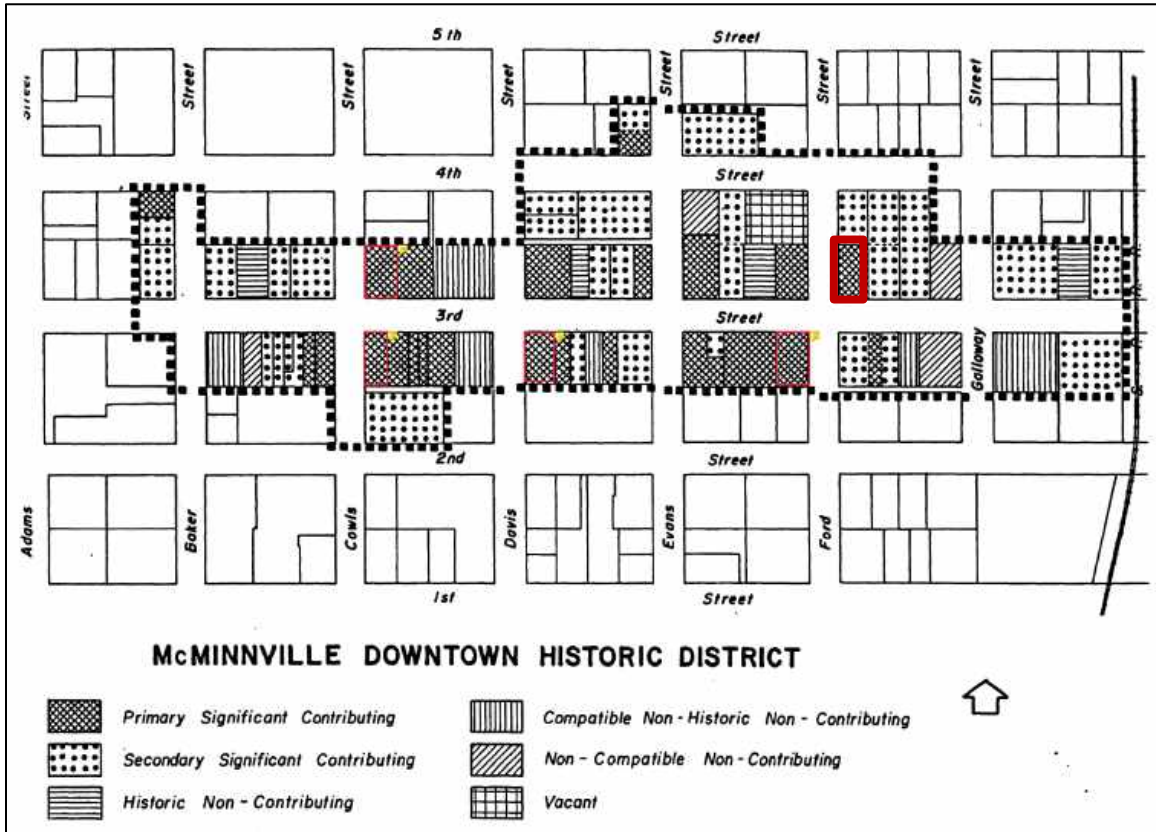
The subject property is located at 609 NE Third Street. The property is identified as Tax Lot 4500, Section 21BC, T. 4 S., R. 4 W., W.M. See **Vicinity Map (Figure 1) below, which identifies the approximate location of the building in question.**

**Figure 1. Vicinity Map (Building Outline Approximate)**



The existing building on the subject property is listed as a Primary Significant Contributing property in the McMinnville Downtown Historic District on the National Register of Historic Places. See **McMinnville Downtown Historic District Map (Figure 2) and Description of 609 NE Third Street in the McMinnville Downtown Historic District National Register of Historic Places Nomination (Figure 3) below.**

Figure 2. McMinnville Downtown Historic District Map



**Figure 3. Description of 609 East Third Street in the McMinnville Downtown Historic District National Register of Historic Places Nomination (Section 7, Page 23-24) (1987)**

30 ADDRESS: 609 East Third Street  
 CLASSIFICATION: Primary Significant Contributing  
 OWNER: Frances Fenton et al  
 5 E. 5th Street  
 McMinnville, Oregon 97128  
 ASSESSOR MAP: 4421 BC TAX LOT: 4500  
 PLAT: Rowland's Addition LOT: 5 BLOCK: 7  
 YEAR BUILT: 1904 STYLE: Commercial  
 ALTERATIONS: 1933, 1950's (moderate) USE: Commercial

DESCRIPTION: This rectangular two-story stuccoed corner building has a flat roof with a raised stucco cornice line. The second floor consists of three bays on Third Street. The two eastern bays contain paired wood sash windows each with three vertical lights. The bay at the western end contains a series of three wood windows with three vertical lights. Each bay is recessed approximately four inches and each window is recessed another four inches and has a projecting stuccoed sill. The second floor windows on the west facade are identical in type to those on the Third Street facade but occur in a different configuration. This facade has four bays and the window series from north to south is three, two, one, one. A stuccoed beltcourse divides the stories. Two piers on the Third Street facade remain intact (one has been removed). The east end of the Third Street ground floor facade contains an intact storefront one bay wide with an original wood frame plate glass window with a six light transom and stuccoed sill and bulkhead. The west end of the Third Street facade has been cut away across two bays and the entrance recessed two bays towards the north. An entrance was installed which faces west and has a wood sash glass and transomed entrance and storefront window. A wood storefront was also installed facing south which has several openings. The south end of the west facade is also cut away and the bay is divided by the addition of a new pier. The three remaining bays on this facade are divided by piers which extend from the cornice through to the ground. Next to the cut away bay (north) is an original wooden storefront window with a four-light transom and stucco bulkheads and sills. The next bay to the north contains a five-light transom and plate glass window divided into three vertical lights. The far north bay contains a wooden garage door.

This building was constructed for Frank W. Fenton, a prominent McMinnville attorney, whose photograph still appears upstairs. A photograph dating from 1904 shows the building has exposed brickwork and a double row of dentils above the windows. The present cutaway portion was an enclosed storefront.

Prior to the 1920's, Tony Christianson and Russell Turner had a battery shop in the building. Dick Wilson and Charles Newman ran a Plymouth agency in the building in the 1920's. Odell's Garage moved to this location in 1933.

The existing building on the subject property is listed on the McMinnville Historic Resources Inventory as a "Significant" resource (resource number B865). *Please see "Statement of Historical Significance and Description of the Property", Figure 4 below.*

**Figure 4. Statement of Historical Significance and Description of the Property, Historic Resources Survey, City of McMinnville, Yamhill County, Oregon (1983)**

This is a stucco-covered square brick building of two stories facing south and situated on a corner. The entire southwest portion of the ground floor is cutaway to accommodate automobiles and gasoline pumps. The roof is flat and only a simple ledge articulates the cornice line. Fixed inset windows of three vertical lights and set-in panels course the second story. Windows on the ground level are large fixed triple lights with multi-lighted transoms.

The building was erected by prominent lawyer Frank W. Fenton whose name still appears on a door upstairs. A photograph from 1904 shows the building's exposed brickwork and double row of dentils above the windows. The present cutaway portion was an enclosed storefront.

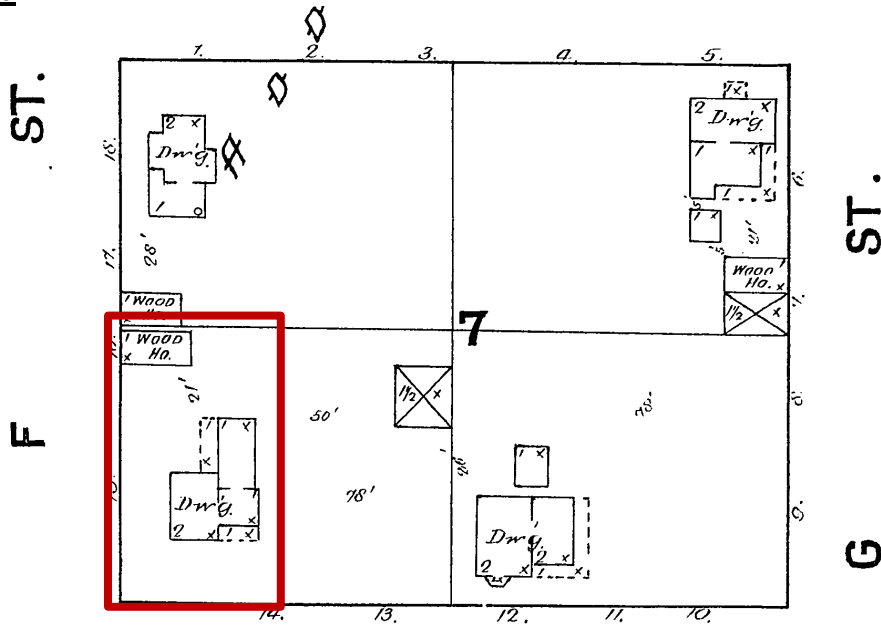
Tony Christianson and Russell Turner had a battery shop in the building prior to the 1920's; during the 1920's Dick Wilson and Charles Newman ran a Plymouth agency in the building. Odell's, who had been in business across the street since 1924, move to this location in 1933.

The property originally started off as a dwelling, prior to 1889, and between 1902 and 1912 it was redeveloped into an automobile garage and dealership. Then between 1928 and 1948 it was modified at the corner of Ford and Third Street to accommodate gas pumps. **Please see Figure 5, Series of Sanborn Maps below.**

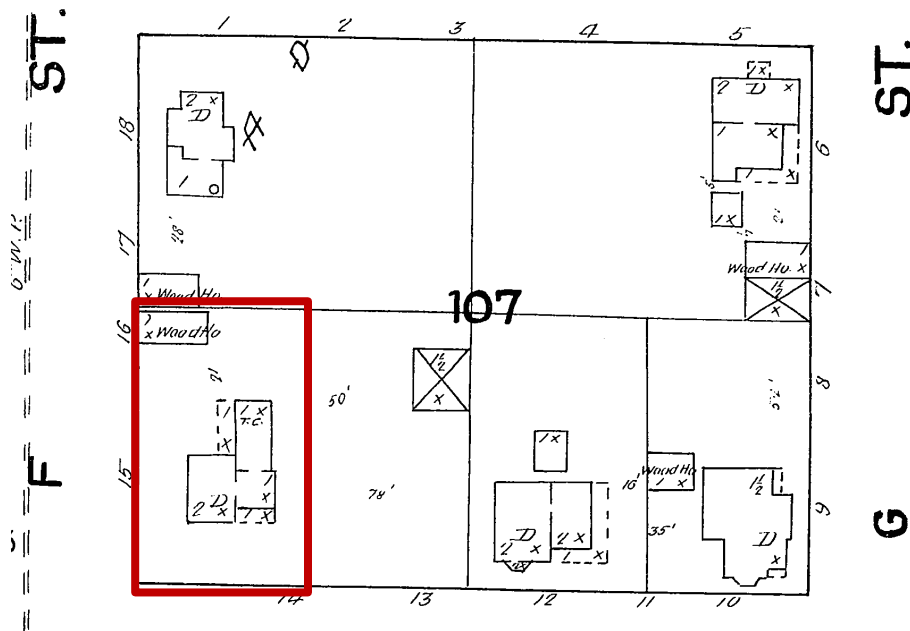


Figure 5. Series of Sanborn Maps

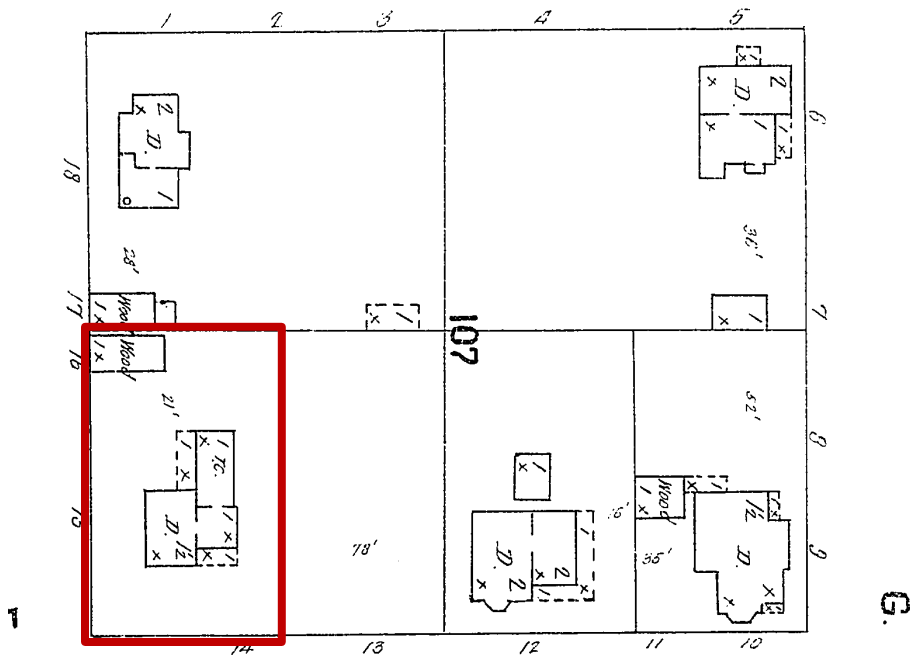
Sanborn Map, 1889



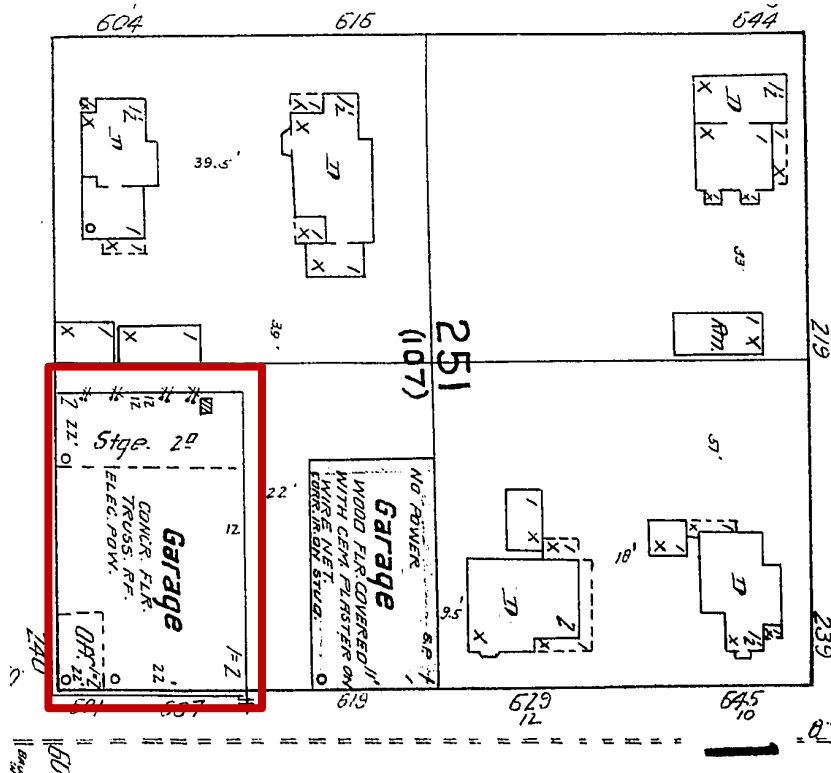
Sanborn Map, 1892



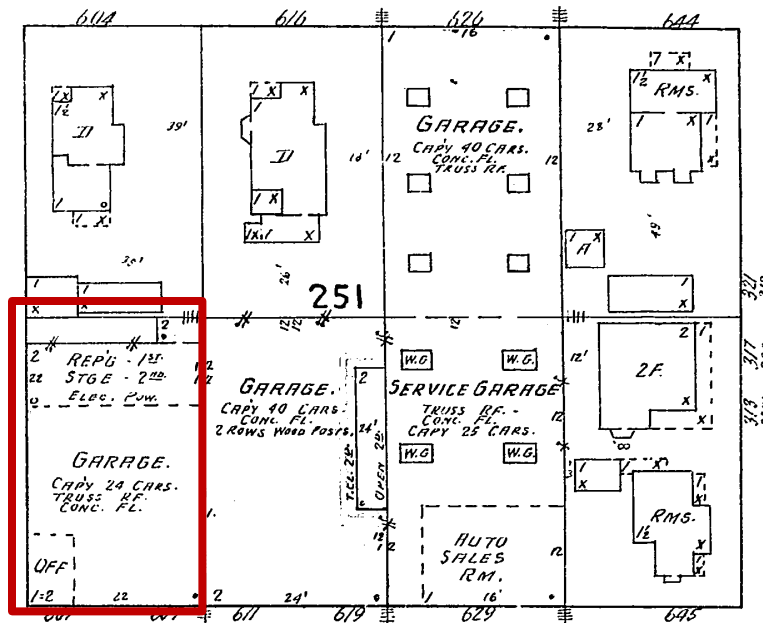
**Sanborn Map, 1902**



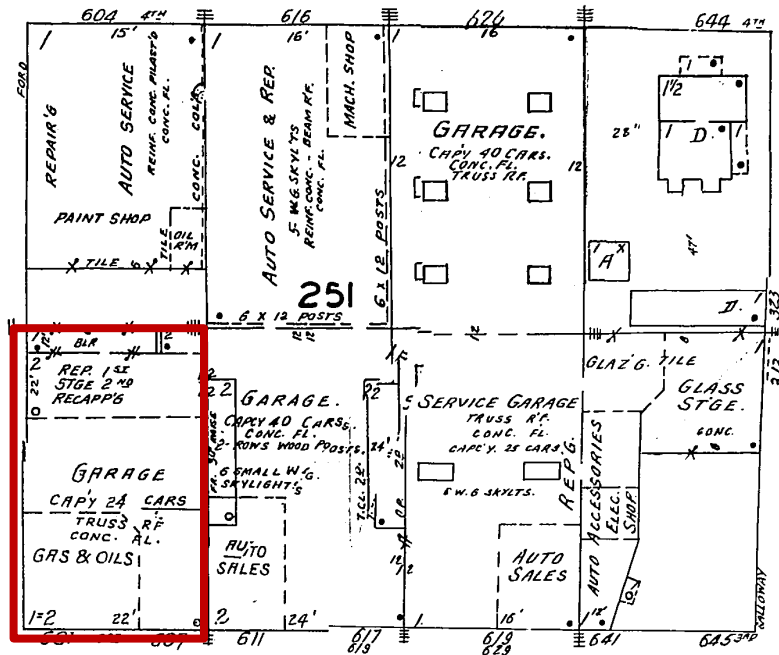
**Sanborn Map, 1912**



**Sanborn Map, 1928**



**Sanborn Map, 1948**



Architecturally the subject property has changed overtime to accommodate the new uses on the property. **Please see Series of Photos, Figure 6 below.**

**Figure 6, Series of Photos Over Time**

**Circa 1904, A historic photo provided by the Yamhill County Historical Society shows the original brick building with storefronts on the ground floor.**



**1940 Photo of 609 NE Third Street showing modified corner storefront for the gas pumps. (Yamhill County News Register)**



**1983 photo of the property shows the modified corner storefront for the gas pumps, the removal of the brick corbeling on the second floor and the stucco veneer that was applied all over., (Historic Resources Survey, City of McMinnville, Yamhill County, Oregon)**



**2018, Photo of 609 NE Third Street, shows the modified corner storefront filled in with a street facing storefront.**



## Background

The property was originally surveyed in 1983 and 1984, which are the dates that the “Statement of Historical Significance and Property Description” were drafted and included on the Historic Resources Inventory sheet (resource number (B865) for the subject property. This survey work led to the inclusion of the property on the Historic Resources Inventory, and the Historic Resources Inventory was adopted by the McMinnville City Council on April 14, 1987 by Ordinance 4401. The Historic Resources Inventory has since been incorporated into the McMinnville Municipal Code (MMC) through its adoption and reference in MMC Section 17.65.030(A).

The McMinnville Downtown Historic District was entered in the National Register of Historic Places on September 14, 1987.

## Summary of Criteria & Issues

The application (HL 6-22) is subject to Certificate of Approval for Demolition review criteria in Section 17.65.050 of the Zoning Ordinance and Oregon Administrative Rule 660-203-0200 (Section 8(a)). The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

Oregon Administrative Rule 660-203-0200 (Section 8(a)) states that:

- (8) *National Register Resources are significant historic resources. For these resources, local governments are not required to follow the process described in OAR 660-023-0030 through 660-023-0050 or sections (4) through (6). Instead, a local government:*
  - (a) *Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;*

Section 17.65.050 of the McMinnville Zoning Ordinance state that:

17.65.050 Demolition, Moving, or New Construction. *The property owner shall submit an application for a Certificate of Approval for the demolition or moving of a historic resource, or any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.*

- A. *The Historic Landmarks Committee may approve, approve with conditions, or deny the application.*
- B. *The Historic Landmarks Committee shall base its decision on the following criteria:*
  - 1. *The City’s historic policies set forth in the comprehensive plan and the purpose of this ordinance;*
  - 2. *The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;*
  - 3. *The value and significance of the historic resource;*
  - 4. *The physical condition of the historic resource;*
  - 5. *Whether the historic resource constitutes a hazard to the safety of the public or its occupants;*
  - 6. *Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;*
  - 7. *Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource’s preservation; and*
  - 8. *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written*



- description, measured drawings, sound retention or other means of limited or special preservation.*
- C. *If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, the Planning Director may approve the application without processing the request through the Historic Landmarks Committee.*
  - D. *The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any resource listed on National Register consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.*
  - E. *Any approval may be conditioned by the Planning Director or the Historic Landmarks Committee to secure interior and/or exterior documentation of the resource prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. The Historic Landmarks Committee may require documentation in another format or medium that is more suitable for the historic resource in question and the technology available at the time. Any approval may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings or other details.*
  - F. *If any proposed new construction is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).*

The applicant has provided findings to support the request for a Certificate of Approval for Demolition. These will be discussed in detail in Section VII (Conclusionary Findings) below.

## **II. CONDITIONS:**

1. The Certificate of Approval for Demolition of 609 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not constructed with a final occupancy permit within three years of the issuance of the building permit will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. If the successful completion of the replacement project is stalled due to unforeseen conditions the Applicant can appeal this condition of approval in writing to the Planning Commission for review. (OAR 660-023-0200(8)(a)).
2. 609 NE Third Street, McMinnville Historic Resource Inventory (B865) will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished. (OAR 660-023-0200(9))
3. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
4. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 8.00)
5. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)
6. The Applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that

specifically targets aging sewer laterals. Prior to the issuance of a building permit, the Applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)

7. Prior to submittal for a building demolition permit provide Engineering with detailed demolition plans for review and approval. (Comprehensive Plan Policy #25.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)
10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy 151.00)
11. Prior to the issuance of a building permit, the Applicant will need to meet with the McMinnville Downtown Association to develop a program that will educate local citizens on the benefits associated with an active historic preservation program, that will then be approved by the Planning Director.
12. Prior to the approval of a demolition permit, the Applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses. (McMinnville Municipal Code, 17.65.010(B))
13. The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives. (McMinnville Municipal Code 17.65.050(B)(7))
14. Prior to demolition the Applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection. (McMinnville Municipal Code 17.65.050(B)(8))
15. Prior to demolition the Applicant will provide the City with an archaeological plan describing how the Applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (McMinnville Municipal Code 17.65.050(B)(8))

### **III. ATTACHMENTS (On file with the Planning Department):**

#### **Planning Commission Appeal Application Materials Plus Supplemental Materials**

- ❖ AP 1-23 (Appeal of HL 6-22 Decision) Application and Attachments

Original Submittal (February 10, 2023)

- Application Form
- Notice of Appeal

- Exhibit 1 – Notice of Historic Landmarks Committee Decision, January 27, 2023
- Exhibit 2 – Staff Draft Decision Documents for HL 6-22, HL 7-22, HL 8-22 and DDR 2-22, dated January 5, 2023

Supplemental Submittal (February 27, 2023)

- Letter from Schwabe, Williamson and Wyatt, February 27, 2023
- Exhibit 1 – Applicant’s Response from Schwabe Williamson and Wyatt, December 15, 2022
- Exhibit 2 – Historic Landmarks Committee Staff Report, January 5, 2023, and attached draft decision documents for HL 6-22, HL 7-22, HL 8-22, DDR 2-22

Supplemental Submittal (March 9, 2023)

- Memorandum, Otak, March 9, 2023
- Practice Hospitality – Wage Breakdown
- Historic Resources Assessment

Supplemental Submittal (March 13, 2023)

- Financial Models – Hotel with Seismic (Base Case), Hotel with Seismic (Highest Case) and Office without Seismic

❖ Public Testimony

**Historic Landmarks Committee Application Materials Plus Supplemental Materials**

❖ HL 6-22 Application and Attachments

Original Submittal (August 9, 2022)

- Application Form
- Application Narrative
- Project Structural Analysis
- Project Site Plan and Concept Drawings
- Traffic Impact Analysis
- Memorandum
- Neighborhood Meeting Materials

Supplemental Submittal (November 4, 2022)

- Approvability Memorandum
- Structural Report
- Historic Resources Assessment
- Contaminated Media Management Plan (October 13, 2022)
- MAC Lease Rates
- 609 NE Third Street Tax Statement
- Third Party Contractor Assessment
- Historic Preservation Incentives Memorandum
- Economic Report
- Architectural Plans
- Traffic Impact Analysis Addendum

Supplemental Submittal (December 15, 2022)

- Letter to City with Additional Findings
- Exhibit 1, Historic Resources Assessment, Architectural Resource Group, November 2022
- Exhibit 2, Existing Building Structural Summary, HHPR, November 6, 2022
- Exhibit 3, Documentation of Existing Building Structures, HHPR, July 29, 2022
- Exhibit 4, Contaminated Media Management Plan (Draft)

- Exhibit 5, Economic Value of Structures in Downtown McMinnville, Oregon, Johnson Economics, November 2, 2022
- Exhibit 6, Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022
- Exhibit 7, McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022
- Exhibit 8, Memorandum Regarding Historic Preservation Incentives, Otak, October 31, 2022.
- Exhibit 9, 2022 Tax Statements
- Exhibit 10, The Gwendolyn Financial Pro-Forma, December 15, 2022

❖ Department/Agency Comments

❖ Public Testimony

#### **IV. COMMENTS:**

##### **Agency Comments**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and Oregon State Historic Preservation Office. The following comments were received:

##### **McMinnville Engineering Department**

###### **TRANSPORTATION**

Comments and/or conditions of approval related to transportation include:

1. ADA Sidewalk and Driveway Standards are now being applied to all new construction and remodels. These standards are intended to meet the current ADA Standards as shown in the "PROWAG" Design Guidelines. The standards can be found at the following webpage: <https://www.access-board.gov/files/prowag/PROW-SUP-SNPRM-2013.pdf> prior to final occupancy, the applicant shall construct new driveways and sidewalks in the right-of way that conform to these standards.
2. Study shows that queue lengths exceed storage length at the eastbound thru and westbound all of 2<sup>nd</sup> St at Baker St. Queue lengths also exceed storage lengths at the westbound thru and southbound left at the intersection of Johnson St/Lafayette St & 3<sup>rd</sup> St.

###### **SANITARY SEWER**

Comments and/or conditions of approval related to sanitary sewer service include:

1. The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rain water into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance.
2. Sewer Capacity may be an issue with the change of use of the property, the developer shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be born by the developer.

**MISCELLANEOUS**

Additional comments and/or suggested conditions of approval:

1. In the narrative, Part 4. B. Chapter 17.54.050 Yards part F. Response (Page 23) – 3<sup>rd</sup> St is listed as a Local Street. It is a Major Collector, please change to reflect the correct street classification.
2. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance.
3. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance.
4. The engineering department will need to review building permit submittals that show in detail items that could be missing in the applications provided. These reviews will be prior to any issuance of building permits.
5. The Contaminated Media Management Plan dated July 20, 2022, is not included in this application. This is a key point of discussion and should be included in the application.
6. CPP (Comprehensive Plan Policy): 2.00 “The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.”
  - a. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city’s right of ways.
7. CPP 8.00 “The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.”
  - a. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City’s Right of Way and downstream users and properties.
8. CPP 132.40.05 Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:
  - a. Improvement of on-site transportation facilities,
  - b. Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards.
9. The Applicant shall demonstrate its demolition, excavation and onsite construction activities do not create safety concerns related to the DEQ LUST matter and its site and known polluted soil and water. Additionally, the Applicant shall demonstrate how its demolition and construction activities will improve the use of the city’s off-site transportation facility, including but not limited to underground facility uses.
10. CPP 132.46.00 Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010).
  - a. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.

11. CPP 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.
  - a. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.
12. CPP 151.00 The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:
  - a. Federal, state, and local water and waste water quality standards can be adhered to.
  - b. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.

### McMinnville Building Department

No building code concerns. Analysis of IEBC appears to be accurate and based on Oregon adopted code.

### McMinnville Water and Light

Water: Please contact MW&L to turn off water meters and disconnect customer side of the meter – A16972894, C47575190 & A16972900 prior to demolition of property.

Power: Please contact MW&L to coordinate the removal of existing electric services prior to demolition. The Bindery Event space does not appear to have a dedicated electric service. There will need to be a provision for re-serving the Bindery Event Space with electricity during demolition.

## **Public Comments**

### Planning Commission Appeal

Notice of this appeal was mailed on February 9, 2023 to property owners located within 300 feet of the subject site and all participants in the Historic Landmarks Committee public hearing who provided contact information for the public record, and notice of the public hearing was published in the News Register on Tuesday, February 21, 2023. The following testimony was received by the Planning Department or provided at the public hearings on March 2 and March 16, 2023.

- Letter from Oregon Restaurant and Lodging Association, 02.17.23
- Email from Phyllice Bradner, 02.20.23
- Letter from Ernie Munch, MAP Architecture, 02.21.23
- Letter from Nathan Coopridner, 02.21.23
- Email from Marilyn Kosel, 02.22.23
- Email from Daniel Kiser, 02.25.23
- Email from Jenny Wilson, 02.26.23
- Email from Alex Sokol Blosser, 02.27.23
- Email from Janice Weiser, 02.27.23
- Letter from Katherine Huit, 02.27.23
- Email from Beth Caster, 02.28.23



- Email from Karen Milton, 02.28.23
- Email from Marie Fruga, 02.28.23
- Email from Carol Paddock, 03.01.23
- Email from Margaret Cross, 03.01.23
- Letter from Restore Oregon, 03.01.23
- Letter from Peter Kircher, 03.02.23
- Presentation at March 2, 2023 Public Hearing, Daniel Kiser
- Testimony Handout at March 2, 2023 Public Hearing, Ernie Munch
- Testimony Handout at March 2, 2023 Public Hearing, Jeb Bladine
- Testimony Handout at March 2, 2023 Public Hearing, Nathan Coopridner
- Email from Susan Marrant, 03.06.23
- Letter from Mike Colvin, 03.10.23
- Email from Jeb Bladine, 03.12.23
- Letter from Brian Libby, 03.13.23
- Carole Ray, 03.13.23
- Email from Frank Lisciandro, 03.13.23
- Email from Marie Frugia, 03.13.23
- Email from Mike Goins, 03.13.23
- Email from Carol Paddock, 03.14.23
- Email from Loretta Johnson, 03.14.23
- Email from Carol Paddock, 03.15.23
- Letter from Nathan Coopridner, 03.15.23
- Letter from Ernie Munch, 03.15.23
- Letter from Katherine Huit, 03.15.23
- Letter from Ilsa Perse, 03.15.23
- Letter from Marilyn Kosel, 03.15.23
- Testimony Presentation at March 16, 2023 Public Hearing, Marilyn Kosel
- Testimony Handout at March 16, 2023 Public Hearing, Nathan Coopridner

### Historic Landmarks Committee Application

Notice of this request was mailed to property owners located within 300 feet of the subject site on September 8, 2022 and notice of the public hearing was published in the News Register on Tuesday, September 20, 2022 and Friday, September 23, 2022. The following testimony was received by the Planning Department or provided at the public hearings on September 29, 2022 and January 5, 2023.

- Email from Kira Barsotti, 09.16.22
- Email from Shanna Dixon, 09.16.22
- Email from Marianne Mills, 09.18.22
- Email from Megan McCrossin, 09.18.22
- Email from Courtney Cunningham, 09.20.22
- Email from Jordan Robinson, 09.20.22
- Email from Phyllice Bradner, 09.20.22
- Email from Victoria Anderson, 09.20.22
- Letter from Marilyn Kosel, 09.20.22
- Letter from Patti Webb, 09.20.22
- Email from Sylla McClellan, 09.21.22
- Email from Meg and Zach Hixson, 09.22.22
- Email from Sharon Julin, 09.25.22
- Email from Daniel Kiser, 09.27.22
- Letter from Carol Dinger, 09.28.22
- Letter from Carol Paddock, 09.28.22

- Letter from Katherine Huit, 09.28.22
- Letter from Jeb Bladine, 09.28.22
- Letter from Practice Hospitality, 09.28.22
- Email from Kellie Peterson, 09.28.22
- Letter from JP and Ames Bierly, 09.28.22
- Memo from Nathan Coopriider, 09.28.22
- Email from Elizabeth Goings, 09.29.22
- Email from Abigail Neilan, 09.29.22
- Letter from Ilsa Perse, 09.29.22
- Email from The Scott Family, 09.29.22
- Email from Mandee Tatum, 10.05.22
- Email from Crystal55dreams, 10.25.22
- Email from Peter and Linda Enticknap, 11.22.22
- Letter from Karen Saxberg, 11.17,22
- Letter from Jeb Bladine, 11.29.22
- Letter from Nathan Coopriider, 11.29.22
- Letter from Ernie Munch, 11.30.22
- Letter from Marilyn Kosel, 11.30.22\
- Letter from Nathan Coopriider, 1.3.23
- Letter from Carol Paddock, 1.3.23
- Email from Daniel Kizer, 1.3.23
- Email from Michael Kofford, 1.3.23
- Email from Paul Lusignan, National Park Service, 1.3.23
- Email from Ernie Munch, 1.3.23
- Email from Beth Caster, 1.4.23
- Letter from Ernie Munch, 1.5.23

## **V. FINDINGS OF FACT - PROCEDURAL FINDINGS**

1. The applicant, Mark Vuong, on behalf of HD McMinnville LLC submitted the Certificate of Approval application (HL 6-22) on August 9, 2022.
2. The application was deemed complete on September 7, 2022. Based on that date, the 120-day land use decision time limit expires on January 5, 2023.
3. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and the Oregon State Historic Preservation Office on September 7, 2022.

Comments received from agencies are addressed in the Decision Document.

4. Notice of the application and the September 29, 2022, Historic Landmarks Committee public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.65.070(C) of the Zoning Ordinance on Thursday, September 8, 2021.
5. A public hearing notice was published in the News Register on Tuesday, September 20, 2022, and Friday, September 23, 2022.

6. On September 29, 2022, the Historic Landmarks Committee held a duly noticed public hearing to consider the request.
7. At the public hearing on September 29, 2022, the Historic Landmarks Committee chose to continue the public hearing to December 8, 2022. The applicant requested to extend the 120-day decision deadline by 70 days.
8. On November 4, 2022, the applicant provided supplemental application materials based on the requests from the Historic Landmarks Committee.
9. On December 1, 2022, the applicant requested, with the concurrence of city staff, to continue the public hearing from December 8, 2022, to January 5, 2023, and to extend the 120-day decision deadline by an additional 30 days for a total extension of 100 days.
10. On December 8, the Historic Landmarks Committee continued the public hearing to January 5, 2023.
11. On December 15, 2022, and December 19, 2022, the applicant provided supplemental materials per the request of city staff.
12. On January 5, 2023, the Historic Landmarks Committee continued and closed the public hearing, deliberated and directed staff to write findings for a decision of denial.
13. On January 26, 2023, the Historic Landmarks Committee voted 3-2 to deny the application.
14. On January 27, 2023, a notice of denial was emailed to the applicant and all of the participants in the public hearing process.
15. On February 10, 2023, the applicant appealed the decision of the Historic Landmarks Committee to the McMinnville Planning Commission.
16. Notice of the anticipated appeal application and the March 2, 2023, Planning Commission public hearing was mailed to property owners within 300 feet of the subject property and all participants in the Historic Landmarks Committee public hearing process on February 9, 2023. Confirmation was emailed on February 13, 2023.
17. A public hearing notice was published in the News Register on Tuesday, February 21, 2023.
18. On March 2, 2023, the Planning Commission held a duly noticed public hearing to consider the request and continued the public hearing to March 16, 2023.
19. On March 16, 2023, the Planning Commission continued the public hearing, closed the public hearing, deliberated, and voted 5 – 3 in favor of the applicant approving the application.

## **VI. FINDINGS OF FACT – GENERAL FINDINGS**

1. **Location:** 609 NE Third Street. The resource is located at the property that is identified as Tax Lot 4500, Section 21BC, T. 4 S., R. 4 W., W.M.
2. **Size:** The subject site and property is approximately 6,000 square feet.
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** C-3, General Commercial

5. **Overlay Zones/Special Districts:** Downtown Overlay District, Section 17.59 of the McMinnville Municipal Code.
6. **Current Use:** Office
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** Historic Resources Inventory – Resource Number B865.
  - b. **Other:** Primary Significant Contributing resource, McMinnville National Register of Historic Places Downtown Historic District
8. **Other Features:** The building is property tight with no setbacks, two stories, unreinforced brick with a stucco finish.
9. **Utilities:**
  - a. **Water:** Water service is available to the subject site.
  - b. **Electric:** Power service is available to the subject site.
  - c. **Sewer:** Sanitary sewer service is available to the subject site.
10. **Transportation:** The site is located on the northeast corner of Ford Street and Third Street. Third Street is a major collector in the McMinnville Transportation System Plan.

## **VII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Certificate of Approval for Demolition are specified in Section 17.65.050 of the McMinnville Municipal Code and Oregon Administrative Rule, Chapter 660 Division 23: Procedures and Requirements for Complying with Goal 5.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. “Proposals” specified in Volume II are not mandated but are to be undertaken in relation to all applicable land use requests.

### **Compliance with Oregon State Land Use Goals:**

#### **OAR Chapter 660, Division 23, Procedures and Requirements for Complying with Goal 5:**

- (1) *For purposes of this rule, the following definitions apply:*
  - (a) *“Demolition” means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition.*
  - (b) *“Designation” is a decision by a local government to include a significant resource on the resource list.*
  - (c) *“Historic context statement” is an element of a comprehensive plan that describes the important broad patterns of historical development in a community and its region during a specified time period. It also identifies historic resources that are representative of the important broad patterns of historical development.*
  - (d) *“Historic preservation plan” is an element of a comprehensive plan that contains the local government’s goals and policies for historic resource preservation and the processes for creating and amending the program to achieve the goal.*
  - (e) *“Historic resources” are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.*

- (f) “Locally significant historic resource” means a building, structure, object, site, or district deemed by a local government to be a significant resource according to the requirements of this division and criteria in the comprehensive plan.
- (g) “National Register Resource” means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).
- (h) “Owner”:
- (A) Means the owner of fee title to the property as shown in the deed records of the county where the property is located; or
  - (B) Means the purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
  - (C) Means, if the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner; and
  - (D) Does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature; or
  - (E) Means, for a locally significant historic resource with multiple owners, including a district, a simple majority of owners as defined in (A)-(D).
  - (F) Means, for National Register Resources, the same as defined in 36 CFR 60.3(k).
- (i) “Protect” means to require local government review of applications for demolition, relocation, or major exterior alteration of a historic resource, or to delay approval of, or deny, permits for these actions in order to provide opportunities for continued preservation.
- (j) “Significant historic resource” means a locally significant historic resource or a National Register Resource.
- (2) Relationship of Historic Resource Protection to the Standard Goal 5 Process.
- (a) Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories, resource lists or programs regarding historic resources, except as specified in section (8). Local governments are encouraged to inventory and designate historic resources and must adopt historic preservation regulations to protect significant historic resources.
  - (b) The requirements of the standard Goal 5 process in [OAR 660-023-0030 \(Inventory Process\)](#) through [660-023-0050 \(Programs to Achieve Goal 5\)](#), in conjunction with the requirements of this rule, apply when local governments choose to amend acknowledged historic preservation plans and regulations.
  - (c) Local governments are not required to apply the ESEE process pursuant to [OAR 660-023-0040 \(ESEE Decision Process\)](#) in order to determine a program to protect historic resources.

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.**

- (3) Comprehensive Plan Contents. Local comprehensive plans should foster and encourage the preservation, management, and enhancement of significant historic resources within the jurisdiction in a manner conforming with, but not limited by, the provisions of [ORS 358.605 \(Legislative findings\)](#). In developing local historic preservation programs, local governments should follow the recommendations in the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, produced by the National Park Service. Local governments should develop a local historic context statement and adopt a historic preservation plan and a historic preservation ordinance in conjunction with inventorying historic resources.
- (4) Inventorying Historic Resources. When a local government chooses to inventory historic resources, it must do so pursuant to [OAR 660-023-0030 \(Inventory Process\)](#), this section, and sections
- (5) through (7). Local governments are encouraged to provide opportunities for community-wide participation as part of the inventory process. Local governments are encouraged to complete the inventory in a manner that

satisfies the requirements for such studies published by the Oregon State Historic Preservation Office and provide the inventory to that office in a format compatible with the Oregon Historic Sites Database.

- (5) *Evaluating and Determining Significance.* After a local government completes an inventory of historic resources, it should evaluate which resources on the inventory are significant pursuant to [OAR 660-023-0030 \(Inventory Process\)](#)(4) and this section.
- (a) The evaluation of significance should be based on the National Register Criteria for Evaluation, historic context statement and historic preservation plan. Criteria may include, but are not limited to, consideration of whether the resource has:
- (A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
- (B) Significant association with the lives of persons significant to local, regional, state, or national history;
- (C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;
- (D) A high likelihood that, if preserved, would yield information important in prehistory or history; or
- (E) Relevance within the local historic context and priorities described in the historic preservation plan.
- (b) Local governments may delegate the determination of locally significant historic resources to a local planning commission or historic resources commission.
- (6) *Designating Locally Significant Historic Resources.* After inventorying and evaluating the significance of historic resources, if a local government chooses to protect a historic resource, it must adopt or amend a resource list (i.e., “designate” such resources) pursuant to [OAR 660-023-0030 \(Inventory Process\)](#)(5) and this section.
- (a) The resource list must be adopted or amended as a land use decision.
- (b) Local governments must allow owners of inventoried historic resources to refuse historic resource designation at any time during the designation process in subsection (a) and must not include a site on a resource list if the owner of the property objects to its designation on the public record. A local government is not required to remove a historic resource from an inventory because an owner refuses to consent to designation.
- (7) *Historic Resource Protection Ordinances.* Local governments must adopt land use regulations to protect locally significant historic resources designated under section (6). This section replaces [OAR 660-023-0050 \(Programs to Achieve Goal 5\)](#). Historic protection ordinances should be consistent with standards and guidelines recommended in the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior, produced by the National Park Service.

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The City of McMinnville has an acknowledged Historic Preservation program, including an adopted Historic Preservation Plan as a supplemental document to the McMinnville Comprehensive Plan, Comprehensive Plan policies, an adopted Historic Resources Inventory that is actively maintained, historic resource protection ordinances, and an appointed Historic Landmarks Committee that administers and manages the historic preservation program, and makes quasi-judicial decisions on historic landmarks land-use decisions.

- (8) *National Register Resources are significant historic resources.* For these resources, local governments are not required to follow the process described in [OAR 660-023-0030 \(Inventory Process\)](#) through [660-023-0050 \(Programs to Achieve Goal 5\)](#) or sections (4) through (6). Instead, a local government:
- (a) Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy



*objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;*

**APPLICANT’S RESPONSE:** For the reasons explained below, consideration of the several factors addressed herein demonstrates that the value of these buildings to the historic character of the Historic District is relatively low, that the buildings' values with their current or similar uses are very limited and likely insufficient to provide for needed repairs, that the buildings cannot be economically seismically-retrofitted in their current configuration to allow for a hospitality or other adaptive re-use, and that the public interest in preserving them is outweighed by the public and private benefits achieved by construction of the proposed Gwendolyn Hotel..

The above provision requires local governments to consider a number of factors when deciding whether to allow demolition of structures that are located within National Historic Districts. However, the obligation of the City is to consider these factors; the applicant is not required to prove that one or all of them are "met" as would be the case with a mandatory criterion begging a "yes or no" question. *Frankton Neighborhood Association v. Hood River County*, 25 Or LUBA 386, 395 ( 1993); *Von lubken v. Hood River County*, 18 Or LUBA 18, 21-22 ( 1989). No particular balancing of these factors is required, either. The Historic Landmarks Committee ("HLC") can find (1) that these factors have all been considered with respect to the three buildings proposed for demolition and (2) consideration of these factors supports the Applicant's demolition proposal for each building, which are addressed separately, below.

**CITY RESPONSE:** Oregon Administrative Rule (OAR) 660-023-0200(1)(g) defines districts listed in the National Register of Historic Places as a National Register Resource, therefore this state rule applies to all properties within the McMinnville Downtown Historic District unless the local jurisdiction has excluded non-contributing resources. Per Section 17.65.040(A)(1) of the McMinnville Municipal Code, accessory structures and non-contributing resources within a National Register of Historic Places nomination are excluded from the Certificate of Approval process. Per Figure 2 of this decision document, 609 NE Third Street is considered a Primary Significant Contributing resource in the McMinnville Downtown Historic District.

**FINDING:** The City concurs with the Applicant’s response that the provision applies but that the administrative rule does not provide any objective standards for how the Historic Landmarks Committee must consider these factors.

### **OAR 660-023-0200(8)(a) Factors to Consider – Condition of the Property**

**APPLICANT RESPONSE (Original Application):** All three of the buildings are constructed of unreinforced brick. As noted in the structural report included as Appendix C, the building at 609 NE 3<sup>rd</sup> Street is in the best condition of the three. Even so, there are structural concerns that should be evaluated if the building continues to be used for its current activities.

The buildings at 611 and 619 NE 3<sup>rd</sup> Street have more significant challenges, including interior water damage, a shared wall between the two, and deterioration of the exterior wall.

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** The applicant is not requesting demolition of the property due to significant structural issues or imminent public safety hazards. However, additional information from the structural engineer has been provided in response to HLC requests. See Attachment 1.

*Attachment 1 – Memo from Jason Dhanens PE SE, Structural Manager, Harper Houf Peterson Righellis Inc. (HHPR) dated November 6, 2022.*

**Scope Summary:**

What follows is a response to the structural components of the City of McMinnville Staff Report dated September 29, 2022. The Staff Report is a response to the information submitted by the design team that contain information prepared by the HHPR Structural Team in relation to the structural condition of the existing buildings. The initial report prepared by HHPR is dated July 29, 2022.

**Response:**

There is a common comment that is applied to each of the three buildings. This is:

*“The structural analysis is very cursory and did not include any load test sites. Without load testing of the unreinforced masonry walls, the structural analysis did not indicate any structural issues that were significant or imminent public safety hazards, the condition of the building is not a significant determining factor requiring the demolition of the property.”*

- No analysis (structural calculations) was performed and would be premature based upon where we are in the process.
- Given that load testing of specific materials does not determine a building's seismic performance, and for the following additional reasons, HHPR's analysis does not include load testing of brick or other materials. Load testing the brick would be premature at this time and is typically used when the scope is to salvage the building. That scope would involve an ASCE Tier 1 Assessment and Tier 2 Retrofit. Industry knowledge regarding the shear capacity of brick-and-mortar assemblies is that they are known to be low strength in URM buildings, particularly older ones.
- An analysis of unreinforced masonry buildings (URM) is not required at this time to understand and convey the risks associated with URM buildings. We have used our knowledge and expertise as structural design professionals to convey the risks.
- Further, we have referenced FEMA documents below to further convey the risks associated with unreinforced masonry buildings.
- While our work did not find conditions that would require immediate demolition of the building structures, the list of previously presented Emergent Concerns do represent items that, if left unaddressed, could lead to a local failure or a partial collapse of the building structures.
- Items such as these are common across all buildings in that maintenance items, if left unaddressed, can become structural concerns that can lead to significant structural issues for a building. This varies across building type, age and environment. In general, the older the building and the longer without maintenance, the quicker the structural deterioration.
- The emergent concerns specifically noted in the original report are:
  - ✓ Building 609 – The most southern roof truss in the building has a top chord node that is out of plane by over 6 inches. This represents a significant structural concern and should be evaluated further with possible remedial actions should the building remain. The remedial action includes installing a new girder and columns to support the truss thereby removing mezzanine and roof loading from the truss.

If we were in a position to advise the building owner, we would recommend that these items be addressed in the very near future. While the finding is that “The Historic Resource is not a hazard to the safety of the public,” the emergent concerns are significant and should be addressed in the very near future.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** 609 NE Third Street designated as a "Primary Significant Contributing" and is described in the Staff Report as follows:

"This is a stucco-covered square brick building of two stories facing south and situated on a corner. The entire SW portion of the ground floor is cutaway to accommodate automobiles and gasoline pumps. The roof is flat and only a simple ledge articulates the cornice line."

"The property originally started off as a dwelling, prior to 1889, and between 1902 and 1912 it was redeveloped into an automobile garage and dealership. Then between 1928 and 1948 it was modified at the corner of Ford and Third Street to accommodate gas pumps."

The condition of the building in general was not characterized by the HRA (Historic Resources Assessment, Architectural Resource Group, November 2022). Condition of the original features of the building are described as follows:

- o The three original wood storefront windows and transoms, and south, west, and north elevation second-floor windows, are in fair to good condition.
- o The second-floor interior, at the south side of the building, is vacant and has been unused for a significant time period. As noted previously, the windows are in fair to good condition, including original mill work surrounds. Where plaster remains, it is in poor condition.
- o Original wood trusses at the interior appear to be in good condition.

It is notable, however, that a return of the ground-floor facade to its historic character is likely very difficult:

"The brick may have been scarified for application of the stucco, and there may also be areas of wire mesh, wood blocking or other materials added to infill the original corbelled brick configuration. If a return to the original brick appearance were desired, the removal of the stucco would likely require substantial if not full replacement of the underlying brick."

The HHPR Existing Building Structural Summary (Exhibit 2) identifies the following structural deficiency in the building:

"The most southern roof truss in the building has a top chord node that is out of plane by over 6 inches. This represents a significant structural concern and should be evaluated further with possible remedial actions should the building remain. The remedial action includes installing a new girder and columns to support the truss thereby removing mezzanine and roof loading from the truss."

HHPR 's initial structural review of the building, dated July 29, 2022, identified the following issues:

- o The roof framing over the original 2nd level offices is significantly deteriorated in several locations.
- o The south brick wall at the 2nd level offices is deteriorating and the mortar is no longer sound.
- o There are multiple diagonal cracks following the mortar lines at the 2nd level offices.
- o The 1st truss from the south elevation is displaced over 6 inches horizontally at the top which represents a significant structural concern.

**CITY RESPONSE:** The structural analysis does not indicate any structural issues that were significant or imminent public safety hazards, the condition of the building is not a significant determining factor requiring demolition of the property by itself as a factor.



The structural analysis focuses on maintenance issues that are compromising the structural integrity of the building and the overall structural integrity of all historic unreinforced masonry buildings. This would assume that all historic unreinforced masonry buildings that have not been maintained adequately are justification for demolition of historic resources.

The Structural Report, provided by Harper Houf Peterson Righellis Inc. (HHPR) dated July 29, 2022, provides an existing condition report of 609, 611, and 619 Third Street. It points out observed structural issues and concludes with emergent concerns.

Emergent Concerns

- Building 609 – previously noted truss node that is out of plane over 6 inches
- Building 611 – previously noted missing beams intended to spread load across floor below
- Building 619 – previously noted rotten bearing condition at truss
- All Buildings – previously noted overall condition of brick and mortar in locations in each building

Below is the detail on the truss node that is out of plane over six inches in 609 NE Third Street.

- The most southern roof truss in the 609 Building has a top chord node that is out of plane by over 6 inches. This represents a significant structural concern and should be evaluated further with possible remedial actions should the building remain. The remedial action includes installing a new girder and columns to support the truss thereby removing mezzanine and roof loading from the truss



The report also examines three options for preserving the historic resources: 1) retain existing buildings and construct a new hotel over the top of the existing buildings; 2) retain and maintain the existing buildings and relocate the existing buildings.

The report concludes that the first option to construct a new hotel over the top of the existing buildings would require a complete seismic and structural upgrade to the buildings and would be problematic relative to the placement of needed structural supports in the existing buildings.

The second option to retain and maintain the existing buildings would require investment in general maintenance, repair and remediation of the spaces as well as repair of the emergent concerns described above.

And the third option to relocate the three buildings is impractical due to the unreinforced masonry structure of the buildings.

### **OAR 660-023-0200(8)(a) Factors to Consider – Historic Integrity of the Property**

**APPLICANT RESPONSE (Original Application):** Per the National Register of Historic Places nomination, buildings were classified locally as Primary Resources based on the date of construction in or before 1912, rather than historic integrity. Secondary Significant Contributing structures were identified based on construction between 1913 and 1937. These classifications do not appear to address architectural integrity or building condition.

This building was constructed prior to 1904 and was therefore classified as a Primary Significant Contributing structure. As noted in the HRI statement and shown in Photo 1, the building was initially constructed of brick and included ground floor storefronts and second level offices. However, it has undergone significant renovations since its construction including alterations in 1933 and the 1950s. It is unclear when the second story was removed from use as offices.

The 1980 HRI statement indicated that the building was in use at the tire shop at the time of its preparation, and “the entire southwest portion of the ground floor is cut-away to accommodate automobiles and gasoline pumps.” The HRI also indicated that the condition of the building was “good” (as opposed to excellent, fair, or poor).

A historic photo provided by the Yamhill County Historical Society shows the original brick building with storefronts on the ground floor.

**Photo 1 609 NE 3rd Street ca. 1904**



*Source: Yamhill County Historical Society*

A 1919 photo published in the News Register appears to show an enclosed storefront. See Photo 2.

**Photo 2 609 NE 3rd Street ca. 1919**

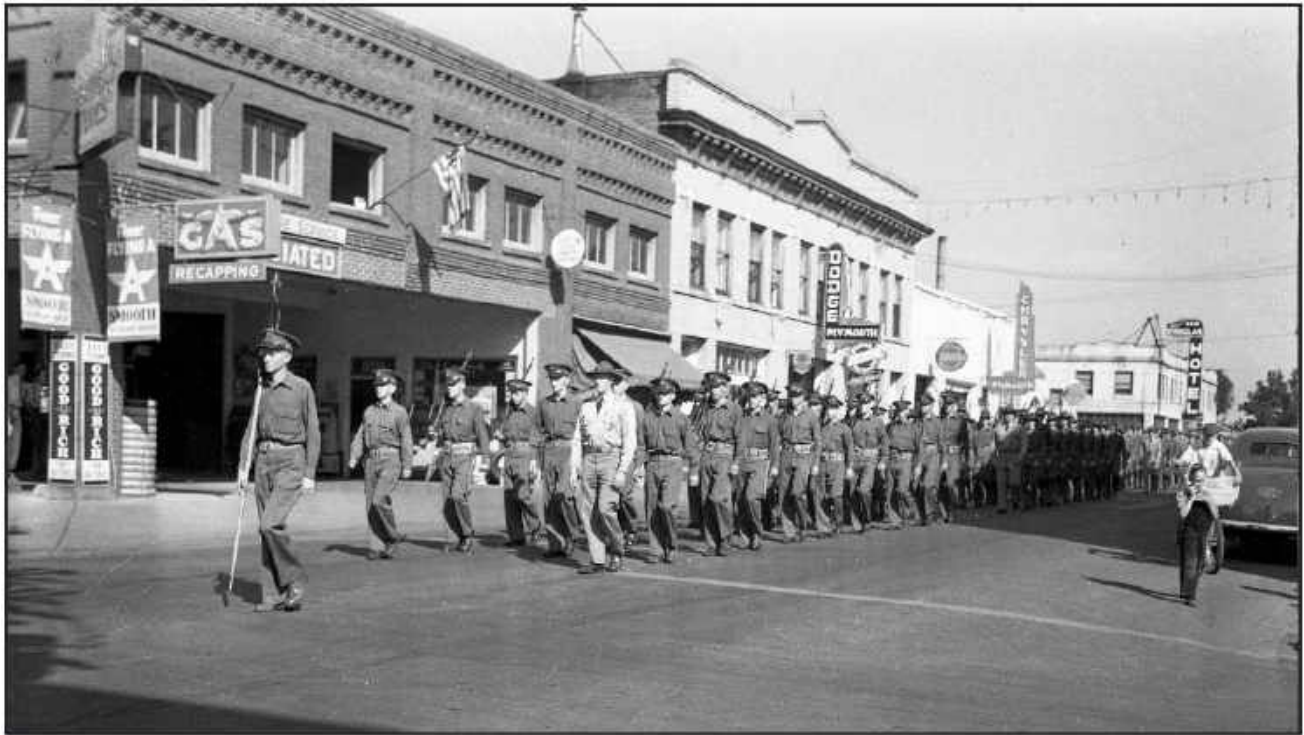


*Source: Yamhill County News-Register; picture of Third Street in McMinnville around 1919 from the collection of Michael Hafner.*



A 1940 photo in the News-Register shows that the ground floor storefronts has been removed between 1919 and 1940 time to accommodate cars and gas pumps, but the brick exterior remained intact. This may have been the 1933 alteration noted in the National Register nomination.

**Photo 3 609 NE 3rd Street in 1940**



*Source: Yamhill County News-Register*

The HRI includes a 1983 photo of the building. At the time of categorization as a Primary Contributing Structure in the HRI, the building had almost nothing of its original façade remaining. The stucco may have been applied in the 1950s; the ground floor is in the same configuration as the 1940 photo.

**Photo 4 609 NE 3rd Street in 1983**



Source: City of McMinnville Historic Resources Survey, 1983. Available at [https://www.mcminnvilleoregon.gov/sites/default/files/archives/Historic Resources/B Book/b865 inventory.pdf](https://www.mcminnvilleoregon.gov/sites/default/files/archives/Historic%20Resources/B%20Book/b865%20inventory.pdf).

In 2000, the current owner renovated the ground floor, enclosing the storefront but retaining the stucco finish. The building remains substantially changed since its original construction as shown in Photo 5 below.

**Photo 5 609 NE 3rd Street in 2017**



Source: <https://www.loopnet.com/Listing/609-NE-3rd-St-McMinnville-OR/9910462/>

Given the significant alterations since the time of its construction and the time of its addition to the HRI, the Committee can find that the building no longer retains historic integrity.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):**

Historic Integrity. In this context, the "Historic Integrity" of the building refers to features that existed within the date range of secondary significance. The building has been updated since 1983, when the Historic District was established. The Historic District Nominating Form did not identify any period after 1937 as historically significant; therefore, features added after that date are not considered historically significant.

The historic integrity of the building has been substantially compromised since it was originally constructed, based on the HRA report (Historic Resources Assessment, Architectural Resource Group, November 2022). The following is a list of alterations to the building since it was constructed:

- o Resurfacing with stucco.
- o Reconfiguration of the ground floor at the southwest corner of the building between 1928 and 1940 to a more open plan to accommodate gas pumps. Infill of these same bays (west two bays facing NE 3rd Street and south three bays facing NE Ford Street) after 1983.
- o Storefront in fill of north bay of NE Ford Street.
- o Replacement of ground floor windows at easternmost bay (original transom windows remain above).
- o Loss of historic garage blade signage.
- o Addition of brick chimney at rear (north) elevation.

- o Likely addition of the one-story north bay at the rear of the building (its materials differ from the original structure, with stucco-covered concrete masonry unit walls, and steel windows).

The HRA Report goes on to conclude that the only "character defining features" confirmed to be remaining on the building<sup>1</sup> include the following:

- o Wood sash windows.
- o One wood storefront window and transom at the easternmost bay of NE 3rd Street, although the glass at the storefront unit was replaced and subdivided with metal mullions.
- o Two bays of wood storefront windows and transoms at the NE Ford Street Elevation.
- o Interior finishes, such as window mill work, remain at several second-floor offices at the south end of the building.

Note that the HRA, while helpful, does not address "historic integrity" specifically but only "character defining features." Even if the above are components of "historic integrity," these are far outweighed by the fact that the building has been reskinned, its corner removed and later replaced in a manner not reflective of its original historic character, windows have been replaced, a chimney added, and addition of a one-story garage bay at the north side of the building.

For the above reasons, the historic integrity of the building is minimal.

**CITY RESPONSE:** It appears that historic integrity is significantly compromised and is not a significant factor to prevent demolition. The City agrees that the identification of primary and secondary contributing resources in the 1987 McMinnville Downtown National Register of Historic Places Historic District was based primarily on the estimated age of the structure and not the historic integrity of the extant structure. The City also agrees that the structure underwent significant modifications with the ground floor storefront modification to add gas pumps between 1928 and 1948 (*See Figure 5, Series of Sanborn Maps and Figure 6, Series of Photos* in this decision document), the new storefronts installed in 2000 and the stucco application to the brick external veneer, all of which have compromised the historic integrity of the structure.

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<sup>1</sup> The Report also lists the building's location, massing, flat roof, and structural members (i.e. the building's existence) as "character-defining features," but loss of these features would only occur if the building had been demolished to some extent and are not properly considered part of the building's "historic integrity," as they indicate no more than that the building still exists with the same number of stories. Indeed, all of these characteristics would be the same even if the building had been gutted and refinished entirely. Regardless, the above factor concerns "historic integrity," not "character defining features."



The HRA report clearly states that all three properties are important in terms of historic significance as they represent the time period of the McMinnville National Register of Historic Places Historic District context statement relative to the emergence of automobile transportation in McMinnville. It then describes that a building's historic integrity is different from its historic significance and is reflective of the materials, form and massing that are original to the building from the time period of its significance. For 609 NE Third Street, there are several elements that are original to the building (several wood windows on the second floor Third Street elevation and the storefronts on the ground floor of the NE Ford Street elevation and some on the Third Street elevation, the form and the massing.) Per the HRA report they are in fair and good condition.



South Elevation facing NE Third Street, illustrating original features (ARG, October 2022).



West Elevation facing NE Ford Street, illustrating original features (ARG, October 2022).

However, as the applicant points out, the historic integrity is based on the historic context of the National Register of Historic Places nomination which identified the emergence of the automobile

industry as a significant factor. And the most significant changes to this property after the National Register of Historic Places Historic District nomination changed that aspect of the building by infilling the corner automobile bay of the building with a storefront that does not match the original storefront of the building in 1904.



*The bays at the corner of the ground floor have been infilled with the current street-facing storefront; three original storefront bays remain (ARG, October 2022).*

### **OAR 660-023-0200(8)(a) Factors to Consider – Age of the Property**

**APPLICANT RESPONSE (Original Application):** As noted above, the building at 609 NE 3<sup>rd</sup> Street was constructed in 1904 and is 118 years old. The building at 611 NE 3<sup>rd</sup> Street was constructed in 1920 and is 102 years old. The building at 619 NE 3<sup>rd</sup> Street was constructed in 1923 and is 99 years old.

As noted in the structural report included as Appendix C, all three buildings are showing signs of their age.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Age. The building was constructed in 1904. While this is within the 1881-1912 date range for a "primary contributing resource," it is the latter end of that range. Other than its age qualifying it as a contributing resource in the Historic District, its build year does not convey significance.

**CITY RESPONSE:** Although the building was constructed in 1904, many of the original elements of the building no longer exist except for the overall form and massing of the building, and some individual components.

The HRA report provided by the applicant indicates that many of the distinctive elements from the original structure in 1904 are no longer visible or restorable on the building including the original brick and ornamental brickwork and the majority of the original storefronts.





Source: Yamhill County Historical Society

Original 1904 Structure



Current Structure

### **OAR 660-023-0200(8)(a) Factors to Consider – Historic Significance of the Property**

**APPLICANT RESPONSE (Original Application):** As described in the McMinnville Historic Preservation Plan (Ord. 5068), the HRI defined the historic resource classes in the following way:

- *Distinctive: Resources outstanding for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places.*
- *Significant: Resources of recognized importance to the City due to historical association or architectural integrity, uniqueness, or quality.*
- *Contributory: Resources not in and of themselves of major significance, but which enhance the overall historic character of the neighborhood or City. Removal or alteration would have a deleterious effect on the quality of historic continuity experienced in the community.*
- *Environmental: This category includes all resources surveyed that were not classified as distinctive, significant, or contributory. The resources comprise an historic context within the community.*

As noted in the 1987 National Register nomination, buildings on the McMinnville HRI were classified based on the building date, building style, type and number of alterations, building setback, and roof shape. At the time, there were 52 contributing (Primary and Secondary) and 14 non-contributing buildings in the district.

The National Register nomination describes the categories as such:

1. *Primary Significant Contributing: Structures are classified as Primary Significant if they were built on or before 1912, or reflect the building styles, traditions, or patterns of structures typically constructed before this date. These buildings represent the primary period of construction and development in downtown McMinnville from initial settlement in 1881 to 1912, when city improvements and use of the Oregon Electric and Southern Pacific Railroad service prompted new construction in the downtown area.*
2. *Secondary Significant Contributing: Structures are classified as Secondary Significant if they were built in or between 1913 and 1937. These buildings represent the secondary period of construction and development from the increase of city improvements and auto traffic.*
3. *Historic Non-Contributing: Structures are classified as Historic Non-Contributing if they were built either during the primary or secondary periods of construction but have been so altered over time that their contributing elements (siding, windows, massing, entrances, and roof)*



*have been lost or concealed. If their contributing elements were restored, these buildings could be reclassified as Primary of [sic] Secondary Significant.*

4. *Compatible Non-Historic and Non-Contributing: Structures are classified as Compatible Non-Contributing if they were built after 1937 (When the nomination was being prepared in 1987, buildings constructed in 1937 were then 50 years old and met the threshold for National Register eligibility). but are compatible architecturally (i.e. scale, materials, use) with the significant structures and the historic character of the district.*
5. *Non-Compatible Non-Contributing: Structures are classified as Non-Compatible Non-Contributing if they were built after 1937 and are incompatible architecturally (i.e. scale, materials, and use) with the significant structures and the historic character of the District.*
6. *Vacant: Properties are classified as Vacant if there are no buildings sited on them (i.e., vacant lots, alleys, parking lots).*

The HRI statements of historical significance do not provide any detail about why the buildings were classified as Primary or Secondary resources, aside from the date of construction, so it is difficult to determine what features of the buildings warranted their classification. Arguably, as described below, each of these buildings could have met the criteria for designation as Historic Non-Contributing buildings, as they met the age threshold but had been substantially altered prior to their HRI designations.

As noted above, the siding of the building at 609 NE 3<sup>rd</sup> Street has been completely changed from brick to stucco; storefront walls and windows have been removed and reconstructed; and the entrance has been relocated to the corner. Only the massing and roof remain intact. The building has been further altered since its designation and while attractive, appears to be a completely different building than the original structure.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Historic Significance. The City's Historic District's 1983 statement of historic significance is as follows:

This is a stucco-covered square brick building of two stories facing south and situated on a corner. The entire southwest portion of the ground floor is cutaway to accommodate automobiles and gasoline pumps. The roof is flat and only a simple ledge articulates the cornice line. Fixed inset windows of three vertical lights and set-in panels course the second story. Windows on the ground level are large fixed triple lights with multi-lighted transoms.

The building was erected by prominent lawyer Frank W. Fenton whose name still appears on a door upstairs. A photograph from 1904 shows the building's exposed brickwork and double row of dentils above the windows. The present cutaway portion was an enclosed storefront.

Tony Christianson and Russell Turner had a battery shop in the building prior to the 1920's; during the 1920's Dick Wilson and Charles Newman ran a Plymouth agency in the building. Odell's, who had been in business across the street since 1924, move to this location in 1933.

The first paragraph explains how the building looked in 1983. The second paragraph explains who constructed the building and describes a photograph of the building taken in 1904. The third paragraph explains which businesses operated in the building (a battery shop, Plymouth dealership, and auto shop) between 1904 and 1933.

"Historic Significance" is not defined in OAR 660-033-023. However, OAR 660-033-023(5)(a) explains that the "evaluation of significance" should be based on the following<sup>2</sup>:

*"(A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;*

*(B) Significant association with the lives of persons significant to local, regional, state, or national history;*

*(C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;*

*(D) A high likelihood that, if preserved, would yield information important in prehistory or history; or*

*(E) Relevance within the local historic context and priorities described in the historic preservation plan. "*

With respect to (A), the Historic District's significance statement does not connect the building with any significant events. With respect to (B), while the building's original owner was identified as prominent attorney Frank W. Fenton, the statement of significance does not explain how Mr. Fenton's life was particularly significant to local, regional, state or national history. It is also notable that by at least 1912 it was an automobile garage and dealership. With respect to (C), there is no evidence that the building possessed a particularly distinctive or notable design, artistic values, "or represents a significant and distinguishable entity whose components may lack individual distinction." Even if it did, the substantial changes to the building would have eliminated any such distinctiveness. With respect to (D), given the substantial changes to the building since Mr. Fenton built it, there is nothing about this building that "yields information important in prehistory or history." Assuming that Mr. Fenton was important to local history, the building's appearance and use as an auto-shop for most of its existence does nothing to evoke his importance to history, unlike the other building he constructed in the Historic District, which is not proposed for demolition.<sup>3</sup>

Finally, with respect to (E) the Historic District's nominating form describes the local historic context for primary contributing buildings as follows:

"Structures are classified as Primary Significant if they were built in or before 1912, or reflect the building styles, traditions, or patterns of structures constructed before this date. These buildings represent the primary period of construction and development in downtown McMinnville from its initial settlement in 1881 to 1912, when city improvements and use of the Oregon Electric and Southern Pacific Railroad Service promoted new construction in the downtown area."

According to its nomination form, the building was included because it was built before 1912, not because it "reflects the building styles, traditions or patterns of structures constructed before this date." Therefore, it appears to be a "primary contributing" building by virtue of its date of construction alone.

**CITY RESPONSE:** Both the National Register of Historic Places and the City of McMinnville have adopted provisions that identify the property as historically significant per the National "Register of Historic Places McMinnville Historic District nomination and the City of McMinnville's classification

<sup>2</sup> Note that these are virtually identical to the National Register's "Criteria for Evaluation."

<sup>3</sup> Mr. Fenton built the Fenton Building at 448 E Third Street, which is the only building in the District bearing his name, and which (according to the Historic District Nomination Form), he considered to be his "masterpiece."

of the property as a “B” (Significant) historic resource on the McMinnville Historic Landmarks Inventory.

Although, if reviewed now, the property could be classified differently, that does not negate the policy action that has occurred. With that said, the assigned historic significance is not a stand-alone factor for preservation or demolition.

The McMinnville Downtown Historic District National Register of Historic Places nomination provides the following as the overall summary of the statement of significance for the historic district for a time period of 1880 – 1937.

The McMinnville Historic District is an area of approximately 15 acres in which the unifying theme represented by the 51 contributing buildings is the parallel development of commerce and railroad and highway transportation in the bustling Willamette Valley farming community and county seat between 1880 and 1937. The district meets National Register Criteria A and C in the context of local history as the place where the community's largest, best preserved and most noteworthy historic commercial buildings are concentrated. The district extends 6½ blocks along Third Street, historically the main, east-west stem of the business district. Buildings along Third Street represent several phases of development but have a marked cohesion by virtue of their density, common scale, materials and overall design elements. While ground story storefronts have been altered over the years, distinguishing features of the upper stories are intact and provide visual continuity. Descendents of many of the community's early settlers are owners of property or businesses within the district today.

(McMinnville Downtown Historic District, Section Number 8, Page 1)

The McMinnville Historic Preservation Plan has the following language for the historic context of McMinnville's historic resources for the time period that most influenced the building at 609 NE Third Street:

### *Motor Age, Boom and Bust (1903—1940)*

This period marked the arrival of the automobile. Most of the garages added to the houses surveyed were built during this period. The city was amid a massive population growth extending from 1900 through 1910 and increased prosperity with industrial growth provided jobs and steady wages. By 1914 a spur from the main interurban railroad corridor along the Willamette Valley linked the city with Portland and cities to the south. Building construction grew considerably from 1900 to 1909 relative to pre-1900 construction, and then nearly doubled during the 1910s.<sup>5</sup>

Population growth continued between 1910 and 1940, increasing from 2,767 in 1920 to 3,706 in 1940.<sup>6</sup> New industries established in the city and surrounding area included including a small foundry, a machine shop, a planing mill, a creamery, and an incandescent and arc light factory. The launch of Prohibition in 1919 devastated the hops industry, the area's second-most profitable crop, motivating farmers to diversify their products to include legumes, clover, and animal products.

(McMinnville Historic Preservation Plan, page 16)

609 NE Third Street is not listed as a building as exemplary of this time period.

Commercial buildings from this period of construction (1913-1937) include:

- 226 E 3rd Street (ca. 1913), Commercial style
- 225 E 3rd Street (1918), Commercial style
- Spence Building, 425 E 3rd Street (1925), Commercial style
- 236 E 3rd Street (ca. 1930), Commercial style

(McMinnville Historic Preservation Plan, page 18)

However, based on the methodology at the time (which appears to be relative to primarily the date the building was originally constructed and not the historic integrity of the building or how much the building actually reflects its original architecture), the subject property is listed as a “Primary Significant Contributing” property in the McMinnville Downtown Historic District National Register of Historic Places nomination and is identified as a “Significant” resource on the McMinnville Historic Resources Inventory.

As discussed above, the historic integrity of the building has been significantly modified since its original construction in 1904, and then since its modification prior to 1912 to an automobile garage that reflects the “Motor Age, Boom or Bust” in the McMinnville Historic Preservation Plan.

### **OAR 660-023-0200(8)(a) Factors to Consider – Value to the Community**

**APPLICANT RESPONSE (Original Application):** The value the buildings current(ly) provide to the community include providing a consistent edge along historic 3<sup>rd</sup> Street corridor, jobs for office-based employees, and a reminder of the community’s past. The buildings provide minimal street-level activation due to their uses as offices, and deferred maintenance of the buildings has resulted in interior and exterior damage as noted in the structural report included as Appendix C.

The proposed development provides the same value to the community, and additional values. The building retains the 0 ft. setback along 3<sup>rd</sup> and Ford streets to provide a continuous street wall in accordance with historic downtown development patterns. The ground floor will be activated by retail and restaurant uses, and outdoor seating is anticipated to create a lively atmosphere during the warmer months. The new building will be energy- efficient and modern while nodding to the historic structures surrounding it. It will also provide employment for approximately 60 people, more than three times as many people currently employed on the site.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Value to the Community. Within living memory the building has been used as an automotive repair shop, gas station, and more recently, as offices of the New Register and small retail space, which occupies only the bottom floor. The building is not associated with any particularly meaningful community history, has never been used as a community gathering place, and does not appear to have any value to the community beyond its inclusion in the Historic District.

**CITY RESPONSE:** Balancing the assumptions that the subject structure does not retain much historic integrity, and is financially infeasible to rehabilitate, the replacement project has more value to the community than the preservation of the building.

609 NE Third Street does not appear to have as much historic integrity that many believe that it has due to the amount of modifications that have occurred to the property. The City has received several letters from the public asking to save the historic properties, but the analysis above demonstrates that there is not much historic value still intact on this building. 609 NE Third Street is a part of the building fabric of Third Street in McMinnville, a built environment which collectively has a lot of value to the community. Any replacement project would need to be able to become an asset to that built environment and not a disrupter. Presumably the downtown overlay district design standards were developed to ensure that infill on Third Street would compliment the existing built environment. And any replacement project would need to comply with those design standards (Section 17.59 of the McMinnville Municipal Code).

609 NE Third Street also is a two-story building where both floors have not been adequately maintained and the full vitality of the building is not realized. The applicant provided a cost analysis in their application that indicates that the cost of rehabilitating the structure and the return yield on

the square footage of the rehabilitated space would not be financed as the project would not yield a positive return for 40 years.

*The applicant has indicated that this cost to fully renovate the buildings would be approximately*

*\$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.*

*In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.*

*(Application Narrative, page 3)*

The costs to rehabilitate the building and fully activate both floors will require higher lease rates than are currently in the McMinnville downtown market, which will either significantly impact the local lease market downtown negatively impacting existing businesses downtown or prevent a rehabilitation project from moving forward leading to further deterioration of the building. A hotel with revitalized ground floor commercial space will generate a downtown consumer market for downtown businesses and create more vitality on the street. The project will need to meet the Downtown Design Overlay District code criteria for new construction, including mimicking the character and scale of the existing structures downtown.

### **OAR 660-023-0200(8)(a) Factors to Consider – Economic Consequences**

**APPLICANT RESPONSE:** The economic consequences of retaining the structures include cost, activity, and employment. The current use of all three buildings is office, which is a low activity use on McMinnville’s main commercial street.

Theoretically one or more of the buildings could be renovated to house a more active use that made a greater contribution to the streetscape. However, most alternative uses would require seismic upgrades to meet current building code at a significant out-of-pocket cost. It is reasonable to assume that if the current property owners had the means or desire to make those upgrades, they would have done so. The office uses occupying these buildings are low-intensity and do not attract foot traffic. Typically, people visit offices to work or by appointment to meet with those working within. Though office employees will eat at nearby restaurants and coffee shops, many downtowns prefer to have office uses located on upper floors to allow more active uses at the street level.

The economic consequences of removing the structures are largely positive. Approximately 20 people are employed in the existing buildings. The Gwendolyn Hotel is expected to employ approximately 60 people, in addition to employees of the ground floor restaurant and retail uses. These employees will also eat at nearby restaurants and shop at nearby stores, while the street level will be activated.

In addition, the new hotel will pay the City’s lodging tax and the value of the development will be much greater than the existing development, which will result in increased property tax revenue to support urban renewal area activities. There will be new lodging options in downtown McMinnville that are expected to draw visitors from the Portland metro region and beyond. These visitors will contribute to the economic vitality of downtown McMinnville and nearby areas.

**CITY RESPONSE:** The replacement plan for a multi-story hotel and ground floor retail would benefit McMinnville economically. McMinnville needs more Class A office space, especially in its city center. However, due to long-term disinvestment in the second story of this building the costs of stabilizing the building and providing Class A office space is more than the market will bear which would lead to continued disinvestment in the second story and no office vitality outside of the ground floor. A hotel and ground floor commercial space would not be detrimental to McMinnville economically, as the downtown economy is emerging as a tourism destination, with tourists and local residents combining to support local food and beverage establishments and retail boutiques. In recent years, several lodging enterprises in downtown McMinnville have flourished and contributed positively to the overall economy of McMinnville.

**OAR 660-023-0200(8)(a) Factors to Consider – Design or Construction Rarity**

**APPLICANT RESPONSE (Original Application):** Each of the buildings is fairly utilitarian in design and are not identified as examples of rare design or construction in the HRI or the National Register nomination. They are modest, functional structures that have been significantly altered over the years.

According to the McMinnville Historic Preservation Plan (Ord. 5068), as of May 2018 there were 558 properties listed on the HRI at the top three levels (Distinctive, Significant, and Contributing). Sixty-nine (or 12 percent) were classified as Distinctive; 200<sup>3</sup> (or 36 percent) were listed as Significant and 289 (or 52 percent) were listed as Contributory. Therefore, as none of the buildings proposed for demolition are listed as Distinctive, they are not rare structures within the City.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** The building is not identified as being rare at all in terms of design or construction.

**CITY RESPONSE:** 609 NE Third Street does not possess any specific design or construction standard that would be described as rare or significant for McMinnville, except for the interior structural design to allow for a large car dealer showroom.

**OAR 660-023-0200(8)(a) Factors to Consider – Consistency and Consideration of other Policy Objectives in the Comprehensive Plan.U**

**APPLICANT RESPONSE:** Other relevant policy objectives of the McMinnville Comprehensive Plan include cultural, historical, and educational resources; economic development policies; and energy policies. Each of these policies is addressed in more detail in Section 5 of this narrative.

The relevant cultural and historical resource policies of Comprehensive Plan Chapter II include:

**Goal III 2:** *To preserve and protect sites, structures, areas, and Objects of historical, cultural, architectural, or Archaeological significance to the city of McMinnville.*

The relevant economic development policies of Comprehensive Plan Chapter IV include:

**Goal IV 1:** *To encourage the continued growth and diversification of McMinnville’s economy in order to enhance the general well-being of the community and provide employment opportunities for its citizens.*

**Goal IV 2:** *To encourage the continued growth of McMinnville as the commercial center of Yamhill County in order to provide employment opportunities, goods, and services for the city and county residents.*



**Goal IV 3:** *To ensure commercial development that maximizes efficiency of land use through utilization of existing commercially designated lands, through appropriately locating future neighborhood-serving and other commercial lands, and discouraging strip development.*

**Goal IV 4:** *To promote the downtown as a cultural, administrative, service, and retail center of McMinnville.*

The relevant energy policies of Comprehensive Plan Chapter VIII include:

**Goal VIII 2:** *To conserve all forms of energy through utilization of Land use planning tools.*

*178.00 The City of McMinnville shall encourage a compact urban development pattern to provide for conservation of all forms of energy.*

*179.00 The City of McMinnville shall amend pertinent ordinances to allow for design techniques which increase the efficient utilization of land and energy. Areas to examine shall include, but not be limited to:*

- 1. The zoning ordinance requirements, including density, lot areas, and setbacks to increase utilizable space in lots, while maintaining health and safety standards.*
- 2. The geographic placement of various uses (commercial, industrial, residential) on the Comprehensive Plan Map to encourage energy-efficient locations.*

[...]

*180.50 The City of McMinnville supports local sustainability and endorses the utilization of proven and innovative energy efficient design and construction technologies to reduce building heat-gain, lower energy consumption, and lessen pollutant output. (Ord. 4903, December 9, 2008)*

Collectively, these policies call for balancing the protection of important historic and cultural resources with the efficient use of limited land within existing commercial centers, including downtown, and further establishing downtown as the cultural, employment, and retail center of McMinnville.

The subject site is currently occupied by three heavily altered low-rise buildings that are underutilized in terms of floor area, employment, and services. New construction on this site would advance all the City's Comprehensive Plan goals while avoiding negative impacts to "Distinctive" buildings elsewhere in the downtown.

**CITY RESPONSE: Please see below for a discussion of compliance with the City of McMinnville's Comprehensive Plan policies.** In summary, the proposed demolition of 609 NE Third Street does not meet the City's Comprehensive Plan goals for preservation of historic resources, however the demolition of the subject structure coupled with the redevelopment of the site does meet many of the City's economic development comprehensive plan policies.



**OAR 660-023-0200, Section 8(a):**

**OVERALL FINDING, SATISFIED WITH CONDITION OF APPROVAL #1: OAR 660-023-0200, Section 8(a) does apply to this land-use application.** OAR 660-023-0200, Section 8(a) states that the following factors must be considered when making a decision to approve, approve with conditions or deny an application for a historic resource on the National Register of Historic Places: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. But OAR 660-023-0200, Section 8(a) does not provide clear and objective criteria as to how to consider the factors and how many factors need to support an approval, approval with conditions or denial. Per the analysis above, 609 NE Third Street does not appear to be in bad structural condition, but does appear to have some historic integrity, components that are still extant from its original condition or historic significance. The question is what factors matter the most to the community – limited historic integrity or the economic vitality of the property.

The value to the community could be described in two ways – historic value and overall value – but the historic value has been shown to be compromised as an individual structure and is considered emotionally valuable based on its perceived contribution to the overall McMinnville downtown historic district and building fabric. Based on the assumption that the historic value is over calculated for 609 NE Third Street, the condition of the building should not be a significant factor of consideration.

However, some of the factors are dependent upon a redevelopment plan that fits within the existing Third Street built environment as a complimentary attraction and asset and not a disrupter. The City of McMinnville has adopted Design Guidelines and Standards for New Construction in the Downtown Overlay District (Section 17.59 of the McMinnville Municipal Code), as a means to ensure that new development will build upon the overall sense of place on Third Street. A condition of approval needs to be established that the demolition of 609 NE Third Street will not be approved without the successful approval of a replacement plan for the site that meets all of the city's local regulations, state regulations and federal regulations.

**CONDITION OF APPROVAL #1:** The Certificate of Approval for Demolition of 609 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not constructed with a final occupancy permit within three years of the issuance of the building permit will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. If the successful completion of the replacement project is stalled due to unforeseen conditions the Applicant can appeal this condition of approval in writing to the Planning Commission for review.

## OAR 660-023-0200, Section 8

*(b) May apply additional protection measures. for a National Register Resource listed in the National Register of Historic Places after the effective date of this rule, additional protection measures may be applied only upon considering, at a public hearing, the historic characteristics identified in the National Register nomination; the historic significance of the resource; the relationship to the historic context statement and historic preservation plan contained in the comprehensive plan, if they exist; the goals and policies in the comprehensive plan; and the effects of the additional protection measures on the ability of property owners to maintain and modify features of their property. Protection measures applied by a local government to a National Register resource listed before the effective date of this rule continue to apply until the local government amends or removes them; and*

**APPLICANT'S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The analysis above demonstrates that the structure at 609 NE Third Street does not have significant historic integrity or a relationship to the historic context statement of the National Register of Historic Places nomination outside of the year in which it was originally built, that would merit a need for additional protection measures outside of the City of McMinnville's Historic Preservation Code, Chapter 17.65 of the McMinnville Municipal Code.

## OAR 660-023-0200, Section 8

*(c) Must amend its land use regulations to protect National Register Resources in conformity with subsections (a) and (b). Until such regulations are adopted, subsections (a) and (b) shall apply directly to National Register Resources.*

**APPLICANT'S RESPONSE:** The City of McMinnville is in the process of amending its zoning code to comply with these provisions. Until those amendments are effective (anticipated in Summer/Fall 2022) the provisions of this section are applicable.

**FINDING: SATISFIED.** The City concurs with the applicant's response.

*(9) Removal of a historic resource from a resource list by a local government is a land use decision and is subject to this section.*

*(a) A local government must remove a property from the resource list if the designation was imposed on the property by the local government and the owner at the time of designation:*

- (A) Has retained ownership since the time of the designation, and*
- (B) Can demonstrate that the owner objected to the designation on the public record, or*
- (C) Was not provided an opportunity to object to the designation, and*
- (D) Requests that the local government remove the property from the resource list.*

*(b) Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist.*

- (A) The resource has lost the qualities for which it was originally recognized;*
- (B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing;*
- (C) The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITON OF APPROVAL #2.** If the structure at 609 NE Third Street is demolished it will automatically be removed from the McMinnville Historic Resources Inventory.

**CONDITION OF APPROVAL #2:** 609 NE Third Street, McMinnville Historic Resource Inventory B865 will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished.

(10) A local government shall not issue a permit for demolition or modification of a locally significant historic resource during the 120-day period following:

- (a) The date of the property owner's refusal to consent to the historic resource designation, or
- (b) The date of an application to demolish or modify the resource if the local government has not designated the locally significant resource under section (6).

**APPLICANT'S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The structure at 609 NE Third Street has already been designated a McMinnville Historic Resource.

### **Comprehensive Plan Volume II:**

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, polices, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

#### **GOAL II 1: TO PRESERVE THE QUALITY OF THE AIR, WATER, AND LAND RESOURCES WITHIN THE PLANNING AREA.**

- 2.00 *The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.*

**APPLICANT RESPONSE (Original Application):** None

**APPLICANT RESPONSE (December 15, 2022):** A draft Contaminated Media Management Plan (CMMP) that addresses all three properties has been included (Contaminated Media Management Plan, October 13, 2022). The CMMP is a requirement of the Prospective Purchaser Agreement between the Applicant and Oregon Department of Environmental Quality ("DEQ"). As a practical matter, former automotive shops and fuel stations are routinely redeveloped and there is nothing about these buildings that presents a unique risk. The draft CMMP requires removal and safe disposal of any contaminated media (i.e. soil or ground water), and recommends only standard protective measures to mitigate the limited identified risk of petroleum contamination.

This is sufficient to satisfy Goal II of the City's Comprehensive Plan, which implements Statewide Planning Goal 6. Goal 6 requires that the local government establish that there is a reasonable expectation that the use for which land use approval is requested will also be able to comply with the state and federal environmental quality standards that it must satisfy to be built. *Hess v. City of Corvallis*, 70 Or LUBA 283 (2014). The City's comprehensive plan does not address soil contamination, and with respect to water, Policy 10.00 of the Comprehensive Plan provides that "The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to maintain water quality and lo implement agreed upon programs for management of the water resources within the planning area." The Applicant's ongoing work with DEQ

through the PPA process is evidence not only that DEQ will provide sufficient oversight to ensure the safety of workers and the public, but also demonstrates that the Application will be able to comply with DEQ's standards.

**CITY RESPONSE.** A Contaminated Media Management Plan (CMMP) was prepared for Oregon Lithoprint, Inc. on July 20, 2022, to address residual petroleum contamination that may be encountered in soil and groundwater in the vicinity of the Oregon Lithoprint site located at 609 NE Third Street due to a former Leaking Underground Storage Tank (LUST). The Lithoprint LUST site involves underground gasoline storage tanks that were removed in the mid-1980s. The tanks were located beneath the sidewalk on the east side of NE Ford Street, just north of NE Third Street. Some gasoline-contaminated soil was excavated during the tank removal, but further investigation indicated that soil contamination extended beneath the O'Dell Building, which is owned by Lithoprint and is adjacent on the east of the former tanks. Groundwater contamination originating at the former tanks' location extends to the southwest beneath NE Ford Street, the Oddfellows Building across NE Ford Street on the west, and into NE Third Street. Soil and groundwater conditions associated with the LUST site have been monitored for the past 30+ years and contamination persists in both soil and groundwater at concentrations exceeding Oregon's cleanup requirements. Lithoprint's consultant produced a Supplemental Site Investigation Summary Report in June 2022 that does not contemplate redevelopment of the O'Dell Building and states:

"Based on the current Site use, the primary potential risk exposure that was identified as being of potential concern is limited to construction worker exposure beneath the southwest corner of the O'Dell Building and in the vicinity of MW-4. This exposure would only present a potential risk if construction or excavation activities were undertaken without appropriate precautions. The potential for unacceptable risk to construction workers beneath the O'Dell Building is further limited by the fact that the building would need to be razed or excavation activities would need to be conducted within the existing building footprint for potential exposures to occur."

This implies that if the building is razed and excavation occurs, there is a potential exposure that should be considered. The Supplemental Site Investigation Summary Report does not recommend whether additional remedial activities should occur if the O'Dell Building is demolished and allows access to contaminated soil. The Supplemental Site Investigation Summary Report should be expanded to consider the demolition of the O'Dell building.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #3**

**CONDITION OF APPROVAL #3:** The applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways.

- 8.00 *The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.*

**APPLICANT RESPONSE:** None

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #4.** A Contaminated Media Management Plan (CMMP) was prepared for Oregon Lithoprint, Inc. on July 20, 2022, to address residual petroleum contamination that may be encountered in soil and groundwater in the vicinity of the Oregon Lithoprint site located at 609 NE Third Street due to a former Leaking Underground Storage Tank (LUST).

**CONDITION OF APPROVAL #4:** The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

- 10.00 *The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to*

*maintain water quality and to implement agreed upon programs for management of the water resources within the planning area.*

**APPLICANT RESPONSE:** None

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #5.** A Contaminated Media Management Plan (CMMP) was prepared for Oregon Lithoprint, Inc. on July 20, 2022, to address residual petroleum contamination that may be encountered in soil and groundwater in the vicinity of the Oregon Lithoprint site located at 609 NE Third Street due to a former Leaking Underground Storage Tank (LUST).

**CONDITION OF APPROVAL #5:** The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

**GOAL III 2: TO PRESERVE AND PROTECT SITES, STRUCTURES, AREAS, AND OBJECTS OF HISTORICAL, CULTURAL, ARCHITECTURAL, OR ARCHAEOLOGICAL SIGNIFICANCE TO THE CITY OF McMinnville.**

**APPLICANT RESPONSE:** The proposed development will provide short-term lodging and retail services for the downtown McMinnville community. These services will both meet an identified demand and provide employment to local residents. The current businesses on the site employ approximately 20 people; the proposed development is expected to employ approximately 60 people. These employment opportunities will include hospitality, service industry, and management positions.

The subject site is currently occupied by three heavily altered low-rise buildings that are underutilized in terms of floor area, employment, and services. New construction on this site would advance all the City's Comprehensive Plan goals while avoiding negative impacts to "Distinctive" buildings elsewhere in the downtown.

**FINDING: NOT SATISFIED.** The focus of this comprehensive plan goal is to preserve and protect structures that have special historical or architectural significance. A demolition clearly does not meet that intent. The Planning Commission, after reviewing the application materials and receiving testimony, decided that other applicable criteria for the consideration of the demolition were met and therefore the demolition was approved. Findings for those other applicable review criteria are provided below.

- 16.00 *The City of McMinnville shall support special assessment programs as well as federal grants-in-aid programs and other similar legislation in an effort to preserve structures, sites, objects, or areas of significance to the City.*

**FINDING: SATISFIED.** The City is supportive of all of these programs to aid historic preservation. The property owner, Oregon Lithoprint, Inc., participated in the 20% Federal Tax Credit Program in 2000 on 609 NE Third Street. With a rehabilitation expense of \$390,915, the property owner was able to access approximately \$78,000 of tax credits. The payback period for the Federal Tax Credit Program is five years if the property is demolished. That payback period has since expired. The property owner also completed the State Special Assessment program at 609 NE Third Street and met all of the requirements for participation so there is no payback provision on this program either if the property is demolished.

- 17.00 *The City of McMinnville shall enact interim measures for protection of historic sites and structures. Those measures are identified in the McMinnville Comprehensive Plan, Volume I, Chapter III.*

**FINDING: SATISFIED.** Chapter III of Volume 1 of the McMinnville Comprehensive Plan states the following:

A viable preservation program for the city will involve four steps: (1) the adoption of goals and policies in the Comprehensive Plan supporting the preservation of historic resources and establishing a process to achieve stated objectives; (2) the formation of a historic preservation/landmarks committee; (3) the completion of a comprehensive inventory of the historic resources in the planning area; and (4) the implementation of preservation techniques, possibly through an historic preservation ordinance, to protect and conserve the identified resources.

Based on the information contained herein, and the work of the Citizens' Advisory Committee Community Needs Subcommittee, the City finds that:

1. There are sites, structures, objects, and areas that are of importance to McMinnville because of their historical, cultural, architectural archeological significance at the local, state, or national level. Some of the sites and structures are (or are in the process of being) designated to state and national historical lists.
2. There may be pressure to destroy or alter historically significant sites and structures in the future. There is no active historical, or preservation program in McMinnville at this time to resolve conflicts between historical resources and developmental proposals.
3. Completion of Phase I of the inventory of the historic resources in McMinnville has been completed. Approximately 0.9 of a square mile of the McMinnville core (the area bounded by Fifteenth Street on the north, Fellows Street on the south, Elmwood Avenue on the west, and Kirby Street on the east) has been surveyed and some 500 potential historic resources have been identified. The survey, under the direction of Janice Rutherford, involved the efforts of some 30 volunteers, who, after attending training sessions by professional preservationists, conducted the field work and research necessary to identify the resources. Completion of this survey for the remainder of the city should be a priority concern in the historic preservation program established by the City.



4. Historical structures should be recognized as underutilized resources that could potentially be restored and/or adapted for beneficial urban uses. Preservation techniques applicable to the historical structures identified in the core area of the city could assist in the continued redevelopment of the central business district.
5. The historical designation of sites and structures within the core business area could involve large economic ramifications for the city and property owners. A variety of incentives for rehabilitation of historically designated properties does exist. A feasibility analysis of the economic advantages and disadvantages of establishing historical sites and/or districts downtown needs to be made.
6. Preservation of historical sites and structures will necessarily involve procedures that regulate the alteration, and/or demolition of historically designated properties. The cooperation of owners of potential historical sites and structures will, therefore, be necessary for a viable preservation program.
7. A number of local groups and citizens, including the Chamber of Commerce, Committee on Redevelopment, various civic and social groups, and local historical groups, have expressed interest in an historical preservation program. Enlistment of volunteers for the completion of the comprehensive inventory of historical resources and other preservation projects should be explored.
8. There are a number of state and federal antiquity codes that may assist in the preservation of the historical resources in our city, and provide some financial incentives for preserving our heritage. Those codes are noted in the background information for the comprehensive plan.
9. The involvement of the private sector of the city is of paramount importance to the development of a preservation program. The primary initiative for setting up such a program will come from the governmental sector. However, it is only through the cooperation of property owners, volunteer workers, knowledgeable citizens, and governmental leaders that such a program will be made workable.
10. A program involving creation of an Historical Landmark Committee, a local Historical Landmarks Register, and an Historical Ordinance is being proposed by the City to establish a historical presentation program. Implementation of the program is expected to take a considerable amount of study, discussion, and therefore, time. Interim preservation measures shall be enforced until formal adoption and implementation of a preservation program.

The City of McMinnville has implemented most of the programs outlined above.

**GOAL IV 1: TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF McMINNVILLE'S ECONOMY IN ORDER TO ENHANCE THE GENERAL WELL-BEING OF THE COMMUNITY AND PROVIDE EMPLOYMENT OPPORTUNITIES FOR ITS CITIZENS.**

**APPLICANT RESPONSE:** The proposed development will provide short-term lodging and retail services for the downtown McMinnville community. These services will both meet an identified demand and provide

employment to local residents. The current businesses on the site employ approximately 20 people; the proposed development is expected to employ approximately 60 people. These employment opportunities will include hospitality, service industry, and management positions

### **COMMERCIAL DEVELOPMENT**

**GOAL IV 2: TO ENCOURAGE THE CONTINUED GROWTH OF McMinnville AS THE COMMERCIAL CENTER OF YAMHILL COUNTY IN ORDER TO PROVIDE EMPLOYMENT OPPORTUNITIES, GOODS, AND SERVICES FOR THE CITY AND COUNTY RESIDENTS.**

**APPLICANT RESPONSE:** This Comprehensive Plan policy is supplemented by several documents including the 2013 Urban Renewal Area Plan<sup>6</sup> (Area Plan), the 2013 Economic Opportunities Analysis (EOA), the 2019 MAC-Town 2032 Economic Development Strategic Plan<sup>7</sup> (MAC-Town 2032), and the 2020 McMinnville Growth Management and Urbanization Plan (MGMUP). The site is within the McMinnville Urban Renewal Area and downtown McMinnville is the focus of MAC-Town 2032.

#### Infrastructure Improvements

The Area Plan includes reconstruction of the 3<sup>rd</sup> Street Streetscape, which is currently in the conceptual design phase. Depending on the timing of the development, the project may be able to participate in construction of the streetscape improvements.

#### Economic Opportunities

The EOA identifies limited durations of tourism visitation as a factor affecting community economic development. The analysis found that visitors tend not to stay overnight, but rather are often day visitors, and do not appear to be making substantial expenditures while in the area. A key challenge for the future, as identified in this analysis, is to provide more and better value-added opportunities for visitors to spend more time and money while visiting the McMinnville area.

#### Hospitality and Tourism

As noted above, the application is consistent with the 2019 MAC-Town 2032 Economic Development Strategic Plan. Goal 6 of MAC-Town 2032 particularly encourages downtown McMinnville to “Be a leader in Hospitality and Place-Based Tourism” and identifies hotel stays and retail sales as performance measures. Action items within that goal identify additional high-quality hospitality offerings and additional conference space. Focus groups participating in MAC Town

**GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE NEIGHBORHOOD-SERVING AND OTHER COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.**

22.00 *The maximum and most efficient use of existing commercially designated lands will be encouraged as will the revitalization and reuse of existing commercial properties.*

**APPLICANT RESPONSE:** The proposed development is a commercial development on properties zoned C-3 and designated for commercial uses and development. The building meets the applicable development standards for the zone and site will intensify the uses on the site and maximize the efficiency of a key site within downtown McMinnville.

The site is located within the McMinnville Urban Renewal Area (Area). The City’s Urban Renewal Plan notes that the programs and infrastructure improvements proposed within the Area will “maximize the efficient use of land by encouraging more intense uses on lands already developed or designated for urban development, will help keep the urban pattern compact, and will prevent sprawl and strip development.”<sup>8</sup> The Gwendolyn Hotel, along with its associated retail and restaurant spaces, will redevelop three, one- to two-story buildings, while enhancing the adjacent pedestrian environment. This aids in achieving Goal III of the Area which is to encourage a unique district identity through enhancing

the physical appearance of the district and providing active use opportunities within the Area. The redevelopment of the site will intensify the use of a key site within the downtown McMinnville commercial area and enhance its status as the retail center of McMinnville.

In addition to urban renewal policies, Principle #5 of the Growth Management and Urbanization Plan calls for “Density. Adopt policies that allow the market to increase densities, and push it to do so in some instances.” The plan notes that “activity centers” are the appropriate locations for these increases in density, and the Framework Plan identifies downtown McMinnville as one of four “activity centers,” and the largest. Though this Framework Plan is not an adopted Comprehensive Plan map, it does illustrate the City’s plans to meet its housing and employment needs during the planning horizon.

**FINDING: SATISFIED.** The proposed project maximizes the existing commercially designated lands by building a higher density commercial program on the site, which will also serve to revitalize the east side of Third Street that was identified as a redevelopment area in the adopted 2000 Downtown Improvement Plan.

- 25.00 *Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development.*

**FINDING: SATISFIED WITH CONDITIONS OF APPROVAL #6 and #7.** Higher density commercial development in the city center utilizes existing infrastructure efficiencies. The following conditions of approval will need to be met to ensure that the existing infrastructure will support the development.

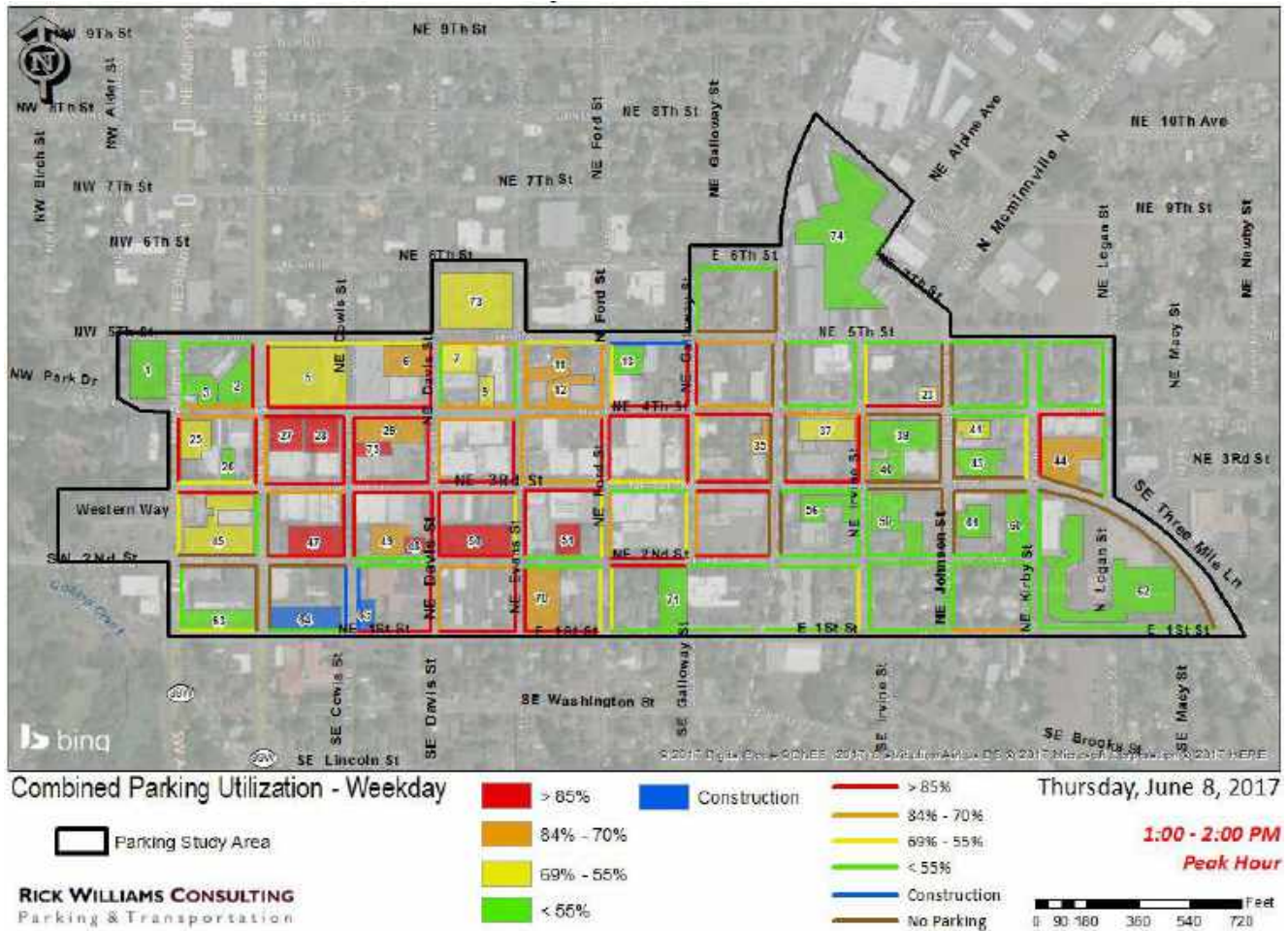
**CONDITION OF APPROVAL #6:** The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rain water into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance.

**CONDITION OF APPROVAL #7:** Prior to submittal for building demo permit provide Engineering with detailed demolition plans for review and approval.

- 26.00 *The size of, scale of, and market for commercial uses shall guide their locations. Large-scale, regional shopping facilities, and heavy traffic-generating uses shall be located on arterials or in the central business district, and shall be located where sufficient land for internal traffic circulation systems is available (if warranted) and where adequate parking and service areas can be constructed.*

**FINDING: SATISFIED.** The replacement plan project will be located in the Central Business District. The Transportation Impact Analysis provided as part of the application indicates that all intersections studied perform within mobility standards with the project as developed. No mitigation measures were identified.

Parking in the core downtown area is limited. However, a utilization study conducted in 2017 identified that parking on Ford Street between 3<sup>rd</sup> and 4<sup>th</sup> Streets was maximized at the peak hour of a weekday. Although the McMinnville Municipal Code does not require the provision of off-street parking for new developments on this site, the replacement project is providing 67 off-street parking stalls in an underground parking structure.



(City of McMinnville, Oregon, Downtown Strategic Parking Management Plan, March 27, 2018, page 17)

**GOAL IV 4: TO PROMOTE THE DOWNTOWN AS A CULTURAL, ADMINISTRATIVE, SERVICE, AND RETAIL CENTER OF McMINNVILLE.**

*Downtown Development Policies:*

36.00 The City of McMinnville shall encourage a land use pattern that:

1. Integrates residential, commercial, and governmental activities in and around the core of the city;
2. Provides expansion room for commercial establishments and allows dense residential development;
3. Provides efficient use of land for adequate parking areas;
4. Encourages vertical mixed commercial and residential uses; and,
5. Provides for a safe and convenient auto-pedestrian traffic circulation pattern. (Ord.4796, October 14, 2003)

**FINDING: SATISFIED.**

37.00 *The City of McMinnville shall strongly support, through technical and financial assistance, the efforts of the McMinnville Downtown Steering Committee to implement those elements of Phase II of the “Downtown Improvement Plan” that are found proper, necessary, and feasible by the City. (Ord.4796, October 14, 2003)*

**FINDING: NOT APPLICABLE.** Phase II of the Downtown Improvement Plan is a list of public improvement projects that are not associated with this application.

38.00 *The City of McMinnville shall encourage the renovation and rehabilitation of buildings in the downtown area, especially those of historical significance or unique design.*

**FINDING: SATISFIED.** The City provides grants and loans to encourage the renovation and rehabilitation of buildings in the downtown area.

44.00 *The City of McMinnville shall encourage, but not require, private businesses downtown to provide off-street parking and on-site traffic circulation for their employees and customers.*

**FINDING: SATISFIED.** The replacement plan project is providing an off-street underground parking structure with 67 parking stalls.

**GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.**

127.00 *The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.*

**FINDING: SATISFIED.** The replacement plan project is providing an off-street underground parking structure with 67 parking stalls.

132.40.05 *Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:*

1. *Improvement of on-site transportation facilities,*
2. *Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards; and*
3. *Transportation Demand Management strategies. (Ord. 4922, February 23, 2010)*

**FINDING: SATISFIED.** Due to the size of the replacement plan project, the City required the applicant to provide a Transportation Impact Analysis that identified no need for mitigating measures with the development of the project.

132.46.00 *Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010)*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #8:**

**CONDITION OF APPROVAL #8:** The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.

142.00 *The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #9:**

**CONDITION OF APPROVAL #9:** The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.

151.00 *The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:*

1. *Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, are available or can be made available, to fulfill peak demands and insure fire flow requirements and to meet emergency situation needs.*
2. *Sufficient municipal sewage system facilities, as determined by the City Public Works Department, are available, or can be made available, to collect, treat, and dispose of maximum flows of effluents.*
3. *Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the City, respectively, are available, or can be made available, for the maintenance and operation of the water and sewer systems.*
4. *Federal, state, and local water and waste water quality standards can be adhered to.*
5. *Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #10:**

**CONDITION OF APPROVAL #10:** The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.

**GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.**

**GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.**

Policy 188.00 *The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The process for a Certificate of Approval for Demolition provides an opportunity for citizen involvement throughout the process through the public notice and the public hearing process.



Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public meeting(s). All members of the public have access to provide testimony and ask questions during the public review and meeting process.

**McMinnville Municipal Code**

The following Sections of the McMinnville Municipal Code (MMC) provide criteria applicable to the request:

**Chapter 17.03. General Provisions**

**17.03.020 Purpose.** *The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

**17.65.010 Purpose.** *Districts, buildings, objects, structures, and sites in the City having special historical, architectural, or cultural significance should be preserved as a part of the City’s heritage. To this end, regulatory controls and administrative procedures are necessary for the following reasons:*

- A. *Stabilize and improve property values through restoration efforts;*

**APPLICANT RESPONSE:** The applicant proposes to make a substantial investment in downtown McMinnville through the development of a new luxury lodging option. See Table 2 for current assessed value and market value of the buildings. Note that Assessed Value is lower than Real Market Value due to Measures 5 and 50, which limit the increase in assessed value to 3 percent per year. As a result, there is a difference of almost \$500,000 between the assessed value and the real market value of these buildings. See Table 2.

**Table 2 2021 Assessed and Market Value of Buildings**

<b>Site</b>	<b>2021 Assessed Value</b>	<b>2021 Real Market Value</b>
609 NE 3 <sup>rd</sup> Street	\$515,480	\$664,643
611 NE 3 <sup>rd</sup> Street	\$742,760	\$1,010,601
611 NE 3 <sup>rd</sup> Street BPP	\$41,333	\$41,333
619 NE 3 <sup>rd</sup> Street	\$482,993	\$556,964
<b>Total</b>	<b>\$1,782,566</b>	<b>\$2,273,541</b>

Source: Yamhill County Assessor

The assessed value “resets” at the time of redevelopment. The applicant estimates that the new development will have a real market value of approximately \$60,000,000, which would result in a significant increase in taxes paid to the City and funding for urban renewal area projects. In addition, the hotel would increase the lodging taxes collected by the City.

The proposed development will increase the value of the subject properties; it is reasonable to assume that nearby properties will also see an increase in value.

**FINDING: NOT SATISFIED.** This application is for a demolition permit and not a restoration project.

*B. Promote the education of local citizens on the benefits associated with an active historic preservation program;*

**APPLICANT RESPONSE:** The proposed development will attempt to incorporate significant components of the existing building at 609 NE 3<sup>rd</sup> Street. The applicant team intends to promote the history of the site and its importance to the development of McMinnville. The specific approach is to be determined and will be defined in coordination with community members and groups.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #11.** One of the challenges of restoring historic properties in downtown McMinnville is the differential between the market value of the land/property and the costs of rehabilitating a historic structure that has experienced minimal code upgrades over its lifetime with the community value of maintaining low lease rates to support local businesses. In many cases, the proforma is not yielding the necessary returns for a successful project.

**CONDITION OF APPROVAL #11:** Prior to the approval of a demolition permit, the applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses.

*C. Foster civic pride in the beauty and noble accomplishments of the past;*

**APPLICANT RESPONSE:** The existing buildings are utilitarian and were originally developed as functional structures. The applicant intends to incorporate components of the original buildings into the new building as appropriate and as determined through coordination with community members and groups. Examples of information that could be incorporated into the new development include plaques or other historic markers with information about the builders of the structures.

**FINDING: SATISFIED.**

*D. Protect and enhance the City's attractions for tourists and visitors; and*

**APPLICANT RESPONSE:** As noted elsewhere in this narrative, The Gwendolyn is intended to advance the City's economic development goals by expanding the lodging options in downtown McMinnville. A signature restaurant is planned for the ground floor, which may be an additional draw for visitors who are not spending the night. The proposed building will establish a gateway effect at NE 3<sup>rd</sup> and Ford streets and complement the three-story buildings on each corner.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #12.**

**CONDITION OF APPROVAL #12:** The replacement plan project must not only meet the minimum standards of Section 17.59, Downtown Design Guidelines, McMinnville Municipal Code, but it must enhance the overall historic sense of place of downtown McMinnville by replicating the form and design of the building stock on Third Street.

*E. Strengthen the economy of the City.*

**APPLICANT RESPONSE:** The proposed development is intended to enhance the City's attractions for tourists and visitors by providing space for new specialty retail and commercial services, creating a destination for visitors to nearby wineries, and providing employment opportunities for up to 60

employees. The proposed hotel will provide a luxury boutique lodging option along with a meeting/conference room that will serve guests and community members.

**FINDING: SATISFIED**

**17.65.040 Certificate of Approval Process.** *A property owner shall obtain a Certificate of Approval from the Historic Landmarks Committee, subject to the procedures listed in Section 17.65.050 and Section 17.65.060 of this chapter, prior to any of the following activities:*

- A. *The alteration, demolition, or moving of any historic landmark, or any resource that is listed on the National Register for Historic Places;*
  - 1. *Accessory structures and non-contributing resources within a National Register for Historic Places nomination are excluded from the Certificate of Approval process.*
- B. *New construction on historical sites on which no structure exists;*
- C. *The demolition or moving of any historic resource.*

**APPLICANT RESPONSE:** The proposal includes the demolition of a historic landmark (609 NE 3<sup>rd</sup> Street) and two contributing buildings within the McMinnville Downtown Historic District, and replacement of all three structures with a new building. As such, the provisions of this section are applicable.

**FINDING: SATISFIED.** The proposal includes the demolition of a resource on the National Register of Historic Places that is considered a Primary Significant Contributing Resource. Per 17.65.040(A), section 17.65.050 of the McMinnville Municipal Code applies. The applicant has applied for a Certificate of Demolition.

**17.65.050 Demolition, Moving, or New Construction.** *The property owner shall submit an application for a Certificate of Approval for the demolition or moving of a historic resource, or any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The applicant filed an application and request to demolish 609 NE Third Street that is designated as a Significant resource on the Historic Resources Inventory. The application was reviewed by the Historic Landmarks Committee within 30 days of the application being deemed complete.

**17.65.050 Demolition, Moving, or New Construction.**

- A. *The Historic Landmarks Committee may approve, approve with conditions, or deny the application.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The Historic Landmarks Committee issued a decision that approved, approved with conditions or denied the application.

- B. *The Historic Landmarks Committee shall base its decision on the following criteria:*

**17.65.050(B)(1).** *The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;*

**APPLICANT’S RESPONSE:** The purpose of this ordinance is addressed in the responses to subsection 17.65.010 (in the narrative). The relevant Comprehensive Plan policies are addressed in Section 5 of the narrative. The applicant has demonstrated that the proposed development meets this criterion.

**FINDING: NOT SATISFIED.** Most of the City’s historic policies in the comprehensive plan focus on the establishment of the Historic Landmarks Committee, public awareness of historic preservation, and other activities for the City to pursue to increase documentation of historic resources. However, the goal most specifically related to historic preservation is as follows:

Goal III 2: To preserve and protect sites, structures, areas, and objects of historical, cultural, architectural, or archaeological significance to the City of McMinnville.

Per the analysis above, this application achieves some of the purpose statements but not all due to the fact that it is a demolition project and not a preservation/rehabilitation/restoration project.

The focus of the comprehensive plan goal and the purpose of the Historic Preservation chapter are to preserve structures that have special historical or architectural significance through restoration efforts. A demolition clearly does not meet that intent. The Historic Landmarks Committee, after reviewing the evidence and hearing the public testimony, decided that other criteria for the consideration of the demolition were satisfied and therefore the demolition was approved with conditions.

**17.65.050(B)(2).** *The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;*

**APPLICANT’S RESPONSE (Original Application):** There are three potential approaches to using or repurposing the site:

- Do nothing: continue to operate the buildings as currently operated
- Renovation/Change of use: upgrade the buildings to accommodate a change of use to commercial or retail uses
- Redevelop: Replace the existing buildings with a new development.

Each approach is described in more detail below.

#### Do Nothing

The current amount of income from the tenants is unknown, but it is assumed that the owners’ land costs are lower than the eventual purchase price, as they have owned the properties for many years.

If a buyer were to purchase the properties and retain the current tenants at the current rents, it is likely that the new owner would face challenges keeping up with the maintenance needs of these buildings. As noted in the structural report included as Appendix C, there are areas of damage that have not been repaired to date, presumably due to cost and availability of financial resources.

#### Renovation/Change of Use

The applicant has indicated that this cost to fully renovate the buildings would be approximately \$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.

In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.

Redevelopment

The applicant proposes redevelopment of the site with a mixed-use commercial building. This cost is estimated at approximately \$60,000,000 including land cost, soft costs, hard costs, finance fees, broker fees, pre-opening costs, marketing, etc. Lease rates are estimated at \$25 per sq. ft. triple-net/NNN, the same as in the renovation/change of use scenario, but most of the income would be generated by the hotel uses on upper floors

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** The applicant has provided the following additional information as described in Attachments 4-8:

- Phillip Higgins, a licensed commercial real estate broker, has provided a memo addressing existing net income, net income of a fully-leased building at market rate, and an evaluation of the existing rental/lease market. This memo includes high-level profit and loss information. See Attachment 4.
- 2022 Yamhill County Tax Assessor data including Assessed Value, Taxable Value, and Real Market Value and property taxes paid between 2018 and 2022 has been provided. See Attachment 5.
- An estimate of the cost of rehabilitation of the property from Hugh Construction, which is an entity separate from Hugh Development, provided the enclosed pro-forma showing the costs and likely returns from rehabilitation of the three structures. While no other contractors could provide an estimate without a more developed renovation plan set, the contractors Hugh consulted confirmed that Hugh Construction’s estimate was reasonable. See Attachment 6.
- A report of available economic incentives for rehabilitation of the existing buildings is included as Attachment 7.
- A report by Johnson Economics comparing the economic value of the project vs. preservation of the buildings is enclosed as Attachment 8.

The following table, provided by Hugh Construction, further defines the findings included in Attachment 6:

	Current Results	Ideal Results (Gwendolyn Hotel)
<b>Cash on Cash return</b>	3%	23%
<b>Unlevered IRR</b>	-9.10%	13%
<b>Levered IRR</b>	0%	26.80%
<b>Equity Multiple</b>	0.82x	4.11x

**APPLICANT’S RESPONSE (December 15, 2022):** The Application proposes demolition of the three structures discussed above in order to allow it to construct the Gwendolyn Hotel. The economic value of the three buildings and their future use case are substantially limited. When compared to the potential economic value of the proposed hotel, the economic factors weight in favor of demolition for all three buildings.

While certainly not a model of linguistic clarity, 17.65.050(8)(2) appears to get at the comparative economic value when compared to the historic value of the buildings proposed for demolition. It appears to also evaluate the comparative economic value of the buildings if preserved or renovated.

The potential economic value of the Gwendolyn Hotel is addressed in Exhibit 5 (Economic Value of Structures in Downtown McMinnville, Oregon, Johnson Economics, November 2, 2022), and can be summarized as follows:

- Total project value: \$59,735,000
- Construction cost: \$36,500,000
- Annualized property tax project: \$576,197 (2026), \$590,602 (2027), \$605,367 (2028).

In comparison, a preservation use case (with similar occupancies and no renovation) are of very limited future value. Phillip Higgins, a licensed commercial real estate broker, has provided a memo addressing existing net income, net income of a fully-leased building at market rate, and an evaluation of the existing rental/lease market. This memorandum includes projected profit and loss information. Exhibit 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022). Mr. Higgins findings are summarized below:

"Combined rents across all 3 properties are \$11,365 (assuming fully occupied) or \$136,380 annual gross. The owners did not report taxes, insurance, utility costs, but an easy assumption is that a buildings operating costs are 45-55% of the gross revenue. Using the lower ratio: \$243,280 -45% = \$75,009 Net operating income. At a 6% CAP rate this would result in a [current] Market Value of \$1,250,150."

Mr. Higgins notes that the lease rates result in a net operating income is roughly \$75,000 annually, before any loan service, tenant improvements, or major repairs:

"The Current Market Valuation excludes any debt service, excludes tenant improvements, excludes any cost to bring the buildings up to current occupancy standards/ code compliance, with the addition of these line items the [net operating income] would shrink significantly below lender underwriting standards for OCR/ Debt Coverage Ratios for income to payments."

Based on this analysis, the buildings in their current form are of little or no net economic value to a new owner, given the need to service acquisition debt at their current value. Stated simply, the cost of debt and tenant improvements is likely so near the net operating income that a sound financial institution is unlikely to lend on such an acquisition with an as-is use case.

Even so, the July 29, 2022 HPR Report (Exhibit 3) demonstrates that significant work must be done on these buildings in order for them to remain viable even for this use case. Necessary repairs would include the following:

- "The 2nd level of the 609 Building would require repair and remediation should that space be occupied.
- The 2nd level of the 611 Building would require repair and remediation should that space be occupied.
- As noted in the General Conditions section, each of the three buildings have structural conditions that we recommend be further analyzed for possible remedial actions should they remain.
  - o This includes the roof truss node that is out of plane in the 609 Building, the removed built up floor beam in the 611 Building, and the rotten truss bearing in the 619 Building.
- Additionally, all three buildings have sections of the roof framing that is deteriorated and requires repair."

While there are some grants and historic preservation tax credits that may be available, work to bring the buildings back into a sound condition is likely in the hundreds of thousands of dollars. The primary historic



tax benefit, the "Special Assessment of Historic Property Program" is no longer available for the 609 and 611 Buildings. The most beneficial available federal program, the Federal Historic Tax Preservation Tax Incentive Program, provides a 20% income tax credit. With a current federal income tax rate of 21%, this would yield only about \$5,700 per year for all three buildings collectively, and this assumes that the gross income from these properties would otherwise be fully taxable. State grants for particular historic buildings generally yield a maximum \$20,000. Exhibit 8 (Memorandum Regarding Historic Preservation Incentives, Otak, October 31, 2022.) All of this assumes successful competition for such grants, which is certainly not a guarantee given the diminished historic character of these buildings. In summary, there is no reason to believe that historic grant programs and tax credits will be even close to sufficient to provide the repairs identified in the HHPR report.

Upgrading the buildings to a different use would almost certainly require seismic upgrades. To explore an alternative use case that would preserve but reuse the buildings for a hotel, the Applicant engaged its subsidiary Hugh Construction Company to prepare a financial pro-forma for re-use of the buildings as a hotel with ground-floor retail.<sup>4</sup> This is enclosed as Exhibit 6 (Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022). The key findings are as follows:

- The base construction costs are anticipated to be \$11,430,000, with a total project cost of roughly \$20,000,000, excluding land acquisition.
- The total construction costs, along with soft costs and land acquisition costs are anticipated to be \$24,994,838.
- Due to the limited number of rooms, high cost of historic rehabilitation and retrofit, and debt service, the total net operating income from the project will be approximately \$813,419, with an annual cash flow of only \$516,922. Note that this is before debt service. Net cash flow from the property as a whole is negative, with cash investments in the negative throughout the period to fiscal year 2032, as demonstrated by the cash income statement on pg. 8 of Exhibit 6 (Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022).

Considering this alternative program, the Johnson Economic Study dated Nov. 2, 2022 analyzed the potential returns as follows:

"Renovation of the site for lodging uses would require a significant investment in restoration to bring the structure into conformance with current code. The estimated current costs to develop this program is just under \$20 million in current dollars (excluding acquisition), with an overall cost of roughly \$25 million. The projected net operating income at stabilization is estimated at \$580,500, representing a 2.3% return on cost."

"The estimated capitalization rate for this type of project is likely in the 6.5% to 7.5% range. Assuming a 7.0% cap rate, the estimated value of the project would only be \$8.3 million in this configuration, roughly a third of estimated costs.

While the assumptions may shift, renovation of the current structure for retail and hotel space is highly unfeasible."

"Renovation of the structure does not provide the owner with a "reasonable economic use". There would be no expectation that the property owner or a rational developer would pursue this project as a renovation."

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<sup>4</sup> While no other contractors could provide an estimate without a more developed renovation plan set, the contractors Hugh consulted confirmed that Hugh Construction's estimate was reasonable.

The upshot of the above discussions is that there is no rational economic value to a rehabilitation and re-use case for the buildings.

**CITY RESPONSE:** The applicant has provided the requested information to determine if rehabilitation of the structure is financially feasible within the existing McMinnville market. Based on the structure's construction needs (not just to meet existing building codes but to structurally maintain the existing uses within the building), the amount of leasable space within the existing McMinnville market does not support the acquisition and rehabilitation of the property.

**17.65.050(B)(3).** *The value and significance of the historic resource;*

**APPLICANT'S RESPONSE:** An evaluation of the significance of the buildings is provided in Section 3 of this narrative. This section provides additional information.

The McMinnville Downtown Historic District was evaluated in 1983/1984 and was listed on the National Register of Historic Places in 1987. The Historic District nomination included a description of each property including its date of construction, initial use, changes (alterations) over time, and mention of multiple owners up to the time of nomination. Each building was deemed to be distinctive, significant, contributing, or noncontributing to the historic significance of the District. The individual building descriptions describe the significance of the historic resource and the role of each building in the larger context of specific timeframes.

As described in the McMinnville HRI and the Historic District nomination, the greatest period of downtown development occurred from approximately 1884-1905. The buildings from this period are still easy to identify to this day. Their size, style (often Italianate), quality of materials, and intricate detailing set them apart from buildings that came later. The second period of downtown development occurred between 1904-1928. Many buildings constructed during this time were functional, pragmatic buildings that were intended to serve the automobile. Many of the buildings in the eastern part of downtown, including the three buildings proposed for demolition, were initially constructed as automobile garages or service shops.

The proposal requests demolition of 3 buildings within the McMinnville Downtown Historic District. The building at 609 NE 3<sup>rd</sup> Street is listed as a Primary Significant Contributing resource on the City's HRI, and is defined by that designation as a Historic Landmark. The applicant is requesting the demolition of these 3 buildings for a replacement building that will implement and advance the future vision for Downtown McMinnville.

*Building Descriptions*

609 NE 3<sup>rd</sup> Street

The building at 609 NE 3rd Street (609 East Third Street at the time of the HRI) is commonly known as O'Dell's and is identified by its Special Assessment Program number, B865 (a Primary Contributing Resource), in the City's HRI. The HRI does not identify the architectural style, but the 1987 National Historic District nomination describes the architecture as Commercial. The year of construction is noted as 1904 with alterations in 1933 and 1955.

After the HRI and Historic District listing, the building was further renovated.

According to the HRI, its original use was as a garage and the architect is unknown. This original use explains the large series of 8-ft. deep wooden trusses spanning east/west for the 60 ft. width of the building. A small 35-inch width mezzanine was constructed at the south end of the 100-ft. long structure at some point. As noted in the structural report included as Appendix C, this mezzanine is structurally

compromised and is not in use today. Today, the building houses ground floor only offices. The HRI notes:

“This is a stucco-covered square brick building of two stories facing south and situated on a corner. The entire southwest portion of the ground floor is cut-away to accommodate automobiles and gasoline pumps. The roof is flat and only a simple ledge articulates the cornice line. Fixed inset windows of three vertical lights and set-in panels course the second story. Windows on the ground level are large, fixed triple lights with multi-lighted transoms.

The building was erected by prominent lawyer Frank W. Fenton whose name still appears on the door upstairs [as of 1984]. A photograph from 1904 shows the building’s exposed brickwork and double row of dentils above the windows. The present cutaway portion was an enclosed storefront.

Tony Christianson and Russell Turner had a battery shop in the building prior to the 1920’s [sic]; during the 1920’s Dick Wilson and Charles Newman ran a Plymouth agency in the building. Odell’s who had been in business across the street since 1924, moved to this location in 1933.”

The Historic District nomination provides a more detailed description and additional information about the historic occupants:

“This rectangular two-story stuccoed corner building has a flat roof with a raised stucco cornice line. The second floor consists of three bays on Third Street. The two eastern bays contain paired wood sash windows each with three vertical lights. The bay at the western end contains a series of three wooden windows with three vertical lights. Each bay is recessed approximately four inches and each window is recessed another four inches and has a projecting stuccoed sill. The second-floor windows on the west façade are identical in type to those on the Third Street façade but occur in a different configuration. This façade has four bays and the window series from north to south is three, two, one, one. A stuccoed belt course divides the stories. Two piers on the Third Street façade remain intact (one has been removed). The east end of the Third Street ground floor façade contains an intact storefront one bay wide with an original wood frame plate glass window with a six light transom and stuccoed sill and bulkhead. The west end of the Third Street façade has been cut away across two bays and the entrance recessed two bays towards the north. An entrance was installed which faces west and has a wood sash glass and transomed entrance and storefront window. A wood storefront was also installed facing south which has several openings. The south end of the west façade is also cut away and the bay is divided by the addition of a new pier. The three remaining bays on this façade are divided by piers which extend from the cornice through to the ground. Next to the cut away bay (north) is an original wooden storefront window with a four-light transom and stucco bulkheads and sills. The next bay to the north contains a five-light transom and plate glass window divided into three vertical lights. The far north bay contains a wooden garage door.

This building was constructed for Frank W. Fenton, a prominent McMinnville attorney, whose photograph still appears upstairs. A photograph dating from 1904 shows the building has exposed brickwork and a double row of dentils above the windows. The present-day cutaway portion was an enclosed storefront. Prior to the 1920’s [sic], Tony Christianson and Russell Turner had a battery shop in the building. Dick Wilson and Charles Newman ran a Plymouth agency in the building in the 1920’s [sic]. Odell’s Garage moved to this location in 1933.”

At the time of the HRI, according to the accompanying photo, the building was still occupied by O’Dell’s. According to historicmac.com, the News-Register moved into the adjacent property in 1976 and the O’Dell Building in 1981, and remodeled the O’Dell Building in 2001 through the SHPO Special Assessment Program. This remodel appears to have enclosed the previous cut-away at the southwest corner of the building and added fabric awnings above the transom windows. The upper level of the building appears to be relatively unchanged.

**FINDING:** The historic significance of the property is questionable due to the amount of modifications that have occurred. The City concurs that the attributed historic significance identified in the McMinnville Downtown Historic District National Register of Historic Places nomination for 609 NE Third Street as a Primary Significant Contributing resource in the district is misrepresented due to the amount of modifications that have occurred on the property.

**17.65.050(B)(4).** *The physical condition of the historic resource;*

**APPLICANT’S RESPONSE (Original Application):** As described in the structural evaluation included as Appendix C, existing buildings are in adequate physical condition for their existing uses as offices. However, a change of occupancy of these buildings from office to commercial and/or lodging uses would likely require costly seismic updates to each of these buildings.

**APPLICANT’S RESPONSE (December 15, 2022):** HHPR 's Existing Building Summary identified a number of structural issues with these buildings, which are explained in detail below. Its general conclusions are that the buildings need significant work soon: "If we were in a position to advise the building owner, we would recommend that these items be addressed in the very near future." Exhibit 2 (Existing Building Structural Summary, HHPR, November 6, 2022). This is just to get the building back to something resembling their original design structural capacity. All have significant structural issues. For example, the 609 Building has a major truss that must be replaced. The 611 Building has load-bearing laminated beams that have been cut. Most of the roof trusses in the 619 Building are rotten where they intersect the party wall along the 611 Building. All of these conditions must be addressed.

The buildings are also all constructed of unreinforced masonry. Exhibit 2 (Existing Building Structural Summary, HHPR, November 6, 2022) provides a detailed literature review explaining why seismic reinforcement of these buildings is advisable, and concludes as follows:

"Like other similar URM buildings, the three buildings under review in this report would have the potential for similar failure points. Generally, these failure points could be attributed to the lack of ductility associated with URM construction and the lack of positive connections between the floor and roof framing and the walls of the structure. The anticipated failure points could be:

- In plane shear failure of the URM walls
- Out of plane bending failure of the URM walls
- URM walls pulling away from the roof or floor framing resulting in roof or floor collapse

Given their higher risk profile, URM buildings represent a unique and complicated challenge to the structural engineering community, to the building owners and to the community at large."

It is important to recognize that any significant changes to these buildings (such as significant tenant improvement) would likely trigger seismic retrofit to some degree. This is a likely scenario, for example, if the upper floors of the 609 and 611 Buildings are put back into use and qualify as an "alteration." Also, changes in occupancy and structural alterations (such as those required to address the buildings' identified structural problems) would likely trigger additional upgrades under the Existing Building Structural Code, as adopted by the State Building Codes division.

The costs of such upgrades are likely infeasible for these buildings in their current occupancy; as explained by the Western States Seismic Policy Council, "upgrading existing buildings to resist earthquake forces is more expensive than meeting code requirements for new construction." <https://www.wsspc.org/public-policy/legislation/oregon/>. This is also demonstrated by the

memorandum provided by Mr. Higgins (Exhibit 7, McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022), which demonstrates that such improvements are not financially feasible.

The physical condition of certain building elements-particularly those from the historic period of significance-is provided in the HRA. Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022). However, the HRA does not characterize the general condition of the buildings as a whole. The physical condition of the buildings is explained below:

609 E 3rd Street. The condition of the building in general was not characterized by the HRA. Condition of the original features of the building are described as follows:

- o "The three original wood storefront windows and transoms, and south, west, and north elevation second-floor windows, are in fair to good condition.
- o The second-floor interior, at the south side of the building, is vacant and has been unused for a significant time period. As noted previously, the windows are in fair to good condition, including original mill work surrounds. Where plaster remains, it is in poor condition.
- o Original wood trusses at the interior appear to be in good condition."

It is notable, however, that a return of the ground-floor facade to its historic character is likely very difficult:

"The brick may have been scarified for application of the stucco, and there may also be areas of wire mesh, wood blocking or other materials added to infill the original corbelled brick configuration. If a return to the original brick appearance were desired, the removal of the stucco would likely require substantial if not full replacement of the underlying brick."

The HPR Existing Building Summary (Exhibit 2, Existing Building Structural Summary, HPR, November 6, 2022) identifies the following structural deficiency in the building:

"The most southern roof truss in the building has a top chord node that is out of plane by over 6 inches. This represents a significant structural concern and should be evaluated further with possible remedial actions should the building remain. The remedial action includes installing a new girder and columns to support the truss thereby removing mezzanine and roof loading from the truss."

HPR's initial structural review of the building, dated July 29, 2022 (Exhibit 3), identified the following identified the following issues:

- o "The roof framing over the original 2nd level offices is significantly deteriorated in several locations.
- o The south brick wall at the 2nd level offices is deteriorating and the mortar is no longer sound.
- o There are multiple diagonal cracks following the mortar lines at the 2nd level offices.
- o The 1st truss from the south elevation is displaced over 6 inches horizontally at the top which represents a significant structural concern."

The July 29, 2022 HHPR report describes the general condition of the buildings as follows:

- o "Each of the three buildings has portions of brick wall that are in poor condition that would require significant work to remediate including new mortar and the replacement of bricks.
- o Each of the three buildings has portions of the roof structure that are rotting and are in poor condition. While it may be that the roofing has been repaired, it does not appear that in certain areas the supporting structure has been repaired. These areas also coincide with areas of the brick wall that are in poor condition
- o The most southern roof truss in the 609 Building has a top chord node that is out of plane by over 6 inches. This represents a significant structural concern and should be evaluated further with possible remedial actions should the building remain. The remedial action includes installing a new girder and columns to support the truss thereby removing mezzanine and roof loading from the truss
- o The removed floor beams distributing roof load in the 611 Building represent a significant structural concern and should be evaluated further with possible remedial actions should the building remain.
- o The rotting bearing points of the roof trusses in the 619 Building represent a significant structural concern and should be evaluated further with possible remedial actions should the building remain."

Based on the information provided in Exhibits 1 (Historic Resources Assessment, Architectural Resource Group, November 2022), 2 (Existing Building Structural Summary, HHPR, November 6, 2022), and 3 (Documentation of Existing Building Structures, HHPR, July 29, 2022), the general condition of the buildings is best characterized as poor or marginal at best, depending on the proposed use case. While the buildings are not "dangerous" (which condition would require removal of the existing tenants), it is clear that significant work must be undertaken to ensure these buildings' future preservation, even if they are not seismically upgraded. Bear in mind that this is the requirement for continued use of the buildings for ground-floor retail or limited-occupancy offices; any more intensive uses will require substantially more structural upgrades. It is also important to note that, under both state and local criteria, the buildings need not be considered "dangerous" in order for their condition to be a major factor in allowing their demolition.

**CITY RESPONSE:** The applicant argues that the combination of structural issues associated with a lack of building maintenance and investment and the structural costs of reinforcing unreinforced masonry buildings is a significant cost burden for a one or two-story building to overcome. And the city concurs. However, unreinforced masonry buildings are rehabilitated all of the time and lack of maintenance should not be justification for demolition of a historic resource.

**FINDING:** The physical condition of the building is not a stand-alone reason to allow demolition of the property but however it is part of a collective consideration.

**17.65.050(B)(5).** *Whether the historic resource constitutes a hazard to the safety of the public or its occupants;*

**APPLICANT'S RESPONSE:** Each of the buildings are currently occupied and is assumed to not constitute a hazard to the safety of the public or its occupants.

**FINDING:** The historic resource is not a hazard to the safety of the public.



**17.65.050(B)(6).** *Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;*

**APPLICANT’S RESPONSE:** The current structures are 1- and 2-stories in height and are occupied by office uses. The Gwendolyn Hotel development addresses many of the City’s identified economic development needs. The applicant proposes a development program that includes numerous benefits to the City:

- 90-95 luxury hotel rooms designed to accommodate visitors to nearby wineries and tasting rooms
- A ground-floor restaurant
- Ground-floor commercial/retail spaces
- 67 vehicular parking spaces
- A ground-floor meeting room for use by guests and local groups
- A reservable rooftop bar and patio
- A luxury soaking pool on the level 6 roof terrace

On March 12, 2019, the Common Council of the City of McMinnville voted unanimously to adopt the MAC-Town 2032 Economic Development Strategic Plan. The plan established eight important goals. Goal 6 is “Be a leader in hospitality and place-based tourism,” and includes a number of goals which are addressed below.

*Goal 6.1: Make Downtown the best it can be.*

- *Evaluate current zoning, historical districts and designations, and existing land use patterns, including underutilized parcels, to ensure that key downtown parcels offer the highest and best use for their location.*

As noted in Section 5 below, the MAC-Town 2032 plan further implements the Comprehensive Plan policies related to the economy. Following adoption of this plan, City staff presented zoning amendments to remove minimum parking requirements from downtown properties to allow new development to maximize the use of downtown parcels. Though not explicitly stated in the plan, allowing redevelopment of the subject site would also allow a key downtown parcel to offer the highest and best use for its location. The permitted height is 80 ft. and a broad range of commercial and residential uses are allowed, which indicates that the subject site was anticipated to be used more intensively in the future.

*Goal 6.2: Become the preferred destination for wine related tourism.*

- *Connect hoteliers and other hospitality professionals in Oregon and elsewhere to local opportunities for high quality additions to McMinnville’s current hospitality offerings.*

The applicant intends to develop a luxury hotel on this site, which expands McMinnville’s current hospitality offerings and addresses this goal.

*Goal 6.4: Market and promote McMinnville.*

- *Work with visit McMinnville and local hoteliers to identify gaps in available conference space and to establish a plan to expand McMinnville’s offerings for small and large conferences.*

Though the hotel is not intended to be a conference hotel, it will provide a meeting room on the ground floor for hotel guests and members of the community. This addresses a gap in the existing offerings in downtown McMinnville.

In addition to moving the MAC-Town 2032 goals forward, the proposed development will significantly expand the assessed value of the site, which will result in additional tax income for the community and additional funding for the urban renewal area.

The hotel and supportive commercial spaces are anticipated to employ 60 community members, and visitors to the hotel will eat in nearby restaurants and shop in nearby stores. Wine enthusiasts are expected to use the Gwendolyn Hotel as a home base for weekend wine tasting trips in the surrounding areas and for visiting local tasting rooms. Though not required, the proposed development includes below-grade vehicular parking spaces for use by hotel guests.

The corner of NE 3<sup>rd</sup> and Ford streets is a key corner of downtown McMinnville. The Gwendolyn will provide additional downtown lodging opportunities for people seeking an urban wine country experience.

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** As noted in the land use application narrative dated August 6, 2022, the MAC-Town 2032 Economic Development Strategic Plan includes several relevant goals. The application to these goals focused on the potential of the proposed new Gwendolyn Hotel to implement the MAC-Town 2032 Plan.

Per staff's request, these addition responses focus on how the existing buildings could, or could not, implement the Plan.

***Goal 6 : Be a leader in hospitality and place-based tourism***

Goal 6.1: Make downtown the best it can be.

*Evaluate current zoning, historical districts and designations, and existing land use patterns, including underutilized parcels, to ensure that key downtown parcels offer the highest and best use for their location.*

[...]

Following the adoption of the MAC-Town 2032 plan, the City revised its off-street parking and site landscaping requirements to exempt large portions of downtown, allowing more efficient use of the limited area in the downtown core.

Staff does not dispute that the current 1- and 2-story buildings do not represent the highest and best use of the site. The C-3 zone is applied to downtown McMinnville and other commercial areas, and includes a height allowance of 80 ft. The zero setback requirements, off-street parking exemptions, and landscaping exemptions encourage buildings that occupy the entire site. The proposed development will intensify the use of the corner of NE Third and Ford streets and will offer the highest and best use for the site under current zoning regulations.

***Goal 6.2: Become the preferred destination for wine-related tourism.***

[...]

*Connect hoteliers and other hospitality professionals in Oregon and elsewhere to local opportunities for high-quality additions to McMinnville's current hospitality offerings.*

"Hospitality" generally includes housing and entertaining visitors, including lodging, food and drink, and activities. Likewise, "local opportunities" typically refer to available properties with willing sellers.

The proposed development includes hotel, restaurant, and retail uses, as well as a rooftop deck and lap pool. The rooftop space will be available for rent for special events and gatherings, filling an identified need in downtown McMinnville.

The existing buildings are available for sale by willing sellers. They do not currently include hospitality uses and cannot be upgraded to accommodate them without triggering substantial seismic and building code upgrades.

As noted in Attachment 6, upgrading the buildings to add 13 hotel guestrooms would cost almost \$25 million, which is not financially feasible. The building could be converted to a wine tasting or food service use, which would trigger the same seismic and building code upgrades noted above and would provide even less income.

*Goal 6.4: Market and promote McMinnville.*

[...]

*Work with Visit McMinnville and local hoteliers to identify gaps in available conference space and to establish a plan to expand McMinnville's offerings for small and large conferences.*

The current buildings include small meeting areas to serve the tenants. They do not include conference space or lodging for conference attendees. In order to accommodate conference space, the existing uses would need to be removed or downsized.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** The HLC can find that this factor favors demolition for the following reasons.

- As explained in detail in response to OAR 660-023-0200(8)(a), the buildings are listed as contributing to the district primarily due to their dates of construction. All appear to have been constructed (or at least re-constructed) for use as automobile garages and a car dealership and, in the case of the 609 Building, a gas station. The buildings were designed and adapted to this purpose. The buildings have each lost at least half of their historic facades (indeed, the 609 Building has lost its entire original facade), and the upper floors of the 609 and 611 Buildings are unoccupied and have few remaining interior historic finishes. Remaining historic features generally include some window casings on the 609 Building, the parapets on the 611 and 619 Buildings, and some interior features. Otherwise, their remaining characteristics are simply their masses and structural elements. For this reason, their historic value is low after having been substantially compromised prior to establishment of the Downtown Historic District.

There is no evidence that any of these buildings are connected with important historical events. While the 609 Building was built by McMinnville resident Frank W. Fenton, Mr. Fenton was a developer and built several buildings, and there is no evidence that he made personal use of the building for long, if at all. And, this building does not resemble at all its original exterior during the period in which Mr. Fenton might have made use of it. There is also no evidence that these buildings served as community gathering spaces during their periods of historic significance.

Based on the above, the public interest in preservation of these buildings is confined to the fact that they are listed as contributing structures within the Historic District. There are no other factors that reasonably weigh in favor of preservation. On the other hand, they are not remarkable in relation to the other contributing buildings within the Historic District and they retain very little of their respective historically-relevant features, most of which have been covered with stucco or removed. For all of the above reasons, the HLC can find that the public interest in their preservation is low.

- The buildings will require substantial structural repairs to continue to be used for the limited retail and office uses they have been used for since the establishment of the Historic District. Seismic retrofit of the buildings is unaffordable if their current

configuration is maintained, and there is no positive return on investment if they were to be rehabilitated for use as a hotel.

- As explained in the HRA, the primary historical value of these buildings is their location, massing, and roof configuration. Assuming that the buildings' massing must be retained for that reason, no owner will be able to meaningfully intensify their uses. This is a further headwind against any substantial repair or seismic upgrade. Therefore, the economic value of the buildings to the City is represented by their current uses, with a Current Market Value of \$1,250,150 for all three buildings, collectively. Exhibit 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022). This is less than the combined assessed value of the buildings, noted below. Even excluding debt service obligations and tenant improvements, the collective market value of the buildings is only \$2,230,066. On the other hand, the projected market value of the Gwendolyn after construction and occupancy in FY 2025 is roughly \$64M after an investment of approximately \$61 M. Exhibit 10 (The Gwendolyn Financial Pro-Forma, December 15, 2022).

The combined assessed value of all three buildings in 2022 is \$1,793,470; at a combined rate of 16.4925 these collectively generate roughly \$29,500 in annual property tax revenue, with roughly \$10,670 of that amount going to the City of McMinnville. Exhibit 9 (2022 Tax Statements). Assuming a standard rate (non-historic) of 16.5854, property taxes after completion and occupancy of the Gwendolyn in 2025 would be \$327,917. Exhibit 10 (The Gwendolyn Financial Pro-Forma, December 15, 2022).

Construction of the Gwendolyn will be a significant draw to McMinnville's downtown, increasing traffic to businesses within the Historic District. Given that this will increase the value of the other buildings in the Historic District, construction of the hotel is likely not only a benefit to the City from a financial perspective, but also a long-term benefit to the district itself. According to the Nov. 2, 2022 Johnson Economics Report, "[t]he proposed new hotel would provide significant economic value on the site, supporting the ongoing positive investment patterns in downtown McMinnville. Keeping the existing structures would effectively preclude new investment on the site, and result in underutilization of the parcels while yielding no economic return.'

- For the above reasons, the HLC can find that the proposed Gwendolyn Hotel is an "an improvement program of substantial benefit to the City." Preservation of these buildings presents a substantial barrier to this program because these buildings must be removed to allow for construction of the Gwendolyn, because they have little to no economic viability for adaptive re-use, and because their value under their current use case is miniscule compared to the proposed development. It is also worth considering that the value of the buildings is likely to decline even in their current or similar tenancies unless structural repairs are made; as explained above, such repairs are likely not financially rational without a more intensive use case for the buildings, which itself may trigger seismic upgrades.

**FINDING:** The preservation of the buildings would be a deterrent to advancing several goals of the MAC Town 2032 Economic Development Strategic Plan.

**17.65.050(B)(7).** *Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and*

**APPLICANT'S RESPONSE (Original Application):** As noted in the response to 17.65.050.B.2 above, the cost to retain and renovate the existing buildings to current building code, including seismic upgrades, is significant and unlikely to be undertaken by any purchaser of the property. Retention of the buildings

as-is will be unsustainable given the asking sale price, and the cost of renovation of the properties for new or different uses will take 40 years to recoup.

**APPLICANT'S RESPONSE (December 15 Application):** The public interest in the resource's preservation is not clearly articulated in any adopted document. However, the HLC can find that the public interest in preservation of these buildings is related to their ability to reflect their historical period of significance. As explained above, these buildings do so to only a limited degree because their facades have been largely replaced. Therefore, the public interest in their preservation should be viewed as reduced as compared to buildings that have not been substantially altered, and such interest is largely a factor of their year of construction.

The public interest in their preservation must necessarily include their ability to serve an economic function to McMinnville's historic Downtown. As explained above, the current economic viability of these buildings and their future prospects are poor. Adaptive re-use is not a realistic option because of the significant structural upgrades that would be required, and re-use of the buildings for the hotel use proposed by the Applicant is not economically feasible.

In view of both of these factors, the public's interest in these buildings' preservation seems limited at best, and low when compared to buildings in the District which have better future economic use prospects or better reflect their original appearance, or both.

The question posed by this criterion was directly evaluated in the Johnson Economics Report (Exhibit 5). This report concludes as follows:

"Keeping the buildings in their current use would negate the requirement to upgrade the structures but would also limit the amount of investment that could be made within triggering the requirement. The buildings have structural deficiencies and obvious deterioration that would need to be addressed prior to re-tenanting in any of the buildings.

Building the hotel above the existing structures would require a complete seismic upgrade of the structures, and new columns to support the hotel would need to penetrate the structures. The cost of this type of structure would be substantially higher than new construction and the resulting development would be significantly less efficient.

As a result of these myriad factors, the retention of the existing structures would cause substantial financial hardship to the owners. Based on our previous experience, the likely cost of the necessary improvements and upgrades would render the cost of space to likely be hundreds of dollars more per square foot than new construction. If the redevelopment was not done and the buildings were kept in their current use without significant upgrades, they would pose a life safety hazard and may not be insurable. The structures are depreciated to a point in which Investments in the structures would be unlikely over time as they would not yield an economic return. As a result the properties would be likely to face an extended period of declining condition and underutilization for the foreseeable future."

This conclusion is consistent with the other information discussed above, which generally demonstrates that the buildings are not likely to generate a meaningful return for Hugh Development with a current or similar tenant mix. This is reflected by the fact that the actual market value when accounting for debt service is actually less than the assessed value of the property. See Exhibits 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022) and 9 (2022 Tax Statements).

For the above reasons, the HLC can find that retention of the buildings in their current configurations would not just be a financial hardship to the owner, but will likely result in the eventual degradation of the buildings to the point where demolition for safety reasons becomes increasingly likely. These practical headwinds against continued use of the buildings in their current configurations far outweigh the buildings'

relative contribution to the objectives of the Historic District, as discussed above, and therefore outweighs the public's interest in preservation.

**FINDING. SATISFIED WITH CONDITION OF APPROVAL #13:** Based on the data provided, the City concurs with the applicant, unless another solution can be provided..

**CONDITION OF APPROVAL #13:** The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives.

**17.65.050(B)(8).** *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.*

**APPLICANT'S RESPONSE (Original Application):** Given the economic and physical benefits of the proposed development, as described elsewhere in this narrative, the HLC can find that the retention of the existing buildings is not in the best interests of a majority of community residents and that redevelopment of the site advances the goals of the community related to the economy, tourism, and energy efficiency. On balance, the proposed development meets or exceeds all relevant policies and regulations.

The architectural and structural team have examined the three buildings extensively, and have listed their deficiencies. See the structural report included as Appendix C. All the alternative means of preservation listed here are possible and acceptable, if directed by the HLC.

As noted previously in this narrative, retaining the buildings in their current state is likely to result in continuing decline in their condition, and renovation of the buildings is cost-prohibitive and will result in a substantial loss for the development team. As noted in the structural report, relocating one or more of these buildings, which technically possible, is extremely complicated and costly and has a high potential for failure due to their construction of unreinforced brick.

**APPLICANT'S RESPONSE (December 15, 2022 Application).** For the above reasons, the HLC can find that the retention of these three buildings would not be in the best interests of the citizens of the City. These reasons can be summarized as follows:

- The buildings do not reflect their appearance or use during their respective periods of significance.
- The building have few remaining residual historic features charactering the Historic District, aside from their masses, structural frames, and roof lines.
- The buildings have limited value under current uses.
- Current or similar uses are probably unable to generate sufficient value to repair the buildings.
- Adaptive re-use would require seismic upgrades and the buildings cannot be economically used for hospitality.

On the other hand, the economic opportunity for the Historic District presented by the proposed Gwendolyn Hotel far outweighs the limited benefits of building preservation, as discussed above.

Historic features identified by the HRA, such as belt courses and cornices, are emulated by the proposed architectural design of the Gwendolyn. Any moveable historic features of these buildings, such as

windows, can be incorporated into the proposed building. The remaining characteristics of the buildings—their massing and roof line—can be easily documented with photographs.

For these reasons, the HLC can find that on balance, retention of these buildings would not be in the best interest of the City's citizens when weighed against the benefits of the proposed Gwendolyn Hotel.

**FINDING. SATISFIED WITH CONDITIONS OF APPROVAL #14 and #15:** The City concurs with the applicant's findings.

**CONDITION OF APPROVAL #14:** Prior to demolition the applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection.

**CONDITION OF APPROVAL #15:** Prior to demolition the applicant will provide the City with an archaeological plan describing how the applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (Comprehensive Plan Goal III 2 – Historic Preservation)

**17.65.070 Public Notice.**

- A. *After the adoption of the initial inventory, all new additions, deletions, or changes to the inventory shall comply with subsection (c) of this section.*
- B. *Any Historic Landmark Committee review of a Certificate of Approval application for a historic resource or landmark shall comply with subsection (c) of this section.*
- C. *Prior to the meeting, owners of property located within 300 feet of the historic resource under consideration shall be notified of the time and place of the Historic Landmarks Committee meeting and the purpose of the meeting. If reasonable effort has been made to notify an owner, failure of the owner to receive notice shall not impair the validity of the proceedings*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** Notice of the Historic Landmarks Committee's consideration of the Certificate of Approval application was mailed to property owners located within 300 feet of the historic resource. A copy of the written notice provided to property owners is on file with the Planning Department.

**17.72.020 Application Submittal Requirements**

*Applications shall be filed on forms provided by the Planning Department and shall be accompanied by the following;*

- A. *A scalable site plan of the property for which action is requested. The site plan shall show existing and proposed features, such as access, lot and street lines with dimensions in feet, distances from property lines, existing and proposed buildings and significant features (slope, vegetation, adjacent development, drainage etc.)*
- B. *An explanation of intent, nature and proposed use of the development, and any pertinent background information.*
- C. *Property description and assessor map parcel numbers(s).*
- D. *A legal description of the property when necessary.*
- E. *Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.*
- F. *Materials required by other sections of the McMinnville Zoning Ordinance specific to the land use application.*
- G. *Other materials deemed necessary by the Planning Director to illustrate compliance with applicable review criteria, or to explain the details of the requested land use action.*



**APPLICANT'S RESPONSE:** This submittal includes the required materials.

**FINDING: SATISFIED.**

**17.72.095 Neighborhood Meetings.**

- A. *A neighborhood meeting shall be required for:*
1. *All applications that require a public hearing as described in Section 17.72.120, except that neighborhood meetings are not required for the following applications:*
    - a. *Comprehensive plan text amendment; or*
    - b. *Zoning ordinance text amendment; or*
    - c. *Appeal of a Planning Director's decision; or*
    - d. *Application with Director's decision for which a public hearing is requested.*
  2. *Tentative Subdivisions (up to 10 lots)*
  3. *Short Term Rental*
- B. *Schedule of Meeting.*
1. *The applicant is required to hold one neighborhood meeting prior to submitting a land use application for a specific site. Additional meetings may be held at the applicant's discretion.*
  2. *Land use applications shall be submitted to the City within 180 calendar days of the neighborhood meeting. If an application is not submitted in this time frame, the applicant shall be required to hold a new neighborhood meeting.*
- C. *Meeting Location and Time.*
1. *Neighborhood meetings shall be held at a location within the city limits of the City of McMinnville.*
  2. *The meeting shall be held at a location that is open to the public and must be ADA accessible.*
  3. *An 8 ½ x 11" sign shall be posted at the entry of the building before the meeting. The sign will announce the meeting, state that the meeting is open to the public and that interested persons are invited to attend.*
  4. *The starting time for the meeting shall be limited to weekday evenings between the hours of 6 pm and 8 pm or Saturdays between the hours of 10 am and 4 pm. Neighborhood meetings shall not be held on national holidays. If no one arrives within 30 minutes after the scheduled starting time for the neighborhood meeting, the applicant may leave.*
- D. *Mailed Notice.*
1. *The applicant shall mail written notice of the neighborhood meeting to surrounding property owners. The notices shall be mailed to property owners within certain distances of the exterior boundary of the subject property. The notification distances shall be the same as the distances used for the property owner notices for the specific land use application that will eventually be applied for, as described in Section 17.72.110 and Section 17.72.120.*
  2. *Notice shall be mailed not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.*
  3. *An official list for the mailed notice may be obtained from the City of McMinnville for an applicable fee and within 5 business days. A mailing list may also be obtained from other sources such as a title company, provided that the list shall be based on the most recent tax assessment rolls of the Yamhill County Department of Assessment and Taxation. A mailing list is valid for use up to 45 calendar days from the date the mailing list was generated.*
  4. *The mailed notice shall:*
    - a. *State the date, time and location of the neighborhood meeting and invite people for a conversation on the proposal.*
    - b. *Briefly describe the nature of the proposal (i.e., approximate number of lots or units, housing types, approximate building dimensions and heights, and proposed land use request).*
    - c. *Include a copy of the tax map or a GIS map that clearly identifies the location of the proposed development.*
    - d. *Include a conceptual site plan.*
  5. *The City of McMinnville Planning Department shall be included as a recipient of the mailed notice of the neighborhood meeting.*

6. *Failure of a property owner to receive mailed notice shall not invalidate the neighborhood meeting proceedings.*
- E. Posted Notice.**
1. *The applicant shall also provide notice of the meeting by posting one 18 x 24" waterproof sign on each frontage of the subject property not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.*
  2. *The sign(s) shall be posted within 20 feet of the adjacent right-of-way and must be easily viewable and readable from the right-of-way.*
  3. *It is the applicant's responsibility to post the sign, to ensure that the sign remains posted until the meeting, and to remove it following the meeting.*
  4. *If the posted sign is inadvertently removed (i.e., by weather, vandals, etc.), that shall not invalidate the neighborhood meeting proceedings.*
- F. Meeting Agenda.**
1. *The overall format of the neighborhood meeting shall be at the discretion of the applicant.*
  2. *At a minimum, the applicant shall include the following components in the neighborhood meeting agenda:*
    - a. *An opportunity for attendees to view the conceptual site plan;*
    - b. *A description of the major elements of the proposal. Depending on the type and scale of the particular application, the applicant should be prepared to discuss proposed land uses and densities, proposed building size and height, proposed access and parking, and proposed landscaping, buffering, and/or protection of natural resources;*
    - c. *An opportunity for attendees to speak at the meeting and ask questions of the applicant. The applicant shall allow attendees to identify any issues that they believe should be addressed.*
- G. Evidence of Compliance.** *In order for a land use application that requires a neighborhood meeting to be deemed complete, the following evidence shall be submitted with the land use application:*
1. *A copy of the meeting notice mailed to surrounding property owners;*
  2. *A copy of the mailing list used to send the meeting notices;*
  3. *One photograph for each waterproof sign posted on the subject site, taken from the adjacent right-of-way;*
  4. *One 8 ½ x 11" copy of the materials presented by the applicant at the neighborhood meeting; and*
  5. *Notes of the meeting, which shall include:*
    - a. *Meeting date;*
    - b. *Meeting time and location;*
    - c. *The names and addresses of those attending;*
    - d. *A summary of oral and written comments received; and*
    - e. *A summary of any revisions made to the proposal based on comments received at the meeting. (Ord. 5047, §2, 2018, Ord. 5045 §2, 2017).*

**APPLICANT'S RESPONSE:** A virtual neighborhood meeting was held on April 25, 2022. The appropriate procedures were followed and the materials detailed in G above are included as Appendix A.

**FINDING: SATISFIED.**



Community Development Department  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS OF THE MCMINNVILLE PLANNING COMMISSION FOR THE APPROVAL OF A DEMOLITION OF THE HISTORIC LANDMARK LOCATED AT 611 NE THIRD STREET. THIS IS A RULING IN FAVOR OF THE APPELLANT IN THE APPEAL OF THE HISTORIC LANDMARKS COMMITTEE'S DENIAL OF THIS LAND-USE APPLICATION**

- DOCKET:** AP 2-23 (Appeal of HL 7-22 Certificate of Approval for Demolition)
- REQUEST:** Appeal of the Historic Landmarks Committee decision to deny the applicant's request for the demolition of an existing historic landmark and building that is listed on the McMinnville Historic Resources Inventory as a "Significant" historic resource (resource number B872). This building is also listed on the National Register of Historic Places as a Secondary Significant Contributing building in the McMinnville Downtown Historic District.
- LOCATION:** 611 NE Third Street. The resource is located at the property that is identified as Tax Lot 4300, Section 21BC, T. 4 S., R. 4 W., W.M.
- ZONING:** C-3 General Commercial (Downtown Overlay District)
- APPLICANT:** Mark Vuong, HD McMinnville LLC
- PROPERTY OWNER:** Jon Bladine, Bladine Family Limited Partnership.
- STAFF:** Heather Richards, Community Development Director
- DATE DEEMED COMPLETE:** September 7, 2022
- HEARINGS BODY & ACTION:** McMinnville Planning Commission
- HEARING DATE & LOCATION:** March 2, 6:30 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853
- Hearing continued to March 16, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853
- HEARINGS BODY & ACTION:** McMinnville Historic Landmarks Committee
- HEARING DATE & LOCATION:** September 29, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 859 9565 0539, Meeting Password: 661305

Hearing continued to December 8, 2022, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 892 5565 1124, Meeting Password: 257277

Hearing continued to January 5, 2023, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 831 7965 5545, Meeting Password: 725658

Meeting continued to January 26, 4:00 PM for Historic Landmarks Committee deliberation, a decision and adoption of written findings. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 885 9559 0268, Meeting Password: 925948.

**PROCEDURE:** An application for a Certificate of Approval for Demolition is processed in accordance with the procedures in Section 17.65.040 - 17.65.050 of the McMinnville Municipal Code and Oregon Administrative Rule 660-203-0200 (8)(a).

**CRITERIA:** The applicable criteria for a Certificate of Approval for Demolition are specified in Section 17.65.040 and 17.65.050 of the McMinnville Municipal Code. In addition, since this is a structure listed as part of a historic district on the National Register of Historic Places, Oregon Administrative Rule 660-203-0200(8)(a) is applicable. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

**APPEAL:** As specified in Section 17.59.030(E) of the McMinnville Municipal Code, the Historic Landmarks Committee's decision may be appealed to the Planning Commission within fifteen (15) days of the date written notice of decision is mailed, and according to Section 17.72.180 of the McMinnville Municipal Code, the Planning Commission decision may be appealed to the City Council within fifteen (15) days of the date written notice of decision is mailed. The City's final decision is subject to a 120 day processing timeline, including resolution of any local appeal. The 120-day deadline is January 5, 2023. Per an email dated September 29, 2022 from Garrett H. Stephenson, the applicant requested a 70-day extension to the 120 day decision deadline. The 190-day deadline is March 16, 2023. Per an email dated December 1, 2022 from Garrett H. Stephenson, the applicant requested an additional 30-day extension for a total of 100 days added to the 120 day decision deadline. The 220 day deadline is April 15, 2023. Per an email from Garrett H. Stephenson, the applicant requested an additional 24 day extension to May 9, 2023.

**COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; Oregon Department of Transportation; and State Historic Preservation Office. Their comments are provided in this document.

Based on the findings and conclusionary findings, the Planning Commissions finds in favor of the applicant that the applicable criteria are **SATISFIED** and **APPROVES WITH CONDITIONS** the Certificate of Approval for the demolition of the structure at 611 NE Third Street (HL 7-22).

////////////////////////////////////  
**APPROVAL WITH CONDITIONS**  
////////////////////////////////////

Planning Commission:   
Sidonie Winfield, Chair

Date: 3/18/23

Planning Department:   
Heather Richards, Community Development Director

Date: 3/18/23

**I. SUMMARY:**

**APPEAL:** The applicant is appealing the decision of the Historic Landmarks Committee to deny their request for a Certificate of Demolition for the historic resource at 611 NE Third Street.

In their notice of appeal dated February 10, 2023, the applicant asserted that their application met the applicable criteria and that the Historic Landmarks Committee unreasonably or incorrectly interpreted and applied the McMinnville Zoning Ordinance, failed to issue adequate findings, and failed to reasonably weigh the evidence in the record such that its decision is not substantially supported by the evidence in the record.

Per the McMinnville Municipal Code, an appeal of the Historic Landmarks Committee is noticed as a de novo public hearing of the Planning Commission. The Planning Commission opened a public hearing on March 2, 2023, continued it to March 16, 2023, closed the public hearing and the public record, and voted to adopt these findings in support of the applicant's land-use application with the amended conditions of approval entered into the record by city staff at the January 5, 2023, public hearing with the Historic Landmarks Committee.

**APPLICATION:** The applicant has provided information in their application narrative and findings regarding the history of the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current land use request, and excerpted portions are provided below to give context to the request, in addition to the City's findings.

***Proposed Project***

Below is an excerpt from the application describing the proposed improvement program. The applicant would like to demolish the structures at 609, 611 and 619 NE Third Street and redevelop the property with a mixed-use hotel project that includes ground floor commercial amenities and dedicated underground parking for the project.

*Within the last year, the properties at 609, 611, and 619 NE 3rd Street were listed for sale by the Bladine family and Wild Haven LLC. After analyzing the opportunity and studying both the history and potential of downtown McMinnville, the applicant saw an opportunity to greatly enhance both the economic and experiential vitality of 3rd Street.*

*McMinnville is in an early stage of responding to its goal of being the Willamette Valley's leader in hospitality and place-based tourism. The most recent renovation and redevelopment on the south side of 3rd Street, with new lodging, dining, and wine tasting, has been encouraging. However, the same opportunity for renovation for hospitality, commercial, and retail uses is not available to the subject buildings. As noted in the structural analysis included as Appendix C, changing the occupancy of these buildings from office to commercial, retail, or hospitality is likely to trigger significant seismic upgrades.*

*The applicant has indicated that this cost to fully renovate the buildings would be approximately \$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.*

*In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.*

*The proposal is to replace the three underutilized buildings at 609, 611, and 619 NE 3<sup>rd</sup> Street with a 90-95 room boutique hotel. The ground floor will include the hotel lobby, a signature restaurant at the corner of 3rd and Ford streets, with seasonal sidewalk dining, and small retail*

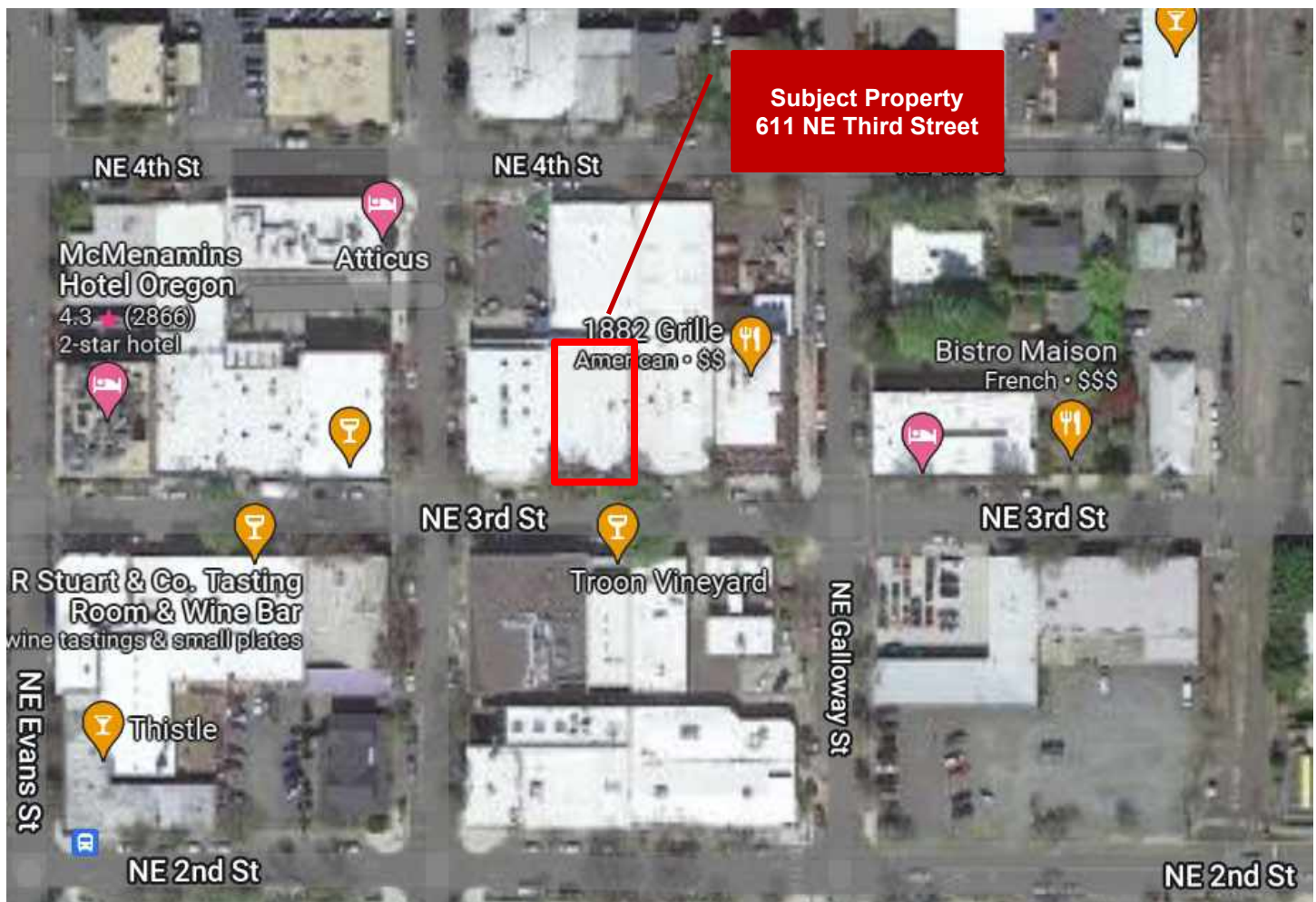
shop(s). The entire rooftop will be a mix of public uses, anchored by a small restaurant/bar opening onto a large terrace of seating and raised-bed landscaping. Though parking is not required in this location, a below-grade parking garage accommodating 68 (reduced to 67 parking spaces per supplemental materials provided on November 4, 2022) parking stalls is proposed. The garage ramp will be at the north end of the property, mid-block on Ford Street, to avoid interrupting the 3<sup>rd</sup> Street pedestrian experience.

(Application Narrative, page 3)

**Subject Property & Request**

The subject property is located at 611 NE Third Street. The property is identified as Tax Lot 4500, Section 21BC, T. 4 S., R. 4 W., W.M. See **Vicinity Map (Figure 1) below, which identifies the approximate location of the building in question.**

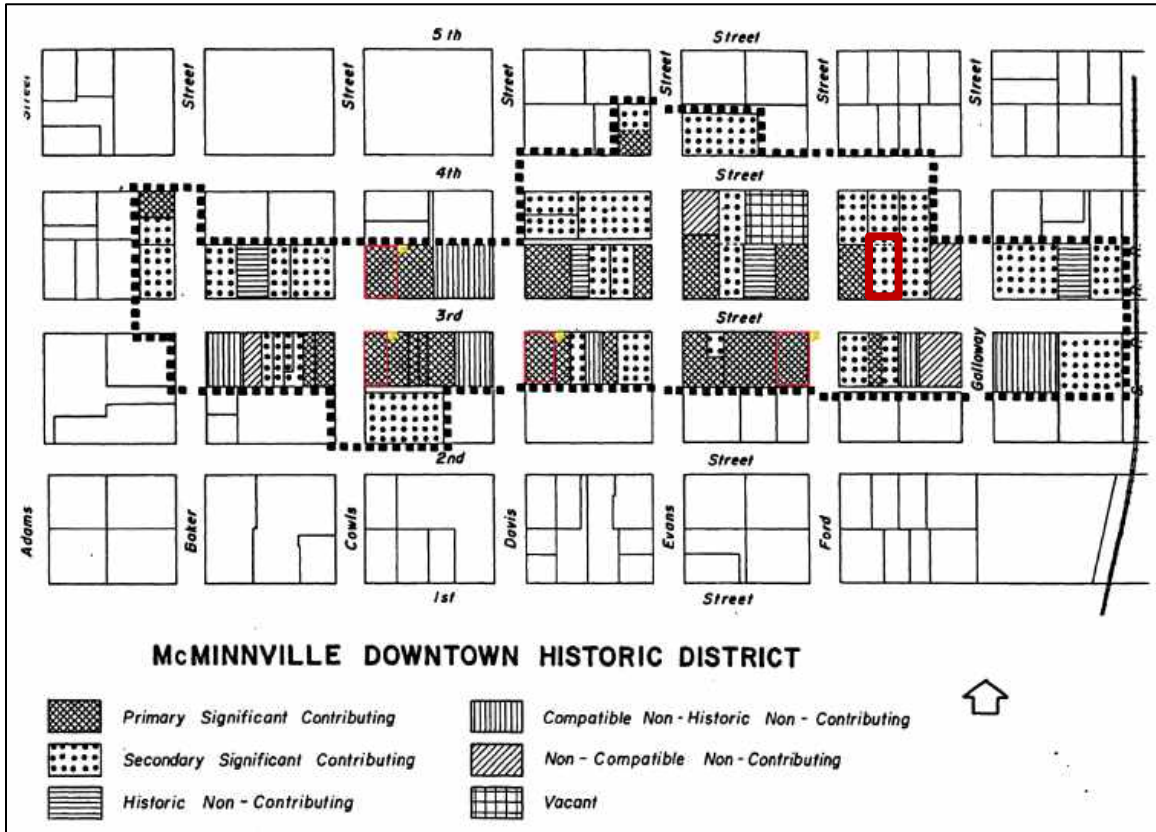
**Figure 1. Vicinity Map (Building Outline Approximate)**



The existing building on the subject property is listed as a Primary Significant Contributing property in the McMinnville Downtown Historic District on the National Register of Historic Places. See **McMinnville Downtown Historic District Map (Figure 2) and Description of 611 NE Third Street in the McMinnville Downtown Historic District National Register of Historic Places Nomination (Figure 3) below.**



Figure 2. McMinnville Downtown Historic District Map



**Figure 3. Description of 611 (misabeled as 619) East Third Street in the McMinnville Downtown Historic District National Register of Historic Places Nomination (Section 7, Page 22) (1987)**

28b ADDRESS: 619 East Third Street  
 CLASSIFICATION: Secondary Significant Contributing  
 OWNER: Francis Fenton Estate  
 536 E. 5th Street  
 McMinnville, Oregon 97128  
 ASSESSOR MAP: 4421 BC TAX LOT: 4300  
 PLAT: Rowland's Addition LOT: 3, 6 BLOCK: 7  
 YEAR BUILT: Between 1912-1928 STYLE: Commercial  
 ALTERATIONS: 1976 (moderate) USE: Commercial

**DESCRIPTION:** This rectangular buff and red brick two-story structure has a pedimented parapet with a raised stucco or cast stone cornice with dentils. A large projecting pressed metal frieze with modillions extends across the entire facade. The second floor is divided into five bays with each bay containing a pair of one over one double-hung wood sash windows. The windows are topped with a row of stretcher brick and squares of cast stone are located at each corner of each window. A low relief beltcourse divides the stories. The first floor transom level has been filled in with scored stucco. New aluminum framed plate glass windows and door have been installed in the recessed storefront. Located at the easternmost end of the facade is the entrance to the second floor. Two large metal posts divide the three storefront bays. The facade is buff brick and the sides and back are red brick. This building does not appear on the Sanborn Fire Insurance Company maps for McMinnville until 1928. A smaller building, a garage, shows on the map on this site prior to this time. The building has been joined to another building at its rear, which faces Fourth Street.

The existing building on the subject property is listed on the McMinnville Historic Resources Inventory as a "Significant" resource (resource number B872). **Please see "Statement of Historical Significance and Description of the Property", Figure 4 below.**

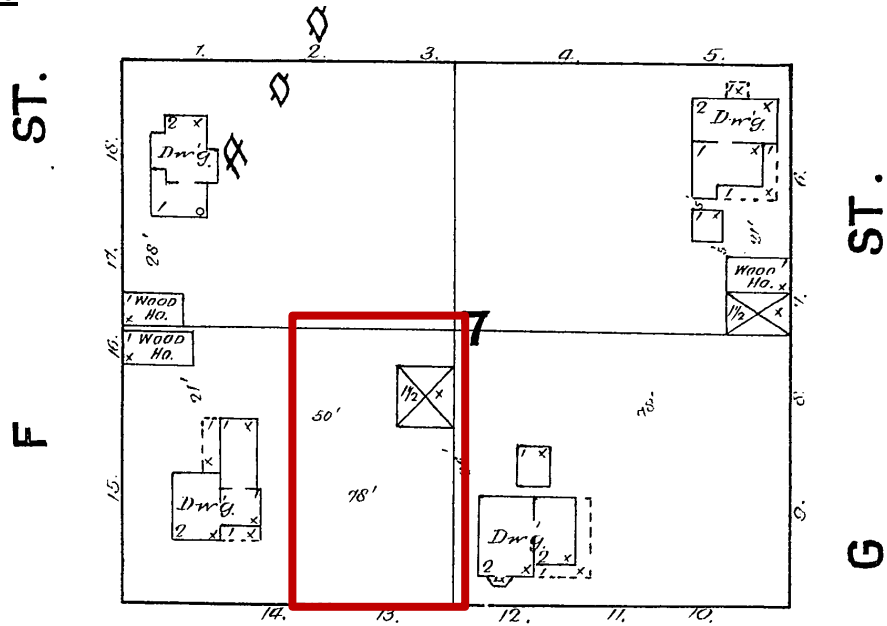
**Figure 4. Statement of Historical Significance and Description of the Property, Historic Resources Survey, City of McMinnville, Yamhill County, Oregon (1983)**

This is a square brick two story structure situated middle block between Ford and Galloway facing south on Third Street. The façade is five bayed, the second story windows being one over one double hung sash, paired, each pair articulated by rows of stretchers. A prominent bracketed and modillioned cornice line stretches the length of the façade above these windows. A parapet wall with a central gable rises three feet above the cornice line. The façade is faced with common bond buff brick above the first floor. Extensively altered, the first story of the façade is faced with scored stucco and has been cutaway to expose two pillars. A stairwell opens onto the street at the extreme east end. The building has been joined to another at its rear which faces Fourth Street on the north. In 1928, the building housed a garage.

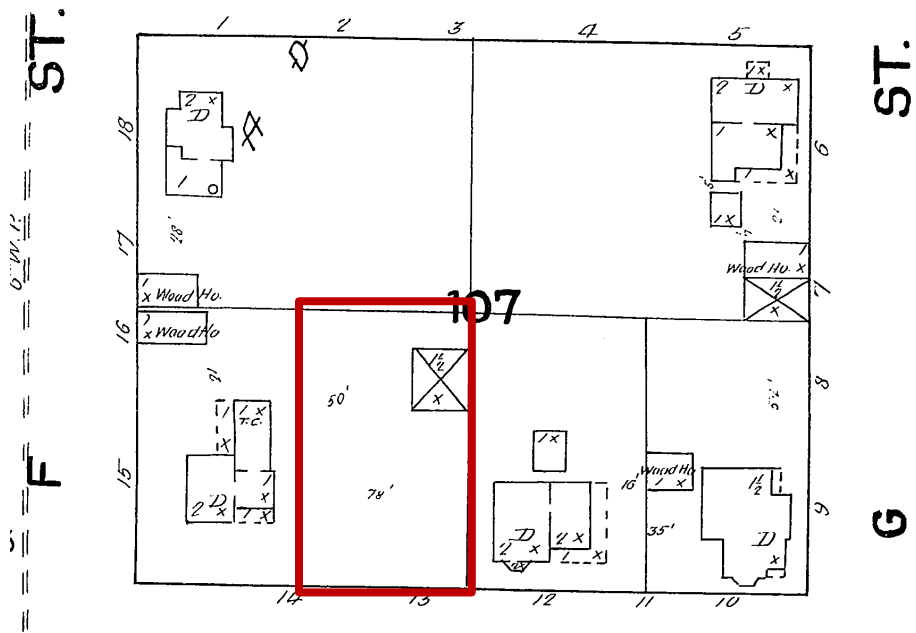
The property originally started off as an accessory structure, prior to 1889, and between 1902 and 1912 it was redeveloped into an automobile garage. ***Please see Figure 5, Series of Sanborn Maps below.***

Figure 5. Series of Sanborn Maps

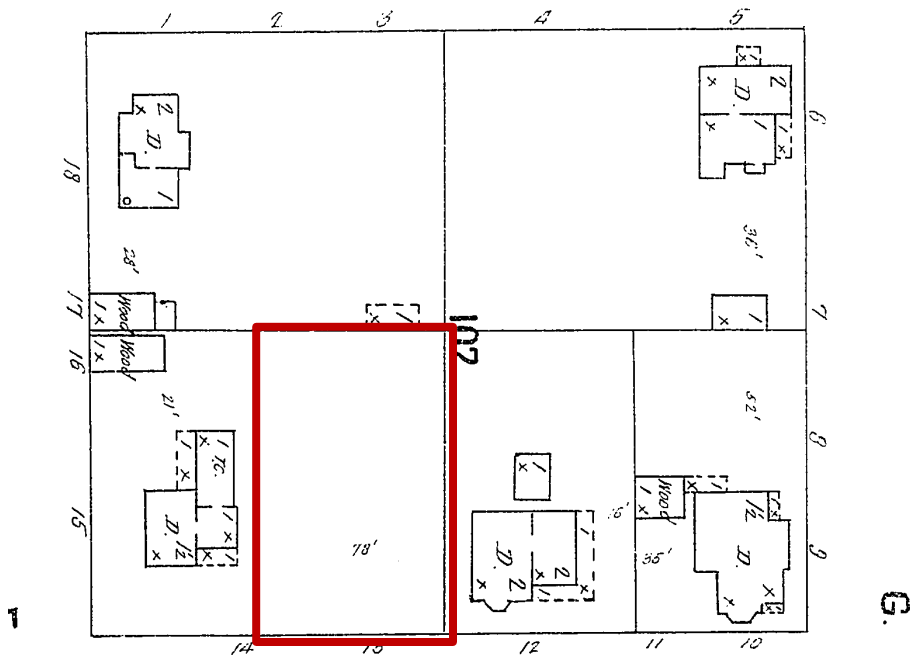
Sanborn Map, 1889



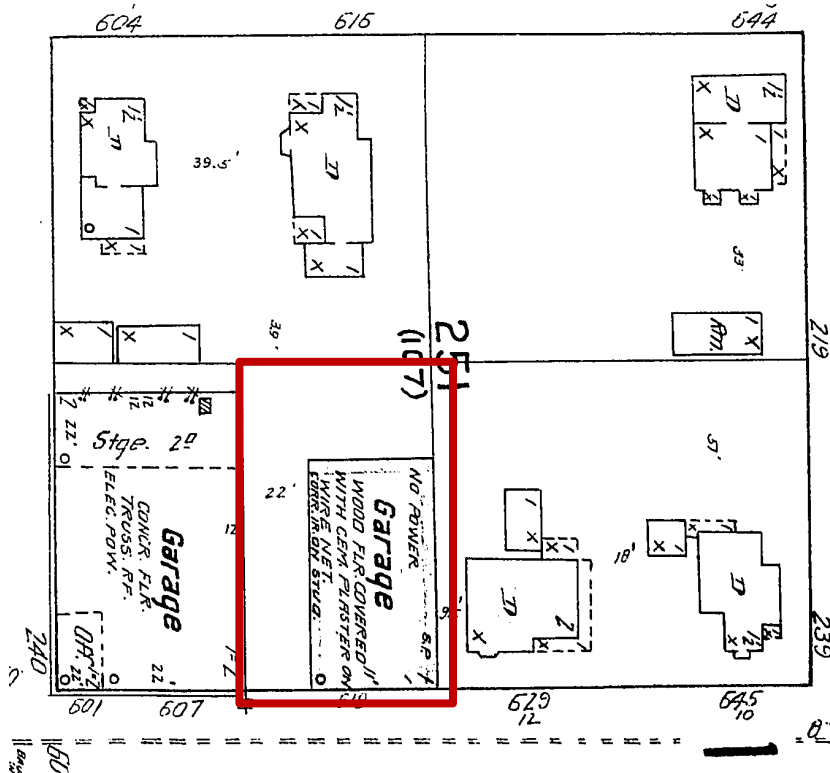
Sanborn Map, 1892



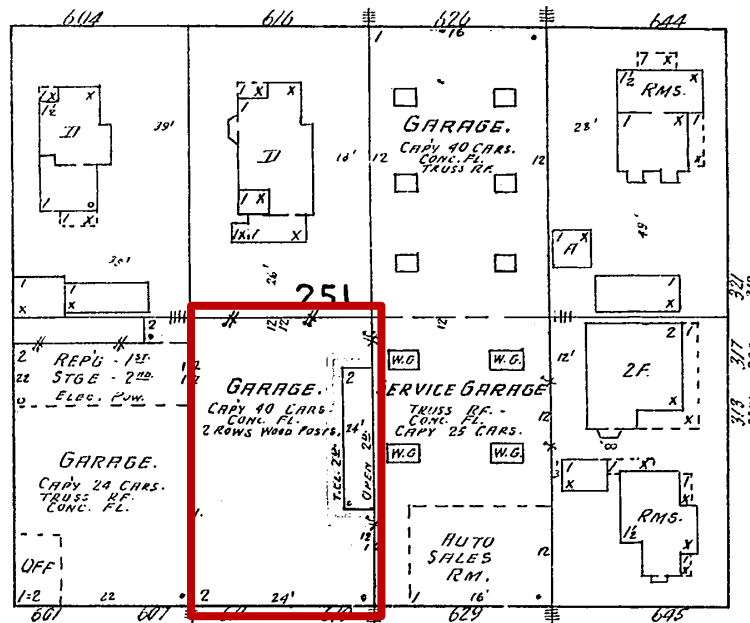
**Sanborn Map, 1902**



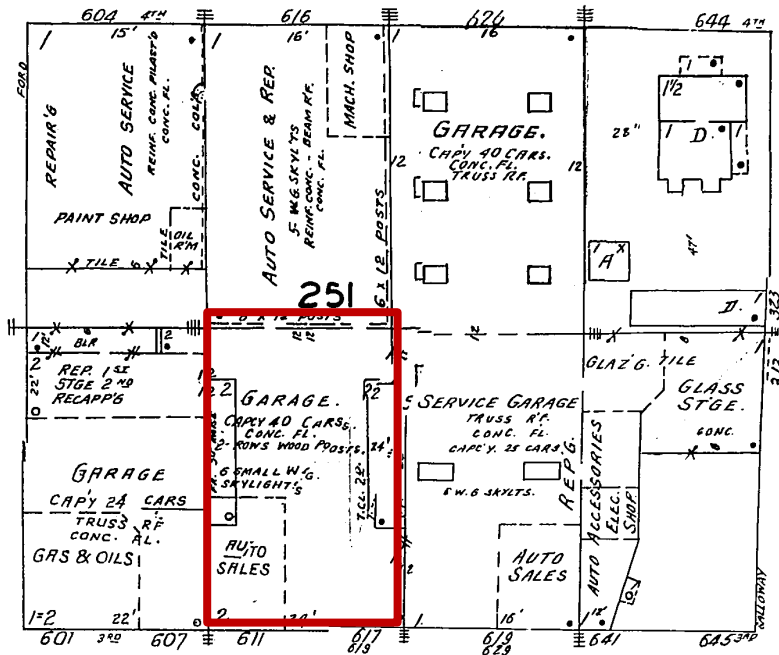
**Sanborn Map, 1912**



**Sanborn Map, 1928**



**Sanborn Map, 1948**



Architecturally the subject property has changed overtime to accommodate the new uses on the property. **Please see Series of Photos, Figure 6 below.**

**Figure 6, Series of Photos Over Time**

**Circa 1919 Photo of 611 NE Third Street depicting two-story brick construction with a decorative parapet and extensive brick corbeling.**



Source: Yamhill County News-Register; picture of Third Street in McMinnville around 1919 from the collection of Michael Hafner.



**1940 Photo of 611 NE Third Street showing parapet, decorative brick work, second floor fenestration pattern, and ground floor storefronts for the garage.  
(Yamhill County News Register)**



**1948 Photo of 611 NE Third Street depicting the ground floor storefront with the original brick veneer.  
(Yamhill County News Register)**



**1983 photo of the property shows the modified ground floor storefronts, but with the retention of the original brickwork, parapet and second floor fenestration pattern, (Historic Resources Survey, City of McMinnville, Yamhill County, Oregon)**



**2018, Photo of 611 NE Third Street, shows the modified storefront, but the retention of the original brick, parapet and second floor fenestration pattern.**



### **Background**

The property was originally surveyed in 1983 and 1984, which are the dates that the “Statement of Historical Significance and Property Description” were drafted and included on the Historic Resources Inventory sheet (resource number (B872) for the subject property. This survey work led to the inclusion of the property on the Historic Resources Inventory, and the Historic Resources Inventory was adopted by the McMinnville City Council on April 14, 1987 by Ordinance 4401. The Historic Resources Inventory has since been incorporated into the McMinnville Municipal Code (MMC) through its adoption and reference in MMC Section 17.65.030(A).

The McMinnville Downtown Historic District was entered in the National Register of Historic Places on September 14, 1987.

### **Summary of Criteria & Issues**

The application (HL 7-22) is subject to Certificate of Approval for Demolition review criteria in Section 17.65.050 of the Zoning Ordinance and Oregon Administrative Rule 660-203-0200 (Section 8(a)). The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

Oregon Administrative Rule 660-203-0200 (Section 8(a)) states that:

- (8) *National Register Resources are significant historic resources. For these resources, local governments are not required to follow the process described in OAR 660-023-0030 through 660-023-0050 or sections (4) through (6). Instead, a local government:*
- (a) *Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;*

Section 17.65.050 of the McMinnville Zoning Ordinance state that:

17.65.050 Demolition, Moving, or New Construction. *The property owner shall submit an application for a Certificate of Approval for the demolition or moving of a historic resource, or any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.*

- A. *The Historic Landmarks Committee may approve, approve with conditions, or deny the application.*
- B. *The Historic Landmarks Committee shall base its decision on the following criteria:*
1. *The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;*
  2. *The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;*
  3. *The value and significance of the historic resource;*
  4. *The physical condition of the historic resource;*
  5. *Whether the historic resource constitutes a hazard to the safety of the public or its occupants;*
  6. *Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;*
  7. *Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and*
  8. *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.*
- C. *If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, the Planning Director may approve the application without processing the request through the Historic Landmarks Committee.*
- D. *The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any resource listed on National Register consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.*
- E. *Any approval may be conditioned by the Planning Director or the Historic Landmarks Committee to secure interior and/or exterior documentation of the resource prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. The Historic Landmarks Committee may require documentation in another format or medium that is more suitable for the historic resource in question and the technology available at the time. Any approval may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings or other details.*
- F. *If any proposed new construction is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).*

The applicant has provided findings to support the request for a Certificate of Approval for Demolition. These will be discussed in detail in Section VII (Conclusionary Findings) below.



**II. CONDITIONS:**

1. The Certificate of Approval for Demolition of 611 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not constructed with a final occupancy permit within three years of the issuance of the building permit will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. If the successful completion of the replacement project is stalled due to unforeseen conditions the Applicant can appeal this condition of approval in writing to the Planning Commission for review. (OAR 660-023-0200(8)(a)).
2. 611 NE Third Street, McMinnville Historic Resource Inventory (B872) will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished. (OAR 660-023-0200(9))
3. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
4. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 8.00)
5. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)
6. The Applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the Applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)
7. Prior to submittal for a building demolition permit provide Engineering with detailed demolition plans for review and approval. (Comprehensive Plan Policy #25.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)

10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy 151.00)
11. Prior to the issuance of a building permit, the Applicant will need to meet with the McMinnville Downtown Association to develop a program that will educate local citizens on the benefits associated with an active historic preservation program, that will then be approved by the Planning Director.
12. Prior to the approval of a demolition permit, the Applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses. (McMinnville Municipal Code, 17.65.010(B))
13. The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives. (McMinnville Municipal Code 17.65.050(B)(7))
14. Prior to demolition the Applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection. (McMinnville Municipal Code 17.65.050(B)(8))
15. Prior to demolition the Applicant will provide the City with an archaeological plan describing how the Applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (McMinnville Municipal Code 17.65.050(B)(8))

### **III. ATTACHMENTS (On file with the Planning Department):**

#### **Planning Commission Appeal Application Materials Plus Supplemental Materials**

##### ❖ AP 2-23 (Appeal of HL 7-22 Decision) Application and Attachments

###### Original Submittal (February 10, 2023)

- Application Form
- Notice of Appeal
- Exhibit 1 – Notice of Historic Landmarks Committee Decision, January 27, 2023
- Exhibit 2 – Staff Draft Decision Documents for HL 6-22, HL 7-22, HL 8-22 and DDR 2-22, dated January 5, 2023

###### Supplemental Submittal (February 27, 2023)

- Letter from Schwabe, Williamson and Wyatt, February 27, 2023
- Exhibit 1 – Applicant's Response from Schwabe Williamson and Wyatt, December 15, 2022
- Exhibit 2 – Historic Landmarks Committee Staff Report, January 5, 2023, and attached draft decision documents for HL 6-22, HL 7-22, HL 8-22, DDR 2-22

###### Supplemental Submittal (March 9, 2023)

- Memorandum, Otak, March 9, 2023
- Practice Hospitality – Wage Breakdown
- Historic Resources Assessment

## Supplemental Submittal (March 13, 2023)

- Financial Models – Hotel with Seismic (Base Case), Hotel with Seismic (Highest Case) and Office without Seismic

## ❖ Public Testimony

**Historic Landmarks Committee Application Materials Plus Supplemental Materials**

## ❖ HL 7-22 Application and Attachments

## Original Submittal (August 9, 2022)

- Application Form
- Application Narrative
- Project Structural Analysis
- Project Site Plan and Concept Drawings
- Traffic Impact Analysis
- Memorandum
- Neighborhood Meeting Materials

## Supplemental Submittal (November 4, 2022)

- Approvability Memorandum
- Structural Report
- Historic Resources Assessment
- Contaminated Media Management Plan (October 13, 2022)
- MAC Lease Rates
- 611 NE Third Street Tax Statement
- Third Party Contractor Assessment
- Historic Preservation Incentives Memorandum
- Economic Report
- Architectural Plans
- Traffic Impact Analysis Addendum

## Supplemental Submittal (December 15, 2022)

- Letter to City with Additional Findings
- Exhibit 1, Historic Resources Assessment, Architectural Resource Group, November 2022
- Exhibit 2, Existing Building Structural Summary, HHPR, November 6, 2022
- Exhibit 3, Documentation of Existing Building Structures, HHPR, July 29, 2022
- Exhibit 4, Contaminated Media Management Plan (Draft)
- Exhibit 5, Economic Value of Structures in Downtown McMinnville, Oregon, Johnson Economics, November 2, 2022
- Exhibit 6, Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022
- Exhibit 7, McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022
- Exhibit 8, Memorandum Regarding Historic Preservation Incentives, Otak, October 31, 2022.
- Exhibit 9, 2022 Tax Statements
- Exhibit 10, The Gwendolyn Financial Pro-Forma, December 15, 2022

## ❖ Department/Agency Comments

## ❖ Public Testimony



**IV. COMMENTS:****Agency Comments**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and Oregon State Historic Preservation Office. The following comments were received:

**McMinnville Engineering Department*****TRANSPORTATION***

Comments and/or conditions of approval related to transportation include:

1. ADA Sidewalk and Driveway Standards are now being applied to all new construction and remodels. These standards are intended to meet the current ADA Standards as shown in the "PROWAG" Design Guidelines. The standards can be found at the following webpage: <https://www.access-board.gov/files/prowag/PROW-SUP-SNPRM-2013.pdf> prior to final occupancy, the applicant shall construct new driveways and sidewalks in the right-of way that conform to these standards.
2. Study shows that queue lengths exceed storage length at the eastbound thru and westbound all of 2<sup>nd</sup> St at Baker St. Queue lengths also exceed storage lengths at the westbound thru and southbound left at the intersection of Johnson St/Lafayette St & 3<sup>rd</sup> St.

***SANITARY SEWER***

Comments and/or conditions of approval related to sanitary sewer service include:

1. The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rain water into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance.
2. Sewer Capacity may be an issue with the change of use of the property, the developer shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be born by the developer.

***MISCELLANEOUS***

Additional comments and/or suggested conditions of approval:

1. In the narrative, Part 4. B. Chapter 17.54.050 Yards part F. Response (Page 23) – 3<sup>rd</sup> St is listed as a Local Street. It is a Major Collector, please change to reflect the correct street classification.
2. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance.
3. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance.
4. The engineering department will need to review building permit submittals that show in detail items that could be missing in the applications provided. These reviews will be prior to any issuance of building permits.

5. The Contaminated Media Management Plan dated July 20, 2022, is not included in this application. This is a key point of discussion and should be included in the application.
6. CPP (Comprehensive Plan Policy): 2.00 “The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.”
  - a. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city’s right of ways.
7. CPP 8.00 “The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.”
  - a. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City’s Right of Way and downstream users and properties.
8. CPP 132.40.05 Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:
  - a. Improvement of on-site transportation facilities,
  - b. Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards.
9. The Applicant shall demonstrate its demolition, excavation and onsite construction activities do not create safety concerns related to the DEQ LUST matter and its site and known polluted soil and water. Additionally, the Applicant shall demonstrate how its demolition and construction activities will improve the use of the city’s off-site transportation facility, including but not limited to underground facility uses.
10. CPP 132.46.00 Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010).
  - a. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.
11. CPP 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.
  - a. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.
12. CPP 151.00 The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:
  - a. Federal, state, and local water and waste water quality standards can be adhered to.

- b. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.

### McMinnville Building Department

No building code concerns. Analysis of IEBC appears to be accurate and based on Oregon adopted code.

### McMinnville Water and Light

Water: Please contact MW&L to turn off water meters and disconnect customer side of the meter – A16972894, C47575190 & A16972900 prior to demolition of property.

Power: Please contact MW&L to coordinate the removal of existing electric services prior to demolition. The Bindery Event space does not appear to have a dedicated electric service. There will need to be a provision for re-serving the Bindery Event Space with electricity during demolition.

## **Public Comments**

### Planning Commission Appeal

Notice of this appeal was mailed on February 9, 2023 to property owners located within 300 feet of the subject site and all participants in the Historic Landmarks Committee public hearing who provided contact information for the public record, and notice of the public hearing was published in the News Register on Tuesday, February 21, 2023. The following testimony was received by the Planning Department or provided at the public hearings on March 2 and March 16, 2023.

- Letter from Oregon Restaurant and Lodging Association, 02.17.23
- Email from Phyllice Bradner, 02.20.23
- Letter from Ernie Munch, MAP Architecture, 02.21.23
- Letter from Nathan Coopriider, 02.21.23
- Email from Marilyn Kosel, 02.22.23
- Email from Daniel Kiser, 02.25.23
- Email from Jenny Wilson, 02.26.23
- Email from Alex Sokol Blosser, 02.27.23
- Email from Janice Weiser, 02.27.23
- Letter from Katherine Huit, 02.27.23
- Email from Beth Caster, 02.28.23
- Email from Karen Milton, 02.28.23
- Email from Marie Fruga, 02.28.23
- Email from Carol Paddock, 03.01.23
- Email from Margaret Cross, 03.01.23
- Letter from Restore Oregon, 03.01.23
- Letter from Peter Kircher, 03.02.23
- Presentation at March 2, 2023 Public Hearing, Daniel Kiser
- Testimony Handout at March 2, 2023 Public Hearing, Ernie Munch
- Testimony Handout at March 2, 2023 Public Hearing, Jeb Bladine
- Testimony Handout at March 2, 2023 Public Hearing, Nathan Coopriider
- Email from Susan Marrant, 03.06.23
- Letter from Mike Colvin, 03.10.23
- Email from Jeb Bladine, 03.12.23

- Letter from Brian Libby, 03.13.23
- Carole Ray, 03.13.23
- Email from Frank Lisciandro, 03.13.23
- Email from Marie Frugia, 03.13.23
- Email from Mike Goins, 03.13.23
- Email from Carol Paddock, 03.14.23
- Email from Loretta Johnson, 03.14.23
- Email from Carol Paddock, 03.15.23
- Letter from Nathan Coopriider, 03.15.23
- Letter from Ernie Munch, 03.15.23
- Letter from Katherine Huit, 03.15.23
- Letter from Ilsa Perse, 03.15.23
- Letter from Marilyn Kosel, 03.15.23
- Testimony Presentation at March 16, 2023 Public Hearing, Marilyn Kosel
- Testimony Handout at March 16, 2023 Public Hearing, Nathan Coopriider

### Historic Landmarks Committee Application

Notice of this request was mailed to property owners located within 300 feet of the subject site on September 8, 2022 and notice of the public hearing was published in the News Register on Tuesday, September 20, 2022 and Friday, September 23, 2022. The following testimony was received by the Planning Department or provided at the public hearings on September 29, 2022 and January 5, 2023.

- Email from Kira Barsotti, 09.16.22
- Email from Shanna Dixon, 09.16.22
- Email from Marianne Mills, 09.18.22
- Email from Megan McCrossin, 09.18.22
- Email from Courtney Cunningham, 09.20.22
- Email from Jordan Robinson, 09.20.22
- Email from Phyllice Bradner, 09.20.22
- Email from Victoria Anderson, 09.20.22
- Letter from Marilyn Kosel, 09.20.22
- Letter from Patti Webb, 09.20.22
- Email from Sylla McClellan, 09.21.22
- Email from Meg and Zach Hixson, 09.22.22
- Email from Sharon Julin, 09.25.22
- Email from Daniel Kiser, 09.27.22
- Letter from Carol Dinger, 09.28.22
- Letter from Carol Paddock, 09.28.22
- Letter from Katherine Huit, 09.28.22
- Letter from Jeb Bladine, 09.28.22
- Letter from Practice Hospitality, 09.28.22
- Email from Kellie Peterson, 09.28.22
- Letter from JP and Ames Bierly, 09.28.22
- Memo from Nathan Coopriider, 09.28.22
- Email from Elizabeth Goings, 09.29.22
- Email from Abigail Neilan, 09.29.22
- Letter from Ilsa Perse, 09.29.22
- Email from The Scott Family, 09.29.22
- Email from Mande Tatum, 10.05.22
- Email from Crystal55dreams, 10.25.22
- Email from Peter and Linda Enticknap, 11.22.22

- Letter from Karen Saxberg, 11.17.22
- Letter from Jeb Bladine, 11.29.22
- Letter from Nathan Coopriders, 11.29.22
- Letter from Ernie Munch, 11.30.22
- Letter from Marilyn Kosel, 11.30.22\
- Letter from Nathan Coopriders, 1.3.23
- Letter from Carol Paddock, 1.3.23
- Email from Daniel Kizer, 1.3.23
- Email from Michael Kofford, 1.3.23
- Email from Paul Lusignan, National Park Service, 1.3.23
- Email from Ernie Munch, 1.3.23
- Email from Beth Caster, 1.4.23
- Letter from Ernie Munch, 1.5.23

## **V. FINDINGS OF FACT - PROCEDURAL FINDINGS**

1. The applicant, Mark Vuong, on behalf of HD McMinnville LLC submitted the Certificate of Approval application (HL 7-22) on August 9, 2022.
2. The application was deemed complete on September 7, 2022. Based on that date, the 120-day land use decision time limit expires on January 5, 2023.
3. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and the Oregon State Historic Preservation Office on September 7, 2022.

Comments received from agencies are addressed in the Decision Document.

4. Notice of the application and the September 29, 2022, Historic Landmarks Committee public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.65.070(C) of the Zoning Ordinance on Thursday, September 8, 2021.
5. A public hearing notice was published in the News Register on Tuesday, September 20, 2022, and Friday, September 23, 2022.
6. On September 29, 2022, the Historic Landmarks Committee held a duly noticed public hearing to consider the request.
7. At the public hearing on September 29, 2022, the Historic Landmarks Committee chose to continue the public hearing to December 8, 2022. The applicant requested to extend the 120-day decision deadline by 70 days.
8. On November 4, 2022, the applicant provided supplemental application materials based on the requests from the Historic Landmarks Committee.
9. On December 1, 2022, the applicant requested, with the concurrence of city staff, to continue the public hearing from December 8, 2022, to January 5, 2023, and to extend the 120-day decision deadline by an additional 30 days for a total extension of 100 days.
10. On December 8, the Historic Landmarks Committee continued the public hearing to January 5, 2023.

11. On December 15, 2022, and December 19, 2022, the applicant provided supplemental materials per the request of city staff.
12. On January 5, 2023, the Historic Landmarks Committee continued and closed the public hearing, deliberated and directed staff to write findings for a decision of denial.
13. On January 26, 2023, the Historic Landmarks Committee voted 3-2 to deny the application.
14. On January 27, 2023, a notice of denial was emailed to the applicant and all of the participants in the public hearing process.
15. On February 10, 2023, the applicant appealed the decision of the Historic Landmarks Committee to the McMinnville Planning Commission.
16. Notice of the anticipated appeal application and the March 2, 2023, Planning Commission public hearing was mailed to property owners within 300 feet of the subject property and all participants in the Historic Landmarks Committee public hearing process on February 9, 2023. Confirmation was emailed on February 13, 2023.
17. A public hearing notice was published in the News Register on Tuesday, February 21, 2023.
18. On March 2, 2023, the Planning Commission held a duly noticed public hearing to consider the request and continued the public hearing to March 16, 2023.
19. On March 16, 2023, the Planning Commission continued the public hearing, closed the public hearing, deliberated, and voted 5 – 3 in favor of the applicant approving the application.

## **VI. FINDINGS OF FACT – GENERAL FINDINGS**

1. **Location:** 611 NE Third Street. The resource is located at the property that is identified as Tax Lot 4300, Section 21BC, T. 4 S., R. 4 W., W.M. This is a property that spans the block north to south from Fourth Street to Third Street. Only the structure that is facing Third Street is recommended for demolition.
2. **Size:** The subject site is approximately 6,500 sf, the property is approximately 20,000 square feet.
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** C-3, General Commercial
5. **Overlay Zones/Special Districts:** Downtown Overlay District, Section 17.59 of the McMinnville Municipal Code.
6. **Current Use:** Office
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** Historic Resources Inventory – Resource Number B872.
  - b. **Other:** Secondary Significant Contributing resource, McMinnville National Register of Historic Places Downtown Historic District
8. **Other Features:** The building is property tight with no setbacks, two stories, unreinforced brick with a stucco finish.

9. **Utilities:**
- Water:** Water service is available to the subject site.
  - Electric:** Power service is available to the subject site.
  - Sewer:** Sanitary sewer service is available to the subject site.
10. **Transportation:** The site is located on the northern side of Third Street in the middle of the block between Ford and Galloway Streets and stretches to Fourth Street. Third Street is a major collector in the McMinnville Transportation System Plan.

## **VII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Certificate of Approval for Demolition are specified in Section 17.65.050 of the McMinnville Municipal Code and Oregon Administrative Rule, Chapter 660 Division 23: Procedures and Requirements for Complying with Goal 5.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated but are to be undertaken in relation to all applicable land use requests.

### **Compliance with Oregon State Land Use Goals:**

#### **OAR Chapter 660, Division 23, Procedures and Requirements for Complying with Goal 5:**

- (1) *For purposes of this rule, the following definitions apply:*
- "Demolition" means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition.*
  - "Designation" is a decision by a local government to include a significant resource on the resource list.*
  - "Historic context statement" is an element of a comprehensive plan that describes the important broad patterns of historical development in a community and its region during a specified time period. It also identifies historic resources that are representative of the important broad patterns of historical development.*
  - "Historic preservation plan" is an element of a comprehensive plan that contains the local government's goals and policies for historic resource preservation and the processes for creating and amending the program to achieve the goal.*
  - "Historic resources" are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.*
  - "Locally significant historic resource" means a building, structure, object, site, or district deemed by a local government to be a significant resource according to the requirements of this division and criteria in the comprehensive plan.*
  - "National Register Resource" means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).*
  - "Owner":*
    - Means the owner of fee title to the property as shown in the deed records of the county where the property is located; or*
    - Means the purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or*
    - Means, if the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner; and*



- (D) Does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature; or
  - (E) Means, for a locally significant historic resource with multiple owners, including a district, a simple majority of owners as defined in (A)-(D).
  - (F) Means, for National Register Resources, the same as defined in 36 CFR 60.3(k).
  - (i) “Protect” means to require local government review of applications for demolition, relocation, or major exterior alteration of a historic resource, or to delay approval of, or deny, permits for these actions in order to provide opportunities for continued preservation.
  - (j) “Significant historic resource” means a locally significant historic resource or a National Register Resource.
- (2) Relationship of Historic Resource Protection to the Standard Goal 5 Process.
- (a) Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories, resource lists or programs regarding historic resources, except as specified in section (8). Local governments are encouraged to inventory and designate historic resources and must adopt historic preservation regulations to protect significant historic resources.
  - (b) The requirements of the standard Goal 5 process in [OAR 660-023-0030 \(Inventory Process\)](#) through [660-023-0050 \(Programs to Achieve Goal 5\)](#), in conjunction with the requirements of this rule, apply when local governments choose to amend acknowledged historic preservation plans and regulations.
  - (c) Local governments are not required to apply the ESEE process pursuant to [OAR 660-023-0040 \(ESEE Decision Process\)](#) in order to determine a program to protect historic resources.

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.**

- (3) *Comprehensive Plan Contents.* Local comprehensive plans should foster and encourage the preservation, management, and enhancement of significant historic resources within the jurisdiction in a manner conforming with, but not limited by, the provisions of [ORS 358.605 \(Legislative findings\)](#). In developing local historic preservation programs, local governments should follow the recommendations in the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, produced by the National Park Service. Local governments should develop a local historic context statement and adopt a historic preservation plan and a historic preservation ordinance in conjunction with inventorying historic resources.
- (4) *Inventorying Historic Resources.* When a local government chooses to inventory historic resources, it must do so pursuant to [OAR 660-023-0030 \(Inventory Process\)](#), this section, and sections
- (5) through (7). Local governments are encouraged to provide opportunities for community-wide participation as part of the inventory process. Local governments are encouraged to complete the inventory in a manner that satisfies the requirements for such studies published by the Oregon State Historic Preservation Office and provide the inventory to that office in a format compatible with the Oregon Historic Sites Database.
- (5) *Evaluating and Determining Significance.* After a local government completes an inventory of historic resources, it should evaluate which resources on the inventory are significant pursuant to [OAR 660-023-0030 \(Inventory Process\)](#)(4) and this section.
- (a) The evaluation of significance should be based on the National Register Criteria for Evaluation, historic context statement and historic preservation plan. Criteria may include, but are not limited to, consideration of whether the resource has:
    - (A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
    - (B) Significant association with the lives of persons significant to local, regional, state, or national history;
    - (C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;

- (D) A high likelihood that, if preserved, would yield information important in prehistory or history; or  
 (E) Relevance within the local historic context and priorities described in the historic preservation plan.
- (b) Local governments may delegate the determination of locally significant historic resources to a local planning commission or historic resources commission.
- (6) *Designating Locally Significant Historic Resources.* After inventorying and evaluating the significance of historic resources, if a local government chooses to protect a historic resource, it must adopt or amend a resource list (i.e., “designate” such resources) pursuant to [OAR 660-023-0030 \(Inventory Process\)](#)(5) and this section.
- (a) The resource list must be adopted or amended as a land use decision.
- (b) Local governments must allow owners of inventoried historic resources to refuse historic resource designation at any time during the designation process in subsection (a) and must not include a site on a resource list if the owner of the property objects to its designation on the public record. A local government is not required to remove a historic resource from an inventory because an owner refuses to consent to designation.
- (7) *Historic Resource Protection Ordinances.* Local governments must adopt land use regulations to protect locally significant historic resources designated under section (6). This section replaces [OAR 660-023-0050 \(Programs to Achieve Goal 5\)](#). Historic protection ordinances should be consistent with standards and guidelines recommended in the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior, produced by the National Park Service.

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The City of McMinnville has an acknowledged Historic Preservation program, including an adopted Historic Preservation Plan as a supplemental document to the McMinnville Comprehensive Plan, Comprehensive Plan policies, an adopted Historic Resources Inventory that is actively maintained, historic resource protection ordinances, and an appointed Historic Landmarks Committee that administers and manages the historic preservation program, and makes quasi-judicial decisions on historic landmarks land-use decisions.

- (8) *National Register Resources are significant historic resources.* For these resources, local governments are not required to follow the process described in [OAR 660-023-0030 \(Inventory Process\)](#) through [660-023-0050 \(Programs to Achieve Goal 5\)](#) or sections (4) through (6). Instead, a local government:
- (a) Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;

**APPLICANT’S RESPONSE:** For the reasons explained below, consideration of the several factors addressed herein demonstrates that the value of these buildings to the historic character of the Historic District is relatively low, that the buildings' values with their current or similar uses are very limited and likely insufficient to provide for needed repairs, that the buildings cannot be economically seismically-retrofitted in their current configuration to allow for a hospitality or other adaptive re-use, and that the public interest in preserving them is outweighed by the public and private benefits achieved by construction of the proposed Gwendolyn Hotel..

The above provision requires local governments to consider a number of factors when deciding whether to allow demolition of structures that are located within National Historic Districts. However, the obligation of the City is to consider these factors; the applicant is not required to prove that one or all of them are "met" as would be the case with a mandatory criterion begging a "yes or no" question. Frankton

Neighborhood Association v. Hood River County, 25 Or LUBA 386, 395 (1993); Von Lubken v. Hood River County, 18 Or LUBA 18, 21-22 (1989). No particular balancing of these factors is required, either. The Historic Landmarks Committee ("HLC") can find (1) that these factors have all been considered with respect to the three buildings proposed for demolition and (2) consideration of these factors supports the Applicant's demolition proposal for each building, which are addressed separately, below.

The property at 611 NE 3rd Street is classified as a "Secondary Significant Contributing" building in the Downtown Historic District. Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) explains that property was developed sometime between 1912 and 1919 as an automobile garage, but it does not appear on Sanborn Fire Insurance Maps until 1928. At all times within the secondary historic period, the property was used as an automobile garage and by 1940 was used as a car dealership.

According to Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022), while the building's second story and parapet remains intact, the ground floor has been significantly modified.

**CITY RESPONSE:** Oregon Administrative Rule (OAR) 660-023-0200(1)(g) defines districts listed in the National Register of Historic Places as a National Register Resource, therefore this state rule applies to all properties within the McMinnville Downtown Historic District unless the local jurisdiction has excluded non-contributing resources. Per Section 17.65.040(A)(1) of the McMinnville Municipal Code, accessory structures and non-contributing resources within a National Register of Historic Places nomination are excluded from the Certificate of Approval process. Per Figure 2 of this decision document, 611 NE Third Street is considered a Secondary Significant Contributing resource in the McMinnville Downtown Historic District.

**FINDING:** The City concurs with the Applicant's response that the provision applies but that the administrative rule does not provide any objective standards for how the Historic Landmarks Committee must consider these factors.

### **OAR 660-023-0200(8)(a) Factors to Consider – Condition of the Property**

**APPLICANT RESPONSE (Original Application):** All three of the buildings are constructed of unreinforced brick. The buildings at 611 and 619 NE 3<sup>rd</sup> Street have more significant challenges, including interior water damage, a shared wall between the two, and deterioration of the exterior wall.

As noted in the structural report included as Appendix C, the building at 611 NE 3<sup>rd</sup> Street is missing some floor beams.

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** The applicant is not requesting demolition of the property due to significant structural issues or imminent public safety hazards. However, additional information from the structural engineer has been provided in response to HLC requests. See Attachment 1.

*Attachment 1 – Memo from Jason Dhanens PE SE, Structural Manager, Harper Houf Peterson Righellis Inc. (HHPR) dated November 6, 2022.*

**Scope Summary:**

What follows is a response to the structural components of the City of McMinnville Staff Report dated September 29, 2022. The Staff Report is a response to the information submitted by the design team that contain information prepared by the HHPR Structural Team in relation to the structural condition of the existing buildings. The initial report prepared by HHPR is dated July 29, 2022.

**Response:**

There is a common comment that is applied to each of the three buildings. This is:

*“The structural analysis is very cursory and did not include any load test sites. Without load testing of the unreinforced masonry walls, the structural analysis did not indicate any structural issues that were significant or imminent public safety hazards, the condition of the building is not a significant determining factor requiring the demolition of the property.”*

- No analysis (structural calculations) was performed and would be premature based upon where we are in the process.
- Given that load testing of specific materials does not determine a building's seismic performance, and for the following additional reasons, HHPR's analysis does not include load testing of brick or other materials. Load testing the brick would be premature at this time and is typically used when the scope is to salvage the building. That scope would involve an ASCE Tier 1 Assessment and Tier 2 Retrofit. Industry knowledge regarding the shear capacity of brick-and-mortar assemblies is that they are known to be low strength in URM buildings, particularly older ones.
- An analysis of unreinforced masonry buildings (URM) is not required at this time to understand and convey the risks associated with URM buildings. We have used our knowledge and expertise as structural design professionals to convey the risks.
- Further, we have referenced FEMA documents below to further convey the risks associated with unreinforced masonry buildings.
- While our work did not find conditions that would require immediate demolition of the building structures, the list of previously presented Emergent Concerns do represent items that, if left unaddressed, could lead to a local failure or a partial collapse of the building structures.
- Items such as these are common across all buildings in that maintenance items, if left unaddressed, can become structural concerns that can lead to significant structural issues for a building. This varies across building type, age and environment. In general, the older the building and the longer without maintenance, the quicker the structural deterioration.

If we were in a position to advise the building owner, we would recommend that these items be addressed in the very near future. While the finding is that “The Historic Resource is not a hazard to the safety of the public,” the emergent concerns are significant and should be addressed in the very near future.



**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Condition. Exhibit I (Historic Resources Assessment, Architectural Resource Group, November 2022) described the second floor elevation as being in good condition, but the building appears to be in poor/marginal condition overall. Its upper parapet and roof system are intact. However, the HRA identifies a number of issues:

- o No original portions of the original ground floor storefront were visible at the interior side of the storefront.
- o Significant areas of damaged ceiling finishes and areas of water infiltration are visible at the north end of the second floor.
- o The roof surface drains to a drain at the rear, NW corner of the building, with an overflow scupper to an external leader emptying to the lower roof of 609 NE 3rd Street below. The roof drain is completely clogged, and it is therefore likely that during rain events water pools at this area of roofing, possibly infiltrating to the interior before reaching the overflow scupper.
- o The second-floor interior is vacant and has been unused for a significant period of time. Little of the original finishes remains. Finishes at the northern portion of the second floor are in poor condition. Outlines of removed partitions are visible in the remaining finish floor. Round pipe columns supported on added wood beams appear to have been added throughout to shore up the wood joists above and to distribute the load to joists below. The underside of the roof deck was not visible. Windows at the north elevation have been removed, and the openings enclosed with plywood with visible daylight at the perimeter, allowing air and water infiltration.

The HHPR Existing Building Summary (Exhibit 2) identifies the following structural deficiency in the building:

"Built up beams spanning in the north south direction supported by round pipe columns bearing on built up laminate beams to spread the load across the floor below. In some cases, the built-up laminated beams across the floor have been cut and removed. This condition compromises the structure's ability to spread the concentrated roof load across the floor below."

HHPR's initial structural review of the building, dated July 29, 2022 (Exhibit 3), identified the following issues:

- o In some cases, the built-up laminated beams across the floor have been cut and removed. This condition compromises the structure's ability to spread the concentrated roof load across the floor below.
- o The built-up beams across the floor do not appear to align with the beam lines in the floor below, which would complicate any future work.
- o The north elevation has a series of old window openings along the 2nd level that have been filled in, however the condition of the wall and infill is poor with a significant amount of water entering the building and debris from bird nests.

**CITY RESPONSE:** The structural analysis does not indicate any structural issues that were significant or imminent public safety hazards, the condition of the building is not a significant determining factor requiring demolition of the property by itself as a factor.

The structural analysis focuses on maintenance issues that are compromising the structural integrity of the building and the overall structural integrity of all historic unreinforced masonry buildings. This would assume that all historic unreinforced masonry buildings that have not been maintained adequately are justification for demolition of historic resources.

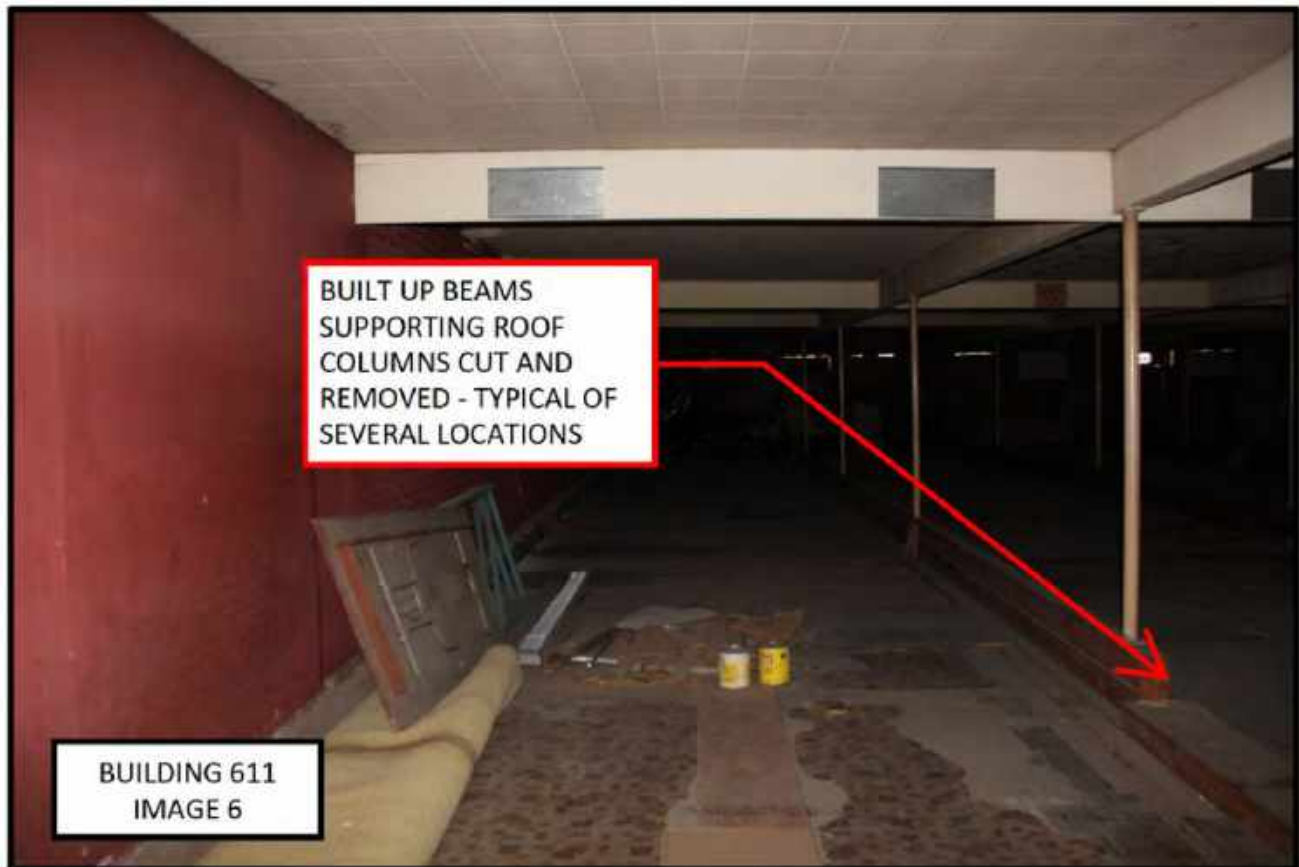
The Structural Report, provided by Harper Houf Peterson Righellis Inc. (HHPRI) dated July 29, 2022, provides an existing condition report of 609, 611, and 619 Third Street. It points out observed structural issues and concludes with emergent concerns.

### Emergent Concerns

- Building 609 – previously noted truss node that is out of plane over 6 inches
- Building 611 – previously noted missing beams intended to spread load across floor below
- Building 619 – previously noted rotten bearing condition at truss
- All Buildings – previously noted overall condition of brick and mortar in locations in each building

Below is the detail for 611 NE Third Street.

- Built up beams spanning in the north south direction supported by round pipe columns bearing on built up laminate beams to spread the load across the floor below
- At north and south walls the roof beams are supported by the perimeter brick walls
- In some cases, the built-up laminated beams across the floor have been cut and removed. This condition compromises the structure's ability to spread the concentrated roof load across the floor below (see Image 6)
- The built-up beams across the floor do not appear to align with the beam lines in the floor below, which would complicate any future work



The report also examines three options for preserving the historic resources: 1) retain existing buildings and construct a new hotel over the top of the existing buildings; 2) retain and maintain the existing buildings and relocate the existing buildings.

The report concludes that the first option to construct a new hotel over the top of the existing buildings would require a complete seismic and structural upgrade to the buildings, and would be problematic relative to the placement of needed structural supports in the existing buildings.

The second option to retain and maintain the existing buildings would require investment in general maintenance, repair and remediation of the spaces as well as repair of the emergent concerns described above.

And the third option to relocate the three buildings is impractical due to the unreinforced masonry structure of the buildings.

**OAR 660-023-0200(8)(a) Factors to Consider – Historic Integrity of the Property**

**APPLICANT RESPONSE (Original Application):** According to the HRI, the building at 611 NE 3<sup>rd</sup> Street (referred to as 619 East Third Street in the HRI and the National Register nomination) was constructed between 1912 and 1928, and was therefore classified as a Secondary Significant Contributing structure. The Oregon Historic Sites Database notes the date of construction as 1920. As noted in the HRI statement and shown in Figure 4, the building was initially constructed of buff and red brick. The lower-level storefronts were renovated in 1976 and replaced the brick storefront with stucco and pillars.

The 1980 HRI statement indicated that the building had been extensively altered, and noted that the first story had been faced with stucco. The HRI also indicated that the condition of the building was “good”.

Though its construction date is noted as 1920, a ca. 1919 printed in the Yamhill County News-Register shows the original brick building with storefronts on the ground floor.

A historic photo provided by the Yamhill County Historical Society shows the original brick building with storefronts on the ground floor.



**611 NE 3rd Street ca. 1919**



Source: Yamhill County News-Register; picture of Third Street in McMinnville around 1919 from the collection of Michael Hafner.

The HRI includes a 1983 photo of the building. At the time of categorization as a Secondary Contributing Structure in the HRI, the storefront portion of the building had been significantly altered and covered with stucco and tile.

**611 NE 3rd Street in 1983**



*Source: City of McMinnville Historic Resources Survey, 1983.*

Today, the building looks much as it did in 1983, though the pillars have been painted and an awning has been added to the entrance.

### 611 NE 3rd Street in 2022



Source: Google Maps

Given the significant alterations since the time of its construction, the Committee can find that the building no longer retains historic integrity.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Historic Integrity. In this context, the "Historic Integrity" of the building refers to features that existed within the date range of secondary significance. While the building is largely in the same configuration as it was in 1983 when the Historic District was established, the Historic District Nominating Form did not identify any period after 1937 as historically significant; therefore, features added after that date are not considered historically significant.

As explained in Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) and the Staff Report, the historic integrity of the building has been substantially compromised since it was originally constructed, principally due to:

- o Reconfiguration of the ground floor interior.
- o Replacement of the entire ground floor between 1928 and 1948 to include a car auto sales office, as shown in the Sanborn Maps.
- o Removal and replacement of all original ground-floor windows and window openings and re-cladding of the ground floor in stucco.
  - o Construction of a new inset facade with round columns.

Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) goes on to identify the following "character defining features" confirmed to be remaining with the building<sup>1</sup> include the following:

- o Second Story
  - Buff colored brick cladding with dark grey pigmented mortar joints.
  - Parapet with central pediment, with copings surfaced with painted stucco.
  - Pressed metal entablature with modillions and brackets.
  - Five bays of paired wood one-over-one windows surrounded by a brick soldier course and squares of cast stone.
  - Low relief belt course at windowsills.
- o Interior
  - Southeast entry stair to second floor, with pair of dual-swing doors at stair landing.
  - Portions of the ornamental wood flooring at the rear area of the second floor.

Note that the Report, while helpful, does not address "historic integrity" specifically but only "character defining features." Even if the above are components of "historic integrity," these features pertain almost exclusively to the second floor, which is unoccupied. The entire first floor of the building has lost virtually all of its historic integrity.

**CITY RESPONSE:** It appears that historic integrity is significantly compromised. The City agrees that the identification of primary and secondary contributing resources in the 1987 McMinnville Downtown National Register of Historic Places Historic District was based primarily on the estimated age of the structure and not the historic integrity of the extant structure. The City also agrees that the structure underwent significant modifications with the ground floor storefront modification (**See Figure 5, Series of Sanborn Maps and Figure 6, Series of Photos in this decision document**), however the second floor is still, for the most part, intact per the original building.

The HRA report clearly states that all three properties are important in terms of historic significance as they represent the time period of the McMinnville National Register of Historic Places Historic District context statement relative to the emergence of automobile transportation in McMinnville. It then describes that a building's historic integrity is different from its historic significance and is reflective of the materials, form and massing that are original to the building from the time period of its significance.

For 611 NE Third Street, the first floor has been significantly modified and the second floor appears to remain intact, including original wood windows, original brick and cast concrete elements, and original pressed metal cornice. Per the HRA Report they are in generally in good condition.

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<sup>1</sup> The Report also lists the building's massing and number of stories as "character-defining features," but loss of these features would only occur if the building had been demolished to some extent and are not properly considered part of the building's "historic integrity," as they indicate no more than that the building still exists with the same number of stories. Indeed, all of these characteristics would be the same even if the building had been gutted and refinished entirely. Regardless, the above factor concerns "historic integrity," not "character defining features."





Original wood windows, frames and sash  
 Original brick and cast concrete elements  
 Original pressed metal cornice

611 NE 3rd Street, current view (ARG, October 2022)

However, as the applicant points out, the historic integrity is based on the historic context of the National Register of Historic Places nomination which identified the emergence of the automobile industry for the historic context and integrity of this property. Unfortunately the most significant changes to this property are the original ground floor automobile bays that have been removed and modified.

### **OAR 660-023-0200(8)(a) Factors to Consider – Age of the Property**

**APPLICANT RESPONSE (Original Application):** As noted, the building at 609 NE 3<sup>rd</sup> Street was constructed in 1904 and is 118 years old. The building at 611 NE 3<sup>rd</sup> Street was constructed in 1920 and is 102 years old. The building at 619 NE 3<sup>rd</sup> Street was constructed in 1923 and is 99 years old.

As noted in the structural report included as Appendix C, all three buildings are showing signs of their age.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Age. The actual date of construction is unknown, the Historic District Nominating Form identifies its construction year as between 1912 and 1928. A photo dated 1919 included in the application materials show the building nearing completion.

**CITY RESPONSE:** The date of construction falls within the historic context statement of the McMinnville National Register of Historic Places context statement. Only the second floor retains historic integrity from that time period.



Original Structure, circa 1919



Current Structure

### **OAR 660-023-0200(8)(a) Factors to Consider – Historic Significance of the Property**

**APPLICANT RESPONSE (Original Application):** As described in the McMinnville Historic Preservation Plan (Ord. 5068), the HRI defined the historic resource classes in the following way:

- *Distinctive: Resources outstanding for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places.*
- *Significant: Resources of recognized importance to the City due to historical association or architectural integrity, uniqueness, or quality.*
- *Contributory: Resources not in and of themselves of major significance, but which enhance the overall historic character of the neighborhood or City. Removal or alteration would have a deleterious effect on the quality of historic continuity experienced in the community.*
- *Environmental: This category includes all resources surveyed that were not classified as distinctive, significant, or contributory. The resources comprise an historic context within the community.*

As noted in the 1987 National Register nomination, buildings on the McMinnville HRI were classified based on the building date, building style, type and number of alterations, building setback, and roof shape. At the time, there were 52 contributing (Primary and Secondary) and 14 non-contributing buildings in the district.

The National Register nomination describes the categories as such:

1. *Primary Significant Contributing: Structures are classified as Primary Significant if they were built on or before 1912, or reflect the building styles, traditions, or patterns of structures typically constructed before this date. These buildings represent the primary period of construction and development in downtown McMinnville from initial settlement in 1881 to 1912, when city improvements and use of the Oregon Electric and Southern Pacific Railroad service prompted new construction in the downtown area.*
2. *Secondary Significant Contributing: Structures are classified as Secondary Significant if they were built in or between 1913 and 1937. These buildings represent the secondary period of construction and development from the increase of city improvements and auto traffic.*
3. *Historic Non-Contributing: Structures are classified as Historic Non-Contributing if they were built either during the primary or secondary periods of construction but have been so altered over time that their contributing elements (siding, windows, massing, entrances, and roof)*

*have been lost or concealed. If their contributing elements were restored, these buildings could be reclassified as Primary of [sic] Secondary Significant.*

4. *Compatible Non-Historic and Non-Contributing: Structures are classified as Compatible Non-Contributing if they were built after 1937 (When the nomination was being prepared in 1987, buildings constructed in 1937 were then 50 years old and met the threshold for National Register eligibility). but are compatible architecturally (i.e. scale, materials, use) with the significant structures and the historic character of the district.*
5. *Non-Compatible Non-Contributing: Structures are classified as Non-Compatible Non-Contributing if they were built after 1937 and are incompatible architecturally (i.e. scale, materials, and use) with the significant structures and the historic character of the District.*
6. *Vacant: Properties are classified as Vacant if there are no buildings sited on them (i.e., vacant lots, alleys, parking lots).*

The HRI statements of historical significance do not provide any detail about why the buildings were classified as Primary or Secondary resources, aside from the date of construction, so it is difficult to determine what features of the buildings warranted their classification. Arguably, as described below, each of these buildings could have met the criteria for designation as Historic Non-Contributing buildings, as they met the age threshold but had been substantially altered prior to their HRI designations.

Likewise, the building at 611 NE 3<sup>rd</sup> Street had been substantially altered at the ground level. The ground floor siding had been changed from brick to stucco; windows had been removed and replaced; and the primary entrance had been enclosed. Only the massing and roof remained intact. The ground level and upper level present a jarring contrast in style and material.

+++

This is a square brick two story structure situated middle block between Ford and Galloway facing south on Third Street. The façade is five bayed, the second story windows being one over one double hung sash, paired, each pair articulated by rows of stretchers. A prominent bracketed and modillioned cornice line stretches the length of the façade above these windows. A parapet wall with a central gable rises three feet above the cornice line. The façade is faced with common bond buff brick above the first floor. Extensively altered, the first story of the façade is faced with scored stucco and has been cutaway to expose two pillars. A stairwell opens onto the street at the extreme east end. The building has been joined to another at its rear which faces Fourth Street on the north. In 1928, the building housed a garage.

The statement of significance explains the original physical characteristics of the buildings, but notes that the first-floor facade was "extensively altered" with stucco cladding and has been "cutaway to expose two pillars." The photos below illustrate the scope of how the building's facade was altered after its period of significance:



1 611 NE 3rd Street (1948)



**2 611 NE 3rd Street (1983)**

"Historic Significance" is not defined in OAR 660-033-023. However, OAR 660-033-023(5)(a) explains that the "evaluation of significance" should be based on the following<sup>2</sup>:

*"(A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;*

*(B) Significant association with the lives of persons significant to local, regional, state, or national history;*

*(C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;*

*(D) A high likelihood that, if preserved, would yield information important in prehistory or history; or*

*(E) Relevance within the local historic context and priorities described in the historic preservation plan. "*

With respect to (A), the Historic District's significance statement does not connect the building with any significant events. With respect to (B), the building is not noted as being associated with any particular person significant to local, regional, state, or national history. With respect to (C), there is

<sup>2</sup> Note that these are virtually identical to the National Register's "Criteria for Evaluation."

no evidence that the building possessed a particularly distinctive or notable design, artistic values, "or represents a significant and distinguishable entity whose components may lack individual distinction." With respect to (D), given the substantial changes to the building, only the second-floor facade is indicative of historic character, but it is not clear how this "yields information important in prehistory or history."

Finally, with respect to (E) the Historic District's nominating form describes the local historic context for primary contributing buildings as follows:

"Structures are classified as Secondary-Significant if they were built in or between 1913 and 1937. These buildings represent the secondary period of construction and development from the increase of city improvements and auto traffic."

All that is required to qualify a building as Secondary-Significant is construction within the date range above. According to its nomination form, the building was included because it was built sometime between 1912 and 1928.

**CITY RESPONSE:** Both the National Register of Historic Places and the City of McMinnville have adopted provisions that identify the property as historically significant per the National "Register of Historic Places McMinnville Historic District nomination and the City of McMinnville's classification of the property as a "B" (Significant) historic resource on the McMinnville Historic Landmarks Inventory.

Although, if reviewed now, the property could be classified differently, that does not negate the policy action that has occurred. With that said, the assigned historic significance is not a stand-alone factor for preservation or demolition.

The McMinnville Downtown Historic District National Register of Historic Places nomination provides the following as the overall summary of the statement of significance for the historic district for a time period of 1880 – 1937.

The McMinnville Historic District is an area of approximately 15 acres in which the unifying theme represented by the 51 contributing buildings is the parallel development of commerce and railroad and highway transportation in the bustling Willamette Valley farming community and county seat between 1880 and 1937. The district meets National Register Criteria A and C in the context of local history as the place where the community's largest, best preserved and most noteworthy historic commercial buildings are concentrated. The district extends 6½ blocks along Third Street, historically the main, east-west stem of the business district. Buildings along Third Street represent several phases of development but have a marked cohesion by virtue of their density, common scale, materials and overall design elements. While ground story storefronts have been altered over the years, distinguishing features of the upper stories are intact and provide visual continuity. Descendants of many of the community's early settlers are owners of property or businesses within the district today.

(McMinnville Downtown Historic District, Section Number 8, Page 1)

The McMinnville Historic Preservation Plan has the following language for the historic context of McMinnville's historic resources for the time period that most influenced the building at 611 NE Third Street:

### *Motor Age, Boom and Bust (1903—1940)*

This period marked the arrival of the automobile. Most of the garages added to the houses surveyed were built during this period. The city was amid a massive population growth extending from 1900 through 1910 and increased prosperity with industrial growth provided jobs and steady wages. By 1914 a spur from the main interurban railroad corridor along the Willamette Valley linked the city with Portland and cities to the south. Building construction grew considerably from 1900 to 1909 relative to pre-1900 construction, and then nearly doubled during the 1910s.<sup>5</sup>

Population growth continued between 1910 and 1940, increasing from 2,767 in 1920 to 3,706 in 1940.<sup>6</sup> New industries established in the city and surrounding area included including a small foundry, a machine shop, a planning mill, a creamery, and an incandescent and arc light factory. The launch of Prohibition in 1919 devastated the hops industry, the area's second-most profitable crop, motivating farmers to diversify their products to include legumes, clover, and animal products.

(McMinnville Historic Preservation Plan, page 16)

611 NE Third Street is not listed as a building as exemplary of this time period.

Commercial buildings from this period of construction (1913-1937) include:

- 226 E 3rd Street (ca. 1913), Commercial style
- 225 E 3rd Street (1918), Commercial style
- Spence Building, 425 E 3rd Street (1925), Commercial style
- 236 E 3rd Street (ca. 1930), Commercial style

(McMinnville Historic Preservation Plan, page 18)

However, based on the methodology at the time (which appears to be relative to primarily the date the building was originally constructed and not the historic integrity of the building or how much the building actually reflects its original architecture), the subject property is listed as a “Secondary Significant Contributing” property in the McMinnville Downtown Historic District National Register of Historic Places nomination and is identified as a “Significant” resource on the McMinnville Historic Resources Inventory.

As discussed above, the historic integrity of the building has been significantly modified since its original construction.

### **OAR 660-023-0200(8)(a) Factors to Consider – Value to the Community**

**APPLICANT RESPONSE (Original Application):** The value the buildings current(ly) provide to the community include providing a consistent edge along historic 3<sup>rd</sup> Street corridor, jobs for office-based employees, and a reminder of the community’s past. The buildings provide minimal street-level activation due to their uses as offices, and deferred maintenance of the buildings has resulted in interior and exterior damage as noted in the structural report included as Appendix C.

The proposed development provides the same value to the community, and additional values. The building retains the 0 ft. setback along 3<sup>rd</sup> and Ford streets to provide a continuous street wall in accordance with historic downtown development patterns. The ground floor will be activated by retail and restaurant uses, and outdoor seating is anticipated to create a lively atmosphere during the warmer months. The new building will be energy- efficient and modern while nodding to the historic structures surrounding it. It will also provide employment for approximately 60 people, more than three times as many people currently employed on the site.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Value to the Community. Within living memory the building has been used as an automotive repair shop, car dealership, and as an office of the New Register and small retail space, which occupies only the bottom floor. The building is not associated with any particularly meaningful community history, has never been used as a community gathering place, and does not appear to have any value to the community beyond its inclusion in the downtown historic district.

**CITY RESPONSE:** Balancing the assumptions that the subject structure does not retain much historic integrity, and is financially infeasible to rehabilitate, the replacement project has more value to the community than the preservation of the building.

611 NE Third Street does not appear to have the historic integrity that many believe that it has due to the amount of modifications that have occurred. The City has received several letters from the public asking to save the historic properties. 611 NE Third Street is part of the historic building fabric of Third Street in McMinnville, a built environment which collectively has a lot of value to the community. Any replacement project would need to be able to become an asset to that built environment and not a disrupter. Presumably the downtown overlay district design standards were developed to ensure that infill on Third Street would compliment the existing built environment. And any replacement project would need to comply with those design standards (Section 17.59 of the McMinnville Municipal Code).

611 NE Third Street also is a two-story building where both floors have not been adequately maintained and the full vitality of the building is not realized. The applicant provided a cost analysis in their application that indicates that the cost of rehabilitating the structure and the return yield on the square footage of the rehabilitated space would not be financed as the project would not yield a positive return for 40 years.

*The applicant has indicated that this cost to fully renovate the buildings would be approximately*

*\$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.*

*In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.*

*(Application Narrative, page 3)*

The costs to rehabilitate the building and fully activate both floors will require higher lease rates than are currently in the McMinnville downtown market, which will either significantly impact the local lease market downtown negatively impacting existing businesses downtown or prevent a rehabilitation project from moving forward leading to further deterioration of the building. A hotel with revitalized ground floor commercial space will generate a downtown consumer market for downtown businesses and create more vitality on the street. The project will need to meet the Downtown Design Overlay District code criteria for new construction, including mimicking the character and scale of the existing structures downtown.

**OAR 660-023-0200(8)(a) Factors to Consider – Economic Consequences**

**APPLICANT RESPONSE:** The economic consequences of retaining the structures include cost, activity, and employment. The current use of all three buildings is office, which is a low activity use on McMinnville’s main commercial street.

Theoretically one or more of the buildings could be renovated to house a more active use that made a greater contribution to the streetscape. However, most alternative uses would require seismic upgrades to meet current building code at a significant out-of-pocket cost. It is reasonable to assume that if the current property owners had the means or desire to make those upgrades, they would have done so. The office uses occupying these buildings are low-intensity and do not attract foot traffic. Typically, people visit offices to work or by appointment to meet with those working within. Though office employees will eat at nearby restaurants and coffee shops, many downtowns prefer to have office uses located on upper floors to allow more active uses at the street level.

The economic consequences of removing the structures are largely positive. Approximately 20 people are employed in the existing buildings. The Gwendolyn Hotel is expected to employ approximately 60 people, in addition to employees of the ground floor restaurant and retail uses. These employees will also eat at nearby restaurants and shop at nearby stores, while the street level will be activated.

In addition, the new hotel will pay the City’s lodging tax and the value of the development will be much greater than the existing development, which will result in increased property tax revenue to support urban renewal area activities. There will be new lodging options in downtown McMinnville that are expected to draw visitors from the Portland metro region and beyond. These visitors will contribute to the economic vitality of downtown McMinnville and nearby areas.

**CITY RESPONSE:** The replacement plan for a multi-story hotel and ground floor retail would benefit McMinnville economically. McMinnville needs more Class A office space, especially in its city center. However, due to long-term disinvestment in the second story of this building the costs of stabilizing the building and providing Class A office space is more than the market will bear which would lead to continued disinvestment in the second story and no office vitality outside of the ground floor. A hotel and ground floor commercial space would not be detrimental to McMinnville economically, as the downtown economy is emerging as a tourism destination, with tourists and local residents combining to support local food and beverage establishments and retail boutiques. In recent years, several lodging enterprises in downtown McMinnville have flourished and contributed positively to the overall economy of McMinnville.

**OAR 660-023-0200(8)(a) Factors to Consider – Design or Construction Rarity**

**APPLICANT RESPONSE (Original Application):** Each of the buildings is fairly utilitarian in design and are not identified as examples of rare design or construction in the HRI or the National Register nomination. They are modest, functional structures that have been significantly altered over the years.

According to the McMinnville Historic Preservation Plan (Ord. 5068), as of May 2018 there were 558 properties listed on the HRI at the top three levels (Distinctive, Significant, and Contributing). Sixty-nine (or 12 percent) were classified as Distinctive; 200<sup>3</sup> (or 36 percent) were listed as Significant and 289 (or 52 percent) were listed as Contributory. Therefore, as none of the buildings proposed for demolition are listed as Distinctive, they are not rare structures within the City.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** The building is not identified as being rare at all in terms of design or construction.

**CITY RESPONSE:** 611 NE Third Street does not possess any specific design or construction standard that would be described as rare or significant for McMinnville, except for the second floor exterior façade's brick corbeling that is present on many historic buildings in downtown McMinnville.

**OAR 660-023-0200(8)(a) Factors to Consider – Consistency and Consideration of other Policy Objectives in the Comprehensive Plan.U**

**APPLICANT RESPONSE:** Other relevant policy objectives of the McMinnville Comprehensive Plan include cultural, historical, and educational resources; economic development policies; and energy policies. Each of these policies is addressed in more detail in Section 5 of this narrative.

The relevant cultural and historical resource policies of Comprehensive Plan Chapter II include:

**Goal III 2:** *To preserve and protect sites, structures, areas, and Objects of historical, cultural, architectural, or Archaeological significance to the city of McMinnville.*

The relevant economic development policies of Comprehensive Plan Chapter IV include:

**Goal IV 1:** *To encourage the continued growth and diversification of McMinnville's economy in order to enhance the general well-being of the community and provide employment opportunities for its citizens.*

**Goal IV 2:** *To encourage the continued growth of McMinnville as the commercial center of Yamhill County in order to provide employment opportunities, goods, and services for the city and county residents.*

**Goal IV 3:** *To ensure commercial development that maximizes efficiency of land use through utilization of existing commercially designated lands, through appropriately locating future neighborhood-serving and other commercial lands, and discouraging strip development.*

**Goal IV 4:** *To promote the downtown as a cultural, administrative, service, and retail center of McMinnville.*

The relevant energy policies of Comprehensive Plan Chapter VIII include:

**Goal VIII 2:** *To conserve all forms of energy through utilization of Land use planning tools.*

*178.00 The City of McMinnville shall encourage a compact urban development pattern to provide for conservation of all forms of energy.*

*179.00 The City of McMinnville shall amend pertinent ordinances to allow for design techniques which increase the efficient utilization of land and energy. Areas to examine shall include, but not be limited to:*

- 1. The zoning ordinance requirements, including density, lot areas, and setbacks to increase utilizable space in lots, while maintaining health and safety standards.*
- 2. The geographic placement of various uses (commercial, industrial, residential) on the Comprehensive Plan Map to encourage energy-efficient locations.*

*[...]*

*180.50 The City of McMinnville supports local sustainability and endorses the utilization of proven and innovative energy efficient design and construction technologies*



*to reduce building heat-gain, lower energy consumption, and lessen pollutant output. (Ord. 4903, December 9, 2008)*

Collectively, these policies call for balancing the protection of important historic and cultural resources with the efficient use of limited land within existing commercial centers, including downtown, and further establishing downtown as the cultural, employment, and retail center of McMinnville.

The subject site is currently occupied by three heavily altered low-rise buildings that are underutilized in terms of floor area, employment, and services. New construction on this site would advance all the City's Comprehensive Plan goals while avoiding negative impacts to "Distinctive" buildings elsewhere in the downtown.

**CITY RESPONSE:** Please see below for a discussion of compliance with the City of McMinnville's Comprehensive Plan policies. In summary, the proposed demolition of 611 NE Third Street does not meet the City's Comprehensive Plan goals for preservation of historic resources, however the demolition of the subject structure coupled with the redevelopment of the site does meet many of the City's economic development comprehensive plan policies.

**OAR 660-023-0200, Section 8(a):**

**OVERALL FINDING, SATISFIED WITH CONDITION OF APPROVAL #1: OAR 660-023-0200, Section 8(a) does apply to this land-use application.** OAR 660-023-0200, Section 8(a) states that the following factors must be considered when making a decision to approve, approve with conditions or deny an application for a historic resource on the National Register of Historic Places: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. But OAR 660-023-0200, Section 8(a) does not provide clear and objective criteria as to how to consider the factors and how many factors need to support an approval, approval with conditions or denial. Per the analysis above, 611 NE Third Street does not appear to be in bad structural condition and has lost all of its historic integrity on the ground floor, however the second floor and roofline appear to be historically original to the building. The value to the community could be described in two ways – historic value and overall value.

However, some of the factors are dependent upon a redevelopment plan that fits within the existing Third Street built environment as a complimentary attraction and asset and not a disrupter. The City of McMinnville has adopted Design Guidelines and Standards for New Construction in the Downtown Overlay District (Section 17.59 of the McMinnville Municipal Code), as a means to ensure that new development will build upon the overall sense of place on Third Street. A condition of approval needs to be established that the demolition of 611 NE Third Street will not be approved without the successful approval of a replacement plan for the site that meets all of the city's local regulations, state regulations and federal regulations.

**CONDITION OF APPROVAL #1:** The Certificate of Approval for Demolition of 611 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not constructed with a final occupancy permit within three years of the issuance of the building permit will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. If the

successful completion of the replacement project is stalled due to unforeseen conditions the Applicant can appeal this condition of approval in writing to the Planning Commission for review.

*OAR 660-023-0200, Section 8*

*(b) May apply additional protection measures. for a National Register Resource listed in the National Register of Historic Places after the effective date of this rule, additional protection measures may be applied only upon considering, at a public hearing, the historic characteristics identified in the National Register nomination; the historic significance of the resource; the relationship to the historic context statement and historic preservation plan contained in the comprehensive plan, if they exist; the goals and policies in the comprehensive plan; and the effects of the additional protection measures on the ability of property owners to maintain and modify features of their property. Protection measures applied by a local government to a National Register resource listed before the effective date of this rule continue to apply until the local government amends or removes them; and*

**APPLICANT'S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The analysis above demonstrates that the structure at 611 NE Third Street does not have significant historic integrity on the first floor but some historic integrity on the second floor, and the structure does not have a relationship to the historic context statement of the National Register of Historic Places nomination outside of the year in which it was originally built, that would merit a need for additional protection measures outside of the City of McMinnville's Historic Preservation Code, Chapter 17.65 of the McMinnville Municipal Code.

*OAR 660-023-0200, Section 8*

*(c) Must amend its land use regulations to protect National Register Resources in conformity with subsections (a) and (b). Until such regulations are adopted, subsections (a) and (b) shall apply directly to National Register Resources.*

**APPLICANT'S RESPONSE:** The City of McMinnville is in the process of amending its zoning code to comply with these provisions. Until those amendments are effective (anticipated in Summer/Fall 2022) the provisions of this section are applicable.

**FINDING: SATISFIED.** The City concurs with the applicant's response.

*(9) Removal of a historic resource from a resource list by a local government is a land use decision and is subject to this section.*

*(a) A local government must remove a property from the resource list if the designation was imposed on the property by the local government and the owner at the time of designation:*

- (A) Has retained ownership since the time of the designation, and*
- (B) Can demonstrate that the owner objected to the designation on the public record, or*
- (C) Was not provided an opportunity to object to the designation, and*
- (D) Requests that the local government remove the property from the resource list.*

*(b) Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist.*

- (A) The resource has lost the qualities for which it was originally recognized;*
- (B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing;*
- (C) The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDTION OF APPROVAL #2.** If the structure at 611 NE Third Street is demolished it will automatically be removed from the McMinnville Historic Resources Inventory.

**CONDITION OF APPROVAL #2:** 611 NE Third Street, McMinnville Historic Resource Inventory B872 will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished.

(10) A local government shall not issue a permit for demolition or modification of a locally significant historic resource during the 120-day period following:

- (a) The date of the property owner's refusal to consent to the historic resource designation, or
- (b) The date of an application to demolish or modify the resource if the local government has not designated the locally significant resource under section (6).

**APPLICANT'S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The structure at 611 NE Third Street has already been designated a McMinnville Historic Resource.

### **Comprehensive Plan Volume II:**

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, polices, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

#### **GOAL II 1: TO PRESERVE THE QUALITY OF THE AIR, WATER, AND LAND RESOURCES WITHIN THE PLANNING AREA.**

- 2.00 *The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.*

**APPLICANT RESPONSE (Original Application):** None

**APPLICANT RESPONSE (December 15, 2022):** A draft Contaminated Media Management Plan (CMMP) that addresses all three properties has been included (Contaminated Media Management Plan, October 13, 2022). The CMMP is a requirement of the Prospective Purchaser Agreement between the Applicant and Oregon Department of Environmental Quality ("DEQ"). As a practical matter, former automotive shops and fuel stations are routinely redeveloped and there is nothing about these buildings that presents a unique risk. The draft CMMP requires removal and safe disposal of any contaminated media (i.e. soil or ground water), and recommends only standard protective measures to mitigate the limited identified risk of petroleum contamination.

This is sufficient to satisfy Goal II of the City's Comprehensive Plan, which implements Statewide Planning Goal 6. Goal 6 requires that the local government establish that there is a reasonable expectation that the use for which land use approval is requested will also be able to comply with the state and federal

environmental quality standards that it must satisfy to be built. *Hess v. City of Corvallis*, 70 Or LUBA 283 (2014). The City's comprehensive plan does not address soil contamination, and with respect to water, Policy 10.00 of the Comprehensive Plan provides that "The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to maintain water quality and to implement agreed upon programs for management of the water resources within the planning area." The Applicant's ongoing work with DEQ through the PPA process is evidence not only that DEQ will provide sufficient oversight to ensure the safety of workers and the public, but also demonstrates that the Application will be able to comply with DEQ's standards.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #3**

**CONDITION OF APPROVAL #3:** The applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways.

- 8.00 *The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.*

**APPLICANT RESPONSE:** None

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #4.**

**CONDITION OF APPROVAL #4:** The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

- 10.00 *The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to maintain water quality and to implement agreed upon programs for management of the water resources within the planning area.*

**APPLICANT RESPONSE:** None

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #5.**

**CONDITION OF APPROVAL #5:** The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

**GOAL III 2: TO PRESERVE AND PROTECT SITES, STRUCTURES, AREAS, AND OBJECTS OF HISTORICAL, CULTURAL, ARCHITECTURAL, OR ARCHAEOLOGICAL SIGNIFICANCE TO THE CITY OF McMINNVILLE.**

**APPLICANT RESPONSE:** The proposed development will provide short-term lodging and retail services for the downtown McMinnville community. These services will both meet an identified demand and provide employment to local residents. The current businesses on the site employ approximately 20 people; the proposed development is expected to employ approximately 60 people. These employment opportunities will include hospitality, service industry, and management positions.

The subject site is currently occupied by three heavily altered low-rise buildings that are underutilized in terms of floor area, employment, and services. New construction on this site would advance all the City's

Comprehensive Plan goals while avoiding negative impacts to “Distinctive” buildings elsewhere in the downtown.

**FINDING: NOT SATISFIED.** The focus of this comprehensive plan goal is to preserve and protect structures that have special historical or architectural significance. A demolition clearly does not meet that intent. The Planning Commission, after reviewing the application materials and receiving testimony, decided that other applicable criteria for the consideration of the demolition were met and therefore the demolition was approved. Findings for those other applicable review criteria are provided below.

16.00 *The City of McMinnville shall support special assessment programs as well as federal grants-in-aid programs and other similar legislation in an effort to preserve structures, sites, objects, or areas of significance to the City.*

**FINDING: SATISFIED.** The City is supportive of all of these programs to aid historic preservation.

17.00 *The City of McMinnville shall enact interim measures for protection of historic sites and structures. Those measures are identified in the McMinnville Comprehensive Plan, Volume I, Chapter III.*

**FINDING: SATISFIED.** Chapter III of Volume 1 of the McMinnville Comprehensive Plan states the following:

A viable preservation program for the city will involve four steps:  
 (1) the adoption of goals and policies in the Comprehensive Plan supporting the preservation of historic resources and establishing a process to achieve stated objectives; (2) the formation of a historic preservation/landmarks committee; (3) the completion of a comprehensive inventory of the historic resources in the planning area; and (4) the implementation of preservation techniques, possibly through an historic preservation ordinance, to protect and conserve the identified resources.

Based on the information contained herein, and the work of the Citizens' Advisory Committee Community Needs Subcommittee, the City finds that:

1. There are sites, structures, objects, and areas that are of importance to McMinnville because of their historical, cultural, architectural archeological significance at the local, state, or national level. Some of the sites and structures are (or are in the process of being) designated to state and national historical lists.
2. There may be pressure to destroy or alter historically significant sites and structures in the future. There is no active historical, or preservation program in McMinnville at this time to resolve conflicts between historical resources and developmental proposals.
3. Completion of Phase I of the inventory of the historic resources in McMinnville has been completed. Approximately 0.9 of a square mile of the McMinnville core (the area bounded by Fifteenth Street on the north, Fellows Street on the south, Elmwood Avenue on the west, and Kirby Street on the east) has been surveyed and some 500 potential historic resources have been identified. The survey, under the direction of Janice Rutherford, involved the efforts of some 30 volunteers, who, after attending training sessions by professional preservationists, conducted the field work and research necessary to identify the resources. Completion of this survey for the remainder of the city should be a priority concern in the historic preservation program established by the City.
4. Historical structures should be recognized as underutilized resources that could potentially be restored and/or adapted for beneficial urban uses. Preservation techniques applicable to the historical structures identified in the core area of the city could assist in the continued redevelopment of the central business district.
5. The historical designation of sites and structures within the core business area could involve large economic ramifications for the city and property owners. A variety of incentives for rehabilitation of historically designated properties does exist. A feasibility analysis of the economic advantages and disadvantages of establishing historical sites and/or districts downtown needs to be made.
6. Preservation of historical sites and structures will necessarily involve procedures that regulate the alteration, and/or demolition of historically designated properties. The cooperation of owners of potential historical sites and structures will, therefore, be necessary for a viable preservation program.
7. A number of local groups and citizens, including the Chamber of Commerce, Committee on Redevelopment, various civic and social groups, and local historical groups, have expressed interest in an historical preservation program. Enlistment of volunteers for the completion of the comprehensive inventory of historical resources and other preservation projects should be explored.

8. There are a number of state and federal antiquity codes that may assist in the preservation of the historical resources in our city, and provide some financial incentives for preserving our heritage. Those codes are noted in the background information for the comprehensive plan.
9. The involvement of the private sector of the city is of paramount importance to the development of a preservation program. The primary initiative for setting up such a program will come from the governmental sector. However, it is only through the cooperation of property owners, volunteer workers, knowledgeable citizens, and governmental leaders that such a program will be made workable.
10. A program involving creation of an Historical Landmark Committee, a local Historical Landmarks Register, and an Historical Ordinance is being proposed by the City to establish a historical presentation program. Implementation of the program is expected to take a considerable amount of study, discussion, and therefore, time. Interim preservation measures shall be enforced until formal adoption and implementation of a preservation program.

The City of McMinnville has implemented most of the programs outlined above.

**GOAL IV 1: TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF McMINNVILLE'S ECONOMY IN ORDER TO ENHANCE THE GENERAL WELL-BEING OF THE COMMUNITY AND PROVIDE EMPLOYMENT OPPORTUNITIES FOR ITS CITIZENS.**

**APPLICANT RESPONSE:** The proposed development will provide short-term lodging and retail services for the downtown McMinnville community. These services will both meet an identified demand and provide employment to local residents. The current businesses on the site employ approximately 20 people; the proposed development is expected to employ approximately 60 people. These employment opportunities will include hospitality, service industry, and management positions

**COMMERCIAL DEVELOPMENT**

**GOAL IV 2: TO ENCOURAGE THE CONTINUED GROWTH OF McMINNVILLE AS THE COMMERCIAL CENTER OF YAMHILL COUNTY IN ORDER TO PROVIDE EMPLOYMENT OPPORTUNITIES, GOODS, AND SERVICES FOR THE CITY AND COUNTY RESIDENTS.**

**APPLICANT RESPONSE:** This Comprehensive Plan policy is supplemented by several documents including the 2013 Urban Renewal Area Plan (Area Plan), the 2013 Economic Opportunities Analysis (EOA), the 2019 MAC-Town 2032 Economic Development Strategic Plan<sup>7</sup> (MAC-Town 2032), and the 2020 McMinnville Growth Management and Urbanization Plan (MGMUP). The site is within the McMinnville Urban Renewal Area and downtown McMinnville is the focus of MAC-Town 2032.

Infrastructure Improvements

The Area Plan includes reconstruction of the 3<sup>rd</sup> Street Streetscape, which is currently in the conceptual design phase. Depending on the timing of the development, the project may be able to participate in construction of the streetscape improvements.



Economic Opportunities

The EOA identifies limited durations of tourism visitation as a factor affecting community economic development. The analysis found that visitors tend not to stay overnight, but rather are often day visitors, and do not appear to be making substantial expenditures while in the area. A key challenge for the future, as identified in this analysis, is to provide more and better value-added opportunities for visitors to spend more time and money while visiting the McMinnville area.

Hospitality and Tourism

As noted above, the application is consistent with the 2019 MAC-Town 2032 Economic Development Strategic Plan. Goal 6 of MAC-Town 2032 particularly encourages downtown McMinnville to “Be a leader in Hospitality and Place-Based Tourism” and identifies hotel stays and retail sales as performance measures. Action items within that goal identify additional high-quality hospitality offerings and additional conference space. Focus groups participating in MAC Town

**GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE NEIGHBORHOOD-SERVING AND OTHER COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.**

22.00 *The maximum and most efficient use of existing commercially designated lands will be encouraged as will the revitalization and reuse of existing commercial properties.*

**APPLICANT RESPONSE:** The proposed development is a commercial development on properties zoned C-3 and designated for commercial uses and development. The building meets the applicable development standards for the zone and site will intensify the uses on the site and maximize the efficiency of a key site within downtown McMinnville.

The site is located within the McMinnville Urban Renewal Area (Area). The City’s Urban Renewal Plan notes that the programs and infrastructure improvements proposed within the Area will “maximize the efficient use of land by encouraging more intense uses on lands already developed or designated for urban development, will help keep the urban pattern compact, and will prevent sprawl and strip development.”<sup>8</sup> The Gwendolyn Hotel, along with its associated retail and restaurant spaces, will redevelop three, one- to two-story buildings, while enhancing the adjacent pedestrian environment. This aids in achieving Goal III of the Area which is to encourage a unique district identity through enhancing the physical appearance of the district and providing active use opportunities within the Area. The redevelopment of the site will intensify the use of a key site within the downtown McMinnville commercial area and enhance its status as the retail center of McMinnville.

In addition to urban renewal policies, Principle #5 of the Growth Management and Urbanization Plan calls for “Density. Adopt policies that allow the market to increase densities, and push it to do so in some instances.” The plan notes that “activity centers” are the appropriate locations for these increases in density, and the Framework Plan identifies downtown McMinnville as one of four “activity centers,” and the largest. Though this Framework Plan is not an adopted Comprehensive Plan map, it does illustrate the City’s plans to meet its housing and employment needs during the planning horizon.

**FINDING: SATISFIED.** The proposed project maximizes the existing commercially designated lands by building a higher density commercial program on the site, which will also serve to revitalize the east side of Third Street that was identified as a redevelopment area in the adopted 2000 Downtown Improvement Plan.

- 25.00 *Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development.*

**FINDING: SATISFIED WITH CONDITIONS OF APPROVAL #6 and #7.** Higher density commercial development in the city center utilizes existing infrastructure efficiencies. The following conditions of approval will need to be met to ensure that the existing infrastructure will support the development.

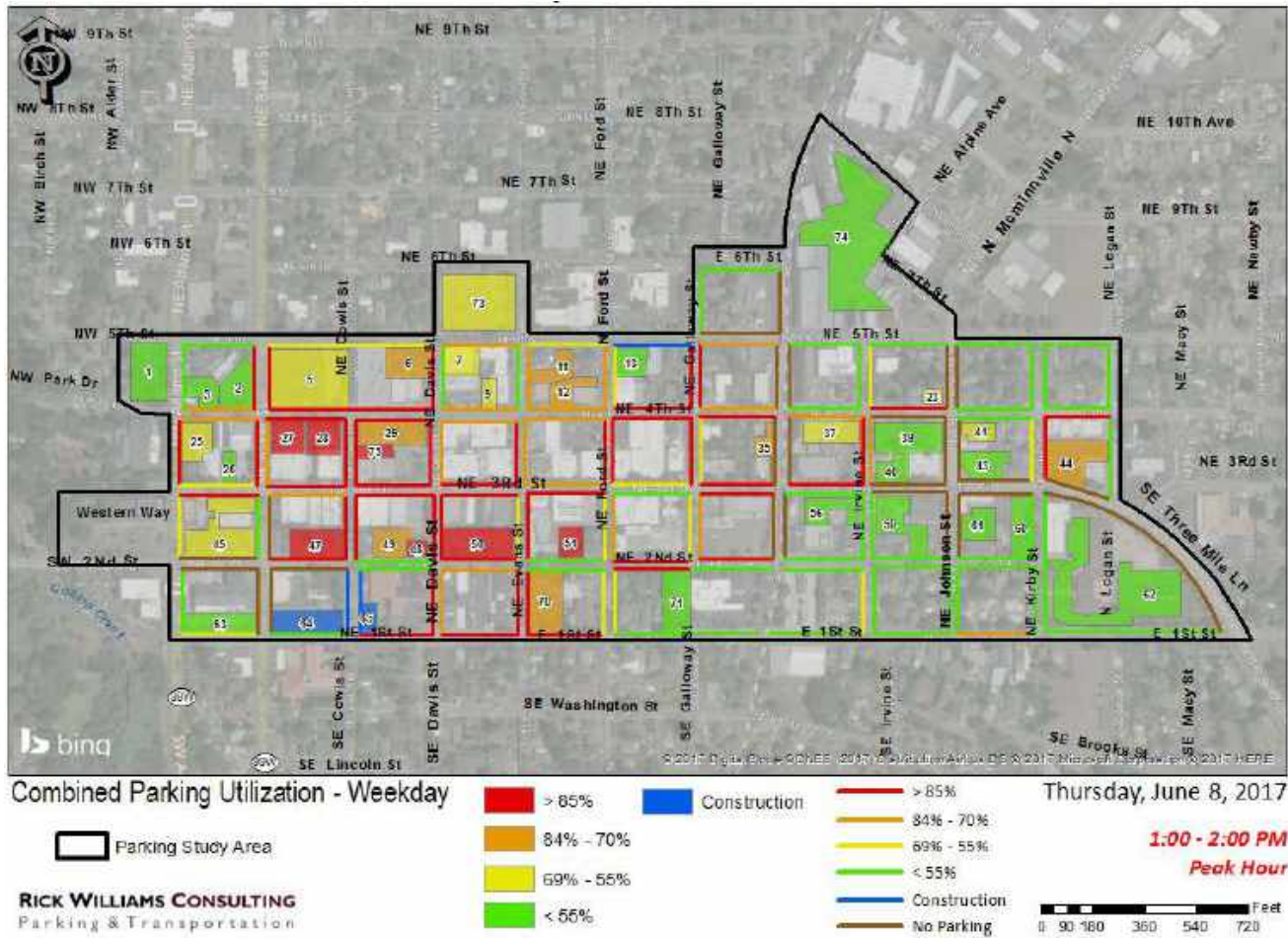
**CONDITION OF APPROVAL #6:** The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rain water into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance.

**CONDITION OF APPROVAL #7:** Prior to submittal for building demo permit provide Engineering with detailed demolition plans for review and approval.

- 26.00 *The size of, scale of, and market for commercial uses shall guide their locations. Large-scale, regional shopping facilities, and heavy traffic-generating uses shall be located on arterials or in the central business district, and shall be located where sufficient land for internal traffic circulation systems is available (if warranted) and where adequate parking and service areas can be constructed.*

**FINDING: SATISFIED.** The replacement plan project will be located in the Central Business District. The Transportation Impact Analysis provided as part of the application indicates that all intersections studied perform within mobility standards with the project as developed. No mitigation measures were identified.

Parking in the core downtown area is limited. However, a utilization study conducted in 2017 identified that parking on Ford Street between 3<sup>rd</sup> and 4<sup>th</sup> Streets was maximized at the peak hour of a weekday. Although the McMinnville Municipal Code does not require the provision of off-street parking for new developments on this site, the replacement project is providing 67 off-street parking stalls in an underground parking structure.



(City of McMinnville, Oregon, Downtown Strategic Parking Management Plan, March 27, 2018, page 17)

**GOAL IV 4: TO PROMOTE THE DOWNTOWN AS A CULTURAL, ADMINISTRATIVE, SERVICE, AND RETAIL CENTER OF McMINNVILLE.**

*Downtown Development Policies:*

36.00 *The City of McMinnville shall encourage a land use pattern that:*

1. *Integrates residential, commercial, and governmental activities in and around the core of the city;*
2. *Provides expansion room for commercial establishments and allows dense residential development;*
3. *Provides efficient use of land for adequate parking areas;*
4. *Encourages vertical mixed commercial and residential uses; and,*
5. *Provides for a safe and convenient auto-pedestrian traffic circulation pattern. (Ord.4796, October 14, 2003)*

**FINDING: SATISFIED.**

37.00 *The City of McMinnville shall strongly support, through technical and financial assistance, the efforts of the McMinnville Downtown Steering Committee to implement those elements of Phase II of the “Downtown*

*Improvement Plan” that are found proper, necessary, and feasible by the City. (Ord.4796, October 14, 2003)*

**FINDING: NOT APPLICABLE.** Phase II of the Downtown Improvement Plan is a list of public improvement projects that are not associated with this application.

38.00 *The City of McMinnville shall encourage the renovation and rehabilitation of buildings in the downtown area, especially those of historical significance or unique design.*

**FINDING: SATISFIED.** The City provides grants and loans to encourage the renovation and rehabilitation of buildings in the downtown area.

44.00 *The City of McMinnville shall encourage, but not require, private businesses downtown to provide off-street parking and on-site traffic circulation for their employees and customers.*

**FINDING: SATISFIED.** The replacement plan project is providing an off-street underground parking structure with 67 parking stalls.

**GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.**

127.00 *The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.*

**FINDING: SATISFIED.** The replacement plan project is providing an off-street underground parking structure with 67 parking stalls.

132.40.05 *Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:*

1. *Improvement of on-site transportation facilities,*
2. *Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards; and*
3. *Transportation Demand Management strategies. (Ord. 4922, February 23, 2010)*

**FINDING: SATISFIED.** Due to the size of the replacement plan project, the City required the applicant to provide a Transportation Impact Analysis that identified no need for mitigating measures with the development of the project.

132.46.00 *Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010)*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #8:**

**CONDITION OF APPROVAL #8:** The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.

142.00 *The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #9:**

**CONDITION OF APPROVAL #9:** The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.

151.00 *The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:*

1. *Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, are available or can be made available, to fulfill peak demands and insure fire flow requirements and to meet emergency situation needs.*
2. *Sufficient municipal sewage system facilities, as determined by the City Public Works Department, are available, or can be made available, to collect, treat, and dispose of maximum flows of effluents.*
3. *Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the City, respectively, are available, or can be made available, for the maintenance and operation of the water and sewer systems.*
4. *Federal, state, and local water and waste water quality standards can be adhered to.*
5. *Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #10:**

**CONDITION OF APPROVAL #10:** The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.

**GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.**

**GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.**

*Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The process for a Certificate of Approval for Demolition provides an opportunity for citizen involvement throughout the process through the public notice and the public hearing process.

Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public meeting(s). All members of the public have access to provide testimony and ask questions during the public review and meeting process.

**McMinnville Municipal Code**

The following Sections of the McMinnville Municipal Code (MMC) provide criteria applicable to the request:

**Chapter 17.03. General Provisions**

**17.03.020 Purpose.** *The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

**17.65.010 Purpose.** *Districts, buildings, objects, structures, and sites in the City having special historical, architectural, or cultural significance should be preserved as a part of the City’s heritage. To this end, regulatory controls and administrative procedures are necessary for the following reasons:*

- A. *Stabilize and improve property values through restoration efforts;*

**APPLICANT RESPONSE:** The applicant proposes to make a substantial investment in downtown McMinnville through the development of a new luxury lodging option. See Table 2 for current assessed value and market value of the buildings. Note that Assessed Value is lower than Real Market Value due to Measures 5 and 50, which limit the increase in assessed value to 3 percent per year. As a result, there is a difference of almost \$500,000 between the assessed value and the real market value of these buildings. See Table 2.

**Table 2 2021 Assessed and Market Value of Buildings**

Site	2021 Assessed Value	2021 Real Market Value
609 NE 3 <sup>rd</sup> Street	\$515,480	\$664,643
611 NE 3 <sup>rd</sup> Street	\$742,760	\$1,010,601
611 NE 3 <sup>rd</sup> Street BPP	\$41,333	\$41,333
619 NE 3 <sup>rd</sup> Street	\$482,993	\$556,964
<b>Total</b>	<b>\$1,782,566</b>	<b>\$2,273,541</b>

Source: Yamhill County Assessor

The assessed value “resets” at the time of redevelopment. The applicant estimates that the new development will have a real market value of approximately \$60,000,000, which would result in a significant increase in taxes paid to the City and funding for urban renewal area projects. In addition, the hotel would increase the lodging taxes collected by the City.

The proposed development will increase the value of the subject properties; it is reasonable to assume that nearby properties will also see an increase in value.

**FINDING: NOT SATISFIED.** This application is for a demolition permit and not a restoration project.

- B. Promote the education of local citizens on the benefits associated with an active historic preservation program;*

**APPLICANT RESPONSE:** The proposed development will attempt to incorporate significant components of the existing building at 611 NE 3<sup>rd</sup> Street. The applicant team intends to promote the history of the site and its importance to the development of McMinnville. The specific approach is to be determined and will be defined in coordination with community members and groups.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #11.** One of the challenges of restoring historic properties in downtown McMinnville is the differential between the market value of the land/property and the costs of rehabilitating a historic structure that has experienced minimal code upgrades over its lifetime with the community value of maintaining low lease rates to support local businesses. In many cases, the proforma is not yielding the necessary returns for a successful project.

**CONDITION OF APPROVAL #11:** Prior to the approval of a demolition permit, the applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses.

- C. Foster civic pride in the beauty and noble accomplishments of the past;*

**APPLICANT RESPONSE:** The existing buildings are utilitarian and were originally developed as functional structures. The applicant intends to incorporate components of the original buildings into the new building as appropriate and as determined through coordination with community members and groups. Examples of information that could be incorporated into the new development include plaques or other historic markers with information about the builders of the structures.

**FINDING: SATISFIED.**

- D. Protect and enhance the City's attractions for tourists and visitors; and*

**APPLICANT RESPONSE:** As noted elsewhere in this narrative, The Gwendolyn is intended to advance the City's economic development goals by expanding the lodging options in downtown McMinnville. A signature restaurant is planned for the ground floor, which may be an additional draw for visitors who are not spending the night. The proposed building will establish a gateway effect at NE 3<sup>rd</sup> and Ford streets and complement the three-story buildings on each corner.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #12.**

**CONDITION OF APPROVAL #12:** The replacement plan project must not only meet the minimum standards of Section 17.59, Downtown Design Guidelines, McMinnville Municipal Code, but it must enhance the overall historic sense of place of downtown McMinnville by replicating the form and design of the building stock on Third Street.

- E. Strengthen the economy of the City.*

**APPLICANT RESPONSE:** The proposed development is intended to enhance the City's attractions for tourists and visitors by providing space for new specialty retail and commercial services, creating a destination for visitors to nearby wineries, and providing employment opportunities for up to 60



employees. The proposed hotel will provide a luxury boutique lodging option along with a meeting/conference room that will serve guests and community members.

**FINDING: SATISFIED**

**17.65.040 Certificate of Approval Process.** *A property owner shall obtain a Certificate of Approval from the Historic Landmarks Committee, subject to the procedures listed in Section 17.65.050 and Section 17.65.060 of this chapter, prior to any of the following activities:*

- A. *The alteration, demolition, or moving of any historic landmark, or any resource that is listed on the National Register for Historic Places;*
  - 1. *Accessory structures and non-contributing resources within a National Register for Historic Places nomination are excluded from the Certificate of Approval process.*
- B. *New construction on historical sites on which no structure exists;*
- C. *The demolition or moving of any historic resource.*

**APPLICANT RESPONSE:** The proposal includes the demolition of a historic landmark (611 NE 3<sup>rd</sup> Street) and two contributing buildings within the McMinnville Downtown Historic District, and replacement of all three structures with a new building. As such, the provisions of this section are applicable.

**FINDING: SATISFIED.** The proposal includes the demolition of a resource on the National Register of Historic Places that is considered a Primary Significant Contributing Resource. Per 17.65.040(A), section 17.65.050 of the McMinnville Municipal Code applies. The applicant has applied for a Certificate of Demolition.

**17.65.050 Demolition, Moving, or New Construction.** *The property owner shall submit an application for a Certificate of Approval for the demolition or moving of a historic resource, or any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The applicant filed an application and request to demolish 611 NE Third Street that is designated as a Significant resource on the Historic Resources Inventory. The application was reviewed by the Historic Landmarks Committee within 30 days of the application being deemed complete.

**17.65.050 Demolition, Moving, or New Construction.**

- A. *The Historic Landmarks Committee may approve, approve with conditions, or deny the application.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The Historic Landmarks Committee issued a decision that approved, approved with conditions or denied the application.

- B. *The Historic Landmarks Committee shall base its decision on the following criteria:*

**17.65.050(B)(1).** *The City’s historic policies set forth in the comprehensive plan and the purpose of this ordinance;*

**APPLICANT’S RESPONSE:** The purpose of this ordinance is addressed in the responses to subsection 17.65.010 (in the narrative). The relevant Comprehensive Plan policies are addressed in Section 5 of the narrative. The applicant has demonstrated that the proposed development meets this criterion.

**FINDING: NOT SATISFIED.** Most of the City’s historic policies in the comprehensive plan focus on the establishment of the Historic Landmarks Committee, public awareness of historic preservation, and other activities for the City to pursue to increase documentation of historic resources. However, the goal most specifically related to historic preservation is as follows:

Goal III 2: To preserve and protect sites, structures, areas, and objects of historical, cultural, architectural, or archaeological significance to the City of McMinnville.

Per the analysis above, this application achieves some of the purpose statements but not all due to the fact that it is a demolition project and not a preservation/rehabilitation/restoration project.

The focus of the comprehensive plan goal and the purpose of the Historic Preservation chapter are to preserve structures that have special historical or architectural significance through restoration efforts. A demolition clearly does not meet that intent. The Historic Landmarks Committee, after reviewing the evidence and hearing the public testimony, decided that other criteria for the consideration of the demolition were satisfied and therefore the demolition was approved with conditions.

**17.65.050(B)(2).** *The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;*

**APPLICANT’S RESPONSE (Original Application):** There are three potential approaches to using or repurposing the site:

- Do nothing: continue to operate the buildings as currently operated
- Renovation/Change of use: upgrade the buildings to accommodate a change of use to commercial or retail uses
- Redevelop: Replace the existing buildings with a new development.

Each approach is described in more detail below.

Do Nothing

The current amount of income from the tenants is unknown, but it is assumed that the owners’ land costs are lower than the eventual purchase price, as they have owned the properties for many years.

If a buyer were to purchase the properties and retain the current tenants at the current rents, it is likely that the new owner would face challenges keeping up with the maintenance needs of these buildings. As noted in the structural report included as Appendix C, there are areas of damage that have not been repaired to date, presumably due to cost and availability of financial resources.

Renovation/Change of Use

The applicant has indicated that this cost to fully renovate the buildings would be approximately \$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage

loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.

In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.

Redevelopment

The applicant proposes redevelopment of the site with a mixed-use commercial building. This cost is estimated at approximately \$60,000,000 including land cost, soft costs, hard costs, finance fees, broker fees, pre-opening costs, marketing, etc. Lease rates are estimated at \$25 per sq. ft. triple-net/NNN, the same as in the renovation/change of use scenario, but most of the income would be generated by the hotel uses on upper floors

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** The applicant has provided the following additional information as described in Attachments 4-8:

- Phillip Higgins, a licensed commercial real estate broker, has provided a memo addressing existing net income, net income of a fully-leased building at market rate, and an evaluation of the existing rental/lease market. This memo includes high-level profit and loss information. See Attachment 4.
- 2022 Yamhill County Tax Assessor data including Assessed Value, Taxable Value, and Real Market Value and property taxes paid between 2018 and 2022 has been provided. See Attachment 5.
- An estimate of the cost of rehabilitation of the property from Hugh Construction, which is an entity separate from Hugh Development, provided the enclosed pro-forma showing the costs and likely returns from rehabilitation of the three structures. While no other contractors could provide an estimate without a more developed renovation plan set, the contractors Hugh consulted confirmed that Hugh Construction’s estimate was reasonable. See Attachment 6.
- A report of available economic incentives for rehabilitation of the existing buildings is included as Attachment 7.
- A report by Johnson Economics comparing the economic value of the project vs. preservation of the buildings is enclosed as Attachment 8.

The following table, provided by Hugh Construction, further defines the findings included in Attachment 6:

	Current Results	Ideal Results (Gwendolyn Hotel)
<b>Cash on Cash return</b>	3%	23%
<b>Unlevered IRR</b>	-9.10%	13%
<b>Levered IRR</b>	0%	26.80%
<b>Equity Multiple</b>	0.82x	4.11x

**APPLICANT’S RESPONSE (December 15, 2022):** The Application proposes demolition of the three structures discussed above in order to allow it to construct the Gwendolyn Hotel. The economic value of the three buildings and their future use case are substantially limited. When compared to the potential economic value of the proposed hotel, the economic factors weight in favor of demolition for all three buildings.

While certainly not a model of linguistic clarity, 17.65.050(8)(2) appears to get at the comparative economic value when compared to the historic value of the buildings proposed for demolition. It appears to also evaluate the comparative economic value of the buildings if preserved or renovated.

The potential economic value of the Gwendolyn Hotel is addressed in Exhibit 5 (Economic Value of Structures in Downtown McMinnville, Oregon, Johnson Economics, November 2, 2022), and can be summarized as follows:

- Total project value: \$59,735,000
- Construction cost: \$36,500,000
- Annualized property tax project: \$576,197 (2026), \$590,602 (2027), \$605,367 (2028).

In comparison, a preservation use case (with similar occupancies and no renovation) are of very limited future value. Phillip Higgins, a licensed commercial real estate broker, has provided a memo addressing existing net income, net income of a fully-leased building at market rate, and an evaluation of the existing rental/lease market. This memorandum includes projected profit and loss information. Exhibit 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022). Mr. Higgins findings are summarized below:

"Combined rents across all 3 properties are \$11,365 (assuming fully occupied) or \$136,380 annual gross. The owners did not report taxes, insurance, utility costs, but an easy assumption is that a buildings operating costs are 45-55% of the gross revenue. Using the lower ratio: \$243,280 -45% = \$75,009 Net operating income. At a 6% CAP rate this would result in a [current] Market Value of \$1,250,150."

Mr. Higgins notes that the lease rates result in a net operating income is roughly \$75,000 annually, before any loan service, tenant improvements, or major repairs:

"The Current Market Valuation excludes any debt service, excludes tenant improvements, excludes any cost to bring the buildings up to current occupancy standards/ code compliance, with the addition of these line items the [net operating income] would shrink significantly below lender underwriting standards for OCR/ Debt Coverage Ratios for income to payments."

Based on this analysis, the buildings in their current form are of little or no net economic value to a new owner, given the need to service acquisition debt at their current value. Stated simply, the cost of debt and tenant improvements is likely so near the net operating income that a sound financial institution is unlikely to lend on such an acquisition with an as-is use case.

Even so, the July 29, 2022 HPR Report (Exhibit 3) demonstrates that significant work must be done on these buildings in order for them to remain viable even for this use case. Necessary repairs would include the following:

- "The 2nd level of the 609 Building would require repair and remediation should that space be occupied.
- The 2nd level of the 611 Building would require repair and remediation should that space be occupied.
- As noted in the General Conditions section, each of the three buildings have structural conditions that we recommend be further analyzed for possible remedial actions should they remain.

- o This includes the roof truss node that is out of plane in the 609 Building, the removed built up floor beam in the 611 Building, and the rotten truss bearing in the 619 Building.
- Additionally, all three buildings have sections of the roof framing that is deteriorated and requires repair."

While there are some grants and historic preservation tax credits that may be available, work to bring the buildings back into a sound condition is likely in the hundreds of thousands of dollars. The primary historic tax benefit, the "Special Assessment of Historic Property Program" is no longer available for the 609 and 611 Buildings. The most beneficial available federal program, the Federal Historic Tax Preservation Tax Incentive Program, provides a 20% income tax credit. With a current federal income tax rate of 21%, this would yield only about \$5,700 per year for all three buildings collectively, and this assumes that the gross income from these properties would otherwise be fully taxable. State grants for particular historic buildings generally yield a maximum \$20,000. Exhibit 8 (Memorandum Regarding Historic Preservation Incentives, Otak, October 31, 2022.) All of this assumes successful competition for such grants, which is certainly not a guarantee given the diminished historic character of these buildings. In summary, there is no reason to believe that historic grant programs and tax credits will be even close to sufficient to provide the repairs identified in the HHPR report.

Upgrading the buildings to a different use would almost certainly require seismic upgrades. To explore an alternative use case that would preserve but reuse the buildings for a hotel, the Applicant engaged its subsidiary Hugh Construction Company to prepare a financial pro-forma for re-use of the buildings as a hotel with ground-floor retail.<sup>3</sup> This is enclosed as Exhibit 6 (Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022). The key findings are as follows:

- The base construction costs are anticipated to be \$11,430,000, with a total project cost of roughly \$20,000,000, excluding land acquisition.
- The total construction costs, along with soft costs and land acquisition costs are anticipated to be \$24,994,838.
- Due to the limited number of rooms, high cost of historic rehabilitation and retrofit, and debt service, the total net operating income from the project will be approximately \$813,419, with an annual cash flow of only \$516,922. Note that this is before debt service. Net cash flow from the property as a whole is negative, with cash investments in the negative throughout the period to fiscal year 2032, as demonstrated by the cash income statement on pg. 8 of Exhibit 6 (Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022).

Considering this alternative program, the Johnson Economic Study dated Nov. 2, 2022 analyzed the potential returns as follows:

"Renovation of the site for lodging uses would require a significant investment in restoration to bring the structure into conformance with current code. The estimated current costs to develop this program is just under \$20 million in current dollars (excluding acquisition), with an overall cost of roughly \$25 million. The projected net operating income at stabilization is estimated at \$580,500, representing a 2.3% return on cost."

"The estimated capitalization rate for this type of project is likely in the 6.5% to 7.5% range. Assuming a 7.0% cap rate, the estimated value of the project would only be \$8.3 million in this configuration, roughly a third of estimated costs.

<sup>3</sup> While no other contractors could provide an estimate without a more developed renovation plan set, the contractors Hugh consulted confirmed that Hugh Construction's estimate was reasonable.

While the assumptions may shift, renovation of the current structure for retail and hotel space is highly unfeasible."

"Renovation of the structure does not provide the owner with a "reasonable economic use". There would be no expectation that the property owner or a rational developer would pursue this project as a renovation."

The upshot of the above discussions is that there is no rational economic value to a rehabilitation and re-use case for the buildings.

**CITY RESPONSE:** The applicant has provided the requested information to determine if rehabilitation of the structure is financially feasible within the existing McMinnville market. Based on the structure's construction needs (not just to meet existing building codes but to structurally maintain the existing uses within the building), the amount of leasable space within the existing McMinnville market does not support the acquisition and rehabilitation of the property.

**17.65.050(B)(3).** *The value and significance of the historic resource;*

**APPLICANT'S RESPONSE:** An evaluation of the significance of the buildings is provided in Section 3 of this narrative. This section provides additional information.

The McMinnville Downtown Historic District was evaluated in 1983/1984 and was listed on the National Register of Historic Places in 1987. The Historic District nomination included a description of each property including its date of construction, initial use, changes (alterations) over time, and mention of multiple owners up to the time of nomination. Each building was deemed to be distinctive, significant, contributing, or noncontributing to the historic significance of the District. The individual building descriptions describe the significance of the historic resource and the role of each building in the larger context of specific timeframes.

As described in the McMinnville HRI and the Historic District nomination, the greatest period of downtown development occurred from approximately 1884-1905. The buildings from this period are still easy to identify to this day. Their size, style (often Italianate), quality of materials, and intricate detailing set them apart from buildings that came later. The second period of downtown development occurred between 1904-1928. Many buildings constructed during this time were functional, pragmatic buildings that were intended to serve the automobile. Many of the buildings in the eastern part of downtown, including the three buildings proposed for demolition, were initially constructed as automobile garages or service shops.

The proposal requests demolition of 3 buildings within the McMinnville Downtown Historic District. The building at 611 NE 3<sup>rd</sup> Street is listed as a Primary Significant Contributing resource on the City's HRI, and is defined by that designation as a Historic Landmark. The applicant is requesting the demolition of these 3 buildings for a replacement building that will implement and advance the future vision for Downtown McMinnville.

*Building Descriptions*

611 NE Third Street

The building at 611 NE 3<sup>rd</sup> Street (619 East Third Street at the time of the HRI) is located on Lot 6 of Block 7 of Rowland's Addition and appears to be misaddressed as the description of the building is of 619 NE 3<sup>rd</sup> Street. It is identified by its Special Assessment Program number, B872(a Secondary Contributing Resource), in the City's HRI. The HRI notes that the building was constructed between 1912 and 1928, and the Historic District nomination notes that moderate alterations occurred in 1976. The

building was originally an automotive garage, and it is currently occupied by the News-Register offices. Per the HRI:

“This is a square brick two story structure situated middle block between Ford and Galloway facing south on Third Street. The façade is five bayed, the second story windows being one over one double hung sash, paired, each pair articulated by rows of stretchers. A prominent bracketed and modillioned cornice line stretches the length of the façade above these windows. A parapet wall with a central gable rises three feet above the cornice line. The façade is faced with common bond buff brick above the first floor. Extensively altered, the first story of the façade is faced with scored stucco and has been cutaway to expose two pillars. A stairwell opens onto the street at the extreme east end. The building has been joined to another at its rear which faces Fourth Street on the north. In 1928, the building housed a garage.”

**FINDING: SATISFIED. THE HISTORIC SIGNIFICANCE OF THE PROPERTY IS QUESTIONABLE DUE TO THE AMOUNT OF MODIFICATIONS THAT HAVE OCCURRED.** The City concurs that the attributed historic significance identified in the McMinnville Downtown Historic District National Register of Historic Places nomination for 611 NE Third Street as a Primary Significant Contributing resource in the district is misrepresented due to the amount of modifications that have occurred on the property.

**17.65.050(B)(4).** *The physical condition of the historic resource;*

**APPLICANT’S RESPONSE (Original Application):** As described in the structural evaluation included as Appendix C, existing buildings are in adequate physical condition for their existing uses as offices. However, a change of occupancy of these buildings from office to commercial and/or lodging uses would likely require costly seismic updates to each of these buildings.

**APPLICANT’S RESPONSE (December 15, 2022):** HHPR 's Existing Building Summary identified a number of structural issues with these buildings, which are explained in detail below. Its general conclusions are that the buildings need significant work soon: "If we were in a position to advise the building owner, we would recommend that these items be addressed in the very near future." Exhibit 2 (Existing Building Structural Summary, HHPR, November 6, 2022). This is just to get the building back to something resembling their original design structural capacity. All have significant structural issues. For example, the 609 Building has a major truss that must be replaced. The 611 Building has load-bearing laminated beams that have been cut. Most of the roof trusses in the 619 Building are rotten where they intersect the party wall along the 611 Building. All of these conditions must be addressed.

The buildings are also all constructed of unreinforced masonry. Exhibit 2 (Existing Building Structural Summary, HHPR, November 6, 2022) provides a detailed literature review explaining why seismic reinforcement of these buildings is advisable, and concludes as follows:

"Like other similar URM buildings, the three buildings under review in this report would have the potential for similar failure points. Generally, these failure points could be attributed to the lack of ductility associated with URM construction and the lack of positive connections between the floor and roof framing and the walls of the structure. The anticipated failure points could be:

- In plane shear failure of the URM walls
- Out of plane bending failure of the URM walls
- URM walls pulling away from the roof or floor framing resulting in roof or floor collapse



Given their higher risk profile, URM buildings represent a unique and complicated challenge to the structural engineering community, to the building owners and to the community at large."

It is important to recognize that any significant changes to these buildings (such as significant tenant improvement) would likely trigger seismic retrofit to some degree. This is a likely scenario, for example, if the upper floors of the 609 and 611 Buildings are put back into use and qualify as an "alteration." Also, changes in occupancy and structural alterations (such as those required to address the buildings' identified structural problems) would likely trigger additional upgrades under the Existing Building Structural Code, as adopted by the State Building Codes division.

The costs of such upgrades are likely infeasible for these buildings in their current occupancy; as explained by the Western States Seismic Policy Council, "upgrading existing buildings to resist earthquake forces is more expensive than meeting code requirements for new construction." <https://www.wsspc.org/public-policy/legislation/oregon/>. This is also demonstrated by the memorandum provided by Mr. Higgins (Exhibit 7, McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022), which demonstrates that such improvements are not financially feasible.

The physical condition of certain building elements-particularly those from the historic period of significance-is provided in the HRA. Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022). However, the HRA does not characterize the general condition of the buildings as a whole. The physical condition of the building is explained below:

611 E 3rd Street: Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) described the second floor elevation as being in good condition, but the building appears to be in marginal condition overall. Its upper parapet and roof system are intact. However, the HRA identifies a number of issues:

- o "No original portions of the original ground floor storefront were visible at the interior side of the storefront.
- o Significant areas of damaged ceiling finishes and areas of water infiltration are visible at the north end of the second floor, but it is unknown if water infiltration is active or if it pre-dates the roofing replacement.
- o The roof surface drains to a drain at the rear, NW corner of the building, with an overflow scupper to an external leader emptying to the lower roof of 609 NE 3rd Street below. The roof drain is completely clogged, and it is therefore likely that during rain events water pools at this area of roofing, possibly infiltrating to the interior before reaching the overflow scupper.
- o The second-floor interior is vacant and has been unused for a significant period of time. Little of the original finishes remains. Finishes at the northern portion of the second floor are in poor condition. Outlines of removed partitions are visible in the remaining finish floor. Round pipe columns supported on added wood beams appear to have been added throughout to shore up the wood joists above and to distribute the load to joists below. The underside of the roof deck was not visible. Windows at the north elevation have been removed, and the openings enclosed with plywood with visible daylight at the perimeter, allowing air and water infiltration."

The HPR Existing Building Summary (Exhibit 2, Existing Building Structural Summary, HPR, November 6, 2022) identifies the following structural deficiency in the building:

"Built up beams spanning in the north south direction supported by round pipe columns bearing on built up laminate beams to spread the load across the floor below. In some cases, the built-up laminated beams across the floor have been cut and removed. This condition

compromises the structure's ability to spread the concentrated roof load across the floor below."

HHPR's initial structural review of the building, dated July 29, 2022 {Exhibit 3}, identified the following issues:

- o "In some cases, the built-up laminated beams across the floor have been cut and removed. This condition compromises the structure's ability to spread the concentrated roof load across the floor below.
- o The built-up beams across the floor do not appear to align with the beam lines in the floor below, which would complicate any future work.
- o The north elevation has a series of old window openings along the 2nd level that have been filled in, however the condition of the wall and infill is poor with a significant amount of water entering the building and debris from bird nests."

The July 29, 2022 HHPR report describes the general condition of the buildings as follows:

- o "Each of the three buildings has portions of brick wall that are in poor condition that would require significant work to remediate including new mortar and the replacement of bricks.
- o Each of the three buildings has portions of the roof structure that are rotting and are in poor condition. While it may be that the roofing has been repaired, it does not appear that in certain areas the supporting structure has been repaired. These areas also coincide with areas of the brick wall that are in poor condition
- o The most southern roof truss in the 609 Building has a top chord node that is out of plane by over 6 inches. This represents a significant structural concern and should be evaluated further with possible remedial actions should the building remain. The remedial action includes installing a new girder and columns to support the truss thereby removing mezzanine and roof loading from the truss
- o The removed floor beams distributing roof load in the 611 Building represent a significant structural concern and should be evaluated further with possible remedial actions should the building remain.
- o The rotting bearing points of the roof trusses in the 619 Building represent a significant structural concern and should be evaluated further with possible remedial actions should the building remain."

Based on the information provided in Exhibits 1 (Historic Resources Assessment, Architectural Resource Group, November 2022), 2 (Existing Building Structural Summary, HHPR, November 6, 2022), and 3 (Documentation of Existing Building Structures, HHPR, July 29, 2022), the general condition of the buildings is best characterized as poor or marginal at best, depending on the proposed use case. While the buildings are not "dangerous" (which condition would require removal of the existing tenants), it is clear that significant work must be undertaken to ensure these buildings' future preservation, even if they are not seismically upgraded. Bear in mind that this is the requirement for continued use of the buildings for ground-floor retail or limited-occupancy offices; any more intensive uses will require substantially more structural upgrades. It is also important to note that, under both state and local criteria, the buildings need not be considered "dangerous" in order for their condition to be a major factor in allowing their demolition.

**CITY RESPONSE:** The applicant argues that the combination of structural issues associated with a lack of building maintenance and investment and the structural costs of reinforcing unreinforced masonry buildings is a significant cost burden for a one or two-story building to overcome. And the city concurs. However, unreinforced masonry buildings are rehabilitated all of the time and lack of maintenance should not be justification for demolition of a historic resource.

**FINDING:** The physical condition of the building is not a stand-alone reason to allow demolition of the property but however it is part of a collective consideration.

**17.65.050(B)(5).** *Whether the historic resource constitutes a hazard to the safety of the public or its occupants;*

**APPLICANT’S RESPONSE:** Each of the buildings is currently occupied and is assumed to not constitute a hazard to the safety of the public or its occupants.

**FINDING:** The historic resource is not a hazard to the safety of the public.

**17.65.050(B)(6).** *Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;*

**APPLICANT’S RESPONSE (Original Application):** The current structures are 1- and 2-stories in height and are occupied by office uses. The Gwendolyn Hotel development addresses many of the City’s identified economic development needs. The applicant proposes a development program that includes numerous benefits to the City:

- 90-95 luxury hotel rooms designed to accommodate visitors to nearby wineries and tasting rooms
- A ground-floor restaurant
- Ground-floor commercial/retail spaces
- 67 vehicular parking spaces
- A ground-floor meeting room for use by guests and local groups
- A reservable rooftop bar and patio
- A luxury soaking pool on the level 6 roof terrace

On March 12, 2019, the Common Council of the City of McMinnville voted unanimously to adopt the MAC-Town 2032 Economic Development Strategic Plan. The plan established eight important goals. Goal 6 is “Be a leader in hospitality and place-based tourism,” and includes a number of goals which are addressed below.

*Goal 6.1: Make Downtown the best it can be.*

- *Evaluate current zoning, historical districts and designations, and existing land use patterns, including underutilized parcels, to ensure that key downtown parcels offer the highest and best use for their location.*

As noted in Section 5 below, the MAC-Town 2032 plan further implements the Comprehensive Plan policies related to the economy. Following adoption of this plan, City staff presented zoning amendments to remove minimum parking requirements from downtown properties to allow new development to maximize the use of downtown parcels. Though not explicitly stated in the plan, allowing redevelopment of the subject site would also allow a key downtown parcel to offer the highest and best use for its location. The permitted height is 80 ft. and a broad range of commercial and residential uses are allowed, which indicates that the subject site was anticipated to be used more intensively in the future.

*Goal 6.2: Become the preferred destination for wine related tourism.*

- *Connect hoteliers and other hospitality professionals in Oregon and elsewhere to local opportunities*

*for high quality additions to McMinnville’s current hospitality offerings.*

The applicant intends to develop a luxury hotel on this site, which expands McMinnville’s current hospitality offerings and addresses this goal.

*Goal 6.4: Market and promote McMinnville.*

- *Work with visit McMinnville and local hoteliers to identify gaps in available conference space and to establish a plan to expand McMinnville’s offerings for small and large conferences.*

Though the hotel is not intended to be a conference hotel, it will provide a meeting room on the ground floor for hotel guests and members of the community. This addresses a gap in the existing offerings in downtown McMinnville.

In addition to moving the MAC-Town 2032 goals forward, the proposed development will significantly expand the assessed value of the site, which will result in additional tax income for the community and additional funding for the urban renewal area.

The hotel and supportive commercial spaces are anticipated to employ 60 community members, and visitors to the hotel will eat in nearby restaurants and shop in nearby stores. Wine enthusiasts are expected to use the Gwendolyn Hotel as a home base for weekend wine tasting trips in the surrounding areas and for visiting local tasting rooms. Though not required, the proposed development includes below-grade vehicular parking spaces for use by hotel guests.

The corner of NE 3<sup>rd</sup> and Ford streets is a key corner of downtown McMinnville. The Gwendolyn will provide additional downtown lodging opportunities for people seeking an urban wine country experience.

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** As noted in the land use application narrative dated August 6, 2022, the MAC-Town 2032 Economic Development Strategic Plan includes several relevant goals. The application to these goals focused on the potential of the proposed new Gwendolyn Hotel to implement the MAC-Town 2032 Plan.

Per staff’s request, these addition responses focus on how the existing buildings could, or could not, implement the Plan.

***Goal 6 : Be a leader in hospitality and place-based tourism***

Goal 6.1: Make downtown the best it can be.

*Evaluate current zoning, historical districts and designations, and existing land use patterns, including underutilized parcels, to ensure that key downtown parcels offer the highest and best use for their location.*

[...]

Following the adoption of the MAC-Town 2032 plan, the City revised its off-street parking and site landscaping requirements to exempt large portions of downtown, allowing more efficient use of the limited area in the downtown core.

Staff does not dispute that the current 1- and 2-story buildings do not represent the highest and best use of the site. The C-3 zone is applied to downtown McMinnville and other commercial areas, and includes a height allowance of 80 ft. The zero setback requirements, off-street parking exemptions, and landscaping exemptions encourage buildings that occupy the entire site. The proposed development will intensify the use of the corner of NE Third and Ford streets and will offer the highest and best use for the site under current zoning regulations.

*Goal 6.2: Become the preferred destination for wine-related tourism.*

[...]

*Connect hoteliers and other hospitality professionals in Oregon and elsewhere to local opportunities for high-quality additions to McMinnville’s current hospitality offerings.*

“Hospitality” generally includes housing and entertaining visitors, including lodging, food and drink, and activities. Likewise, “local opportunities” typically refer to available properties with willing sellers.

The proposed development includes hotel, restaurant, and retail uses, as well as a rooftop deck and lap pool. The rooftop space will be available for rent for special events and gatherings, filling an identified need in downtown McMinnville.

The existing buildings are available for sale by willing sellers. They do not currently include hospitality uses and cannot be upgraded to accommodate them without triggering substantial seismic and building code upgrades.

As noted in Attachment 6, upgrading the buildings to add 13 hotel guestrooms would cost almost \$25 million, which is not financially feasible. The building could be converted to a wine tasting or food service use, which would trigger the same seismic and building code upgrades noted above and would provide even less income.

*Goal 6.4: Market and promote McMinnville.*

[...]

*Work with Visit McMinnville and local hoteliers to identify gaps in available conference space and to establish a plan to expand McMinnville’s offerings for small and large conferences.*

The current buildings include small meeting areas to serve the tenants. They do not include conference space or lodging for conference attendees. In order to accommodate conference space, the existing uses would need to be removed or downsized.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** The HLC can find that this factor favors demolition for the following reasons.

- As explained in detail in response to OAR 660-023-0200(8)(a), the buildings are listed as contributing to the district primarily due to their dates of construction. All appear to have been constructed (or at least re-constructed) for use as automobile garages and a car dealership and, in the case of the 609 Building, a gas station. The buildings were designed and adapted to this purpose. The buildings have each lost at least half of their historic facades (indeed, the 609 Building has lost its entire original facade), and the upper floors of the 609 and 611 Buildings are unoccupied and have few remaining interior historic finishes. Remaining historic features generally include some window casings on the 609 Building, the parapets on the 611 and 619 Buildings, and some interior features. Otherwise, their remaining characteristics are simply their masses and structural elements. For this reason, their historic value is low after having been substantially compromised prior to establishment of the Downtown Historic District.

There is no evidence that any of these buildings are connected with important historical events. While the 609 Building was built by McMinnville resident Frank W. Fenton, Mr. Fenton was a developer and built several buildings, and there is no evidence that he made personal use of the building for long, if at all. And, this building does not resemble

at all its original exterior during the period in which Mr. Fenton might have made use of it. There is also no evidence that these buildings served as community gathering spaces during their periods of historic significance.

Based on the above, the public interest in preservation of these buildings is confined to the fact that they are listed as contributing structures within the Historic District. There are no other factors that reasonably weigh in favor of preservation. On the other hand, they are not remarkable in relation to the other contributing buildings within the Historic District and they retain very little of their respective historically-relevant features, most of which have been covered with stucco or removed. For all of the above reasons, the HLC can find that the public interest in their preservation is low.

- The buildings will require substantial structural repairs to continue to be used for the limited retail and office uses they have been used for since the establishment of the Historic District. Seismic retrofit of the buildings is unaffordable if their current configuration is maintained, and there is no positive return on investment if they were to be rehabilitated for use as a hotel.
- As explained in the HRA, the primary historical value of these buildings is their location, massing, and roof configuration. Assuming that the buildings' massing must be retained for that reason, no owner will be able to meaningfully intensify their uses. This is a further headwind against any substantial repair or seismic upgrade. Therefore, the economic value of the buildings to the City is represented by their current uses, with a Current Market Value of \$1,250,150 for all three buildings, collectively. Exhibit 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022). This is less than the combined assessed value of the buildings, noted below. Even excluding debt service obligations and tenant improvements, the collective market value of the buildings is only \$2,230,066. On the other hand, the projected market value of the Gwendolyn after construction and occupancy in FY 2025 is roughly \$64M after an investment of approximately \$61 M. Exhibit 10 (The Gwendolyn Financial Pro-Forma, December 15, 2022).

The combined assessed value of all three buildings in 2022 is \$1,793,470; at a combined rate of 16.4925 these collectively generate roughly \$29,500 in annual property tax revenue, with roughly \$10,670 of that amount going to the City of McMinnville. Exhibit 9 (2022 Tax Statements). Assuming a standard rate (non-historic) of 16.5854, property taxes after completion and occupancy of the Gwendolyn in 2025 would be \$327,917. Exhibit 10 (The Gwendolyn Financial Pro-Forma, December 15, 2022).

Construction of the Gwendolyn will be a significant draw to McMinnville's downtown, increasing traffic to businesses within the Historic District. Given that this will increase the value of the other buildings in the Historic District, construction of the hotel is likely not only a benefit to the City from a financial perspective, but also a long-term benefit to the district itself. According to the Nov. 2, 2022 Johnson Economics Report, "[t]he proposed new hotel would provide significant economic value on the site, supporting the ongoing positive investment patterns in downtown McMinnville. Keeping the existing structures would effectively preclude new investment on the site, and result in underutilization of the parcels while yielding no economic return.'

- For the above reasons, the HLC can find that the proposed Gwendolyn Hotel is an "an improvement program of substantial benefit to the City." Preservation of these buildings presents a substantial barrier to this program because these buildings must be removed to allow for construction of the Gwendolyn, because they have little to no economic viability for adaptive re-use, and because their value under their current use case is miniscule compared to the proposed development. It is also worth considering that the

value of the buildings is likely to decline even in their current or similar tenancies unless structural repairs are made; as explained above, such repairs are likely not financially rational without a more intensive use case for the buildings, which itself may trigger seismic upgrades.

**FINDING:** The preservation of the buildings would be a deterrent to advancing several goals of the MAC Town 2032 Economic Development Strategic Plan.

**17.65.050(B)(7).** *Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and*

**APPLICANT'S RESPONSE (Original Application):** As noted in the response to 17.65.050.B.2 above, the cost to retain and renovate the existing buildings to current building code, including seismic upgrades, is significant and unlikely to be undertaken by any purchaser of the property. Retention of the buildings as-is will be unsustainable given the asking sale price, and the cost of renovation of the properties for new or different uses will take 40 years to recoup.

**APPLICANT'S RESPONSE (December 15 Application):** The public interest in the resource's preservation is not clearly articulated in any adopted document. However, the HLC can find that the public interest in preservation of these buildings is related to their ability to reflect their historical period of significance. As explained above, these buildings do so to only a limited degree because their facades have been largely replaced. Therefore, the public interest in their preservation should be viewed as reduced as compared to buildings that have not been substantially altered, and such interest is largely a factor of their year of construction.

The public interest in their preservation must necessarily include their ability to serve an economic function to McMinnville's historic Downtown. As explained above, the current economic viability of these buildings and their future prospects are poor. Adaptive re-use is not a realistic option because of the significant structural upgrades that would be required, and re-use of the buildings for the hotel use proposed by the Applicant is not economically feasible.

In view of both of these factors, the public's interest in these buildings' preservation seems limited at best, and low when compared to buildings in the District which have better future economic use prospects or better reflect their original appearance, or both.

The question posed by this criterion was directly evaluated in the Johnson Economics Report (Exhibit 5). This report concludes as follows:

"Keeping the buildings in their current use would negate the requirement to upgrade the structures but would also limit the amount of investment that could be made within triggering the requirement. The buildings have structural deficiencies and obvious deterioration that would need to be addressed prior to re-tenanting in any of the buildings.

Building the hotel above the existing structures would require a complete seismic upgrade of the structures, and new columns to support the hotel would need to penetrate the structures. The cost of this type of structure would be substantially higher than new construction and the resulting development would be significantly less efficient.

As a result of these myriad factors, the retention of the existing structures would cause substantial financial hardship to the owners. Based on our previous experience, the likely cost of the necessary improvements and upgrades would render the cost of space to likely be hundreds of dollars more per square foot than new construction. If the redevelopment was not done and the buildings were kept in their current use without significant upgrades, they would pose a life safety hazard and may not be insurable. The structures are depreciated to a point in which Investments in the structures would be unlikely over time as they would not yield an



economic return. As a result the properties would be likely to face an extended period of declining condition and underutilization for the foreseeable future."

This conclusion is consistent with the other information discussed above, which generally demonstrates that the buildings are not likely to generate a meaningful return for Hugh Development with a current or similar tenant mix. This is reflected by the fact that the actual market value when accounting for debt service is actually less than the assessed value of the property. See Exhibits 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022) and 9 (2022 Tax Statements).

For the above reasons, the HLC can find that retention of the buildings in their current configurations would not just be a financial hardship to the owner, but will likely result in the eventual degradation of the buildings to the point where demolition for safety reasons becomes increasingly likely. These practical headwinds against continued use of the buildings in their current configurations far outweigh the buildings' relative contribution to the objectives of the Historic District, as discussed above, and therefore outweighs the public's interest in preservation.

**FINDING. SATISFIED WITH CONDITION OF APPROVAL #13:** Based on the data provided, the City concurs with the applicant, unless another solution can be provided.

**CONDITION OF APPROVAL #13:** The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives.

**17.65.050(B)(8).** *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.*

**APPLICANT'S RESPONSE (Original Application):** Given the economic and physical benefits of the proposed development, as described elsewhere in this narrative, the HLC can find that the retention of the existing buildings is not in the best interests of a majority of community residents and that redevelopment of the site advances the goals of the community related to the economy, tourism, and energy efficiency. On balance, the proposed development meets or exceeds all relevant policies and regulations.

The architectural and structural team have examined the three buildings extensively, and have listed their deficiencies. See the structural report included as Appendix C. All the alternative means of preservation listed here are possible and acceptable, if directed by the HLC.

As noted previously in this narrative, retaining the buildings in their current state is likely to result in continuing decline in their condition, and renovation of the buildings is cost-prohibitive and will result in a substantial loss for the development team. As noted in the structural report, relocating one or more of these buildings, which technically possible, is extremely complicated and costly and has a high potential for failure due to their construction of unreinforced brick.

**APPLICANT'S RESPONSE (December 15, 2022 Application).** For the above reasons, the HLC can find that the retention of these three buildings would not be in the best interests of the citizens of the City. These reasons can be summarized as follows:

- The buildings do not reflect their appearance or use during their respective periods of significance.

- The building have few remaining residual historic features charactering the Historic District, aside from their masses, structural frames, and roof lines.
- The buildings have limited value under current uses.
- Current or similar uses are probably unable to generate sufficient value to repair the buildings.
- Adaptive re-use would require seismic upgrades and the buildings cannot be economically used for hospitality.

On the other hand, the economic opportunity for the Historic District presented by the proposed Gwendolyn Hotel far outweighs the limited benefits of building preservation, as discussed above.

Historic features identified by the HRA, such as belt courses and cornices, are emulated by the proposed architectural design of the Gwendolyn. Any moveable historic features of these buildings, such as windows, can be incorporated into the proposed building. The remaining characteristics of the buildings—their massing and roof line—can be easily documented with photographs.

For these reasons, the HLC can find that on balance, retention of these buildings would not be in the best interest of the City's citizens when weighed against the benefits of the proposed Gwendolyn Hotel.

**FINDING. SATISFIED WITH CONDITIONS OF APPROVAL #14 and #15:** The City concurs with the applicant's findings.

**CONDITION OF APPROVAL #14:** Prior to demolition the applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection.

**CONDITION OF APPROVAL #15:** Prior to demolition the applicant will provide the City with an archaeological plan describing how the applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (Comprehensive Plan Goal III 2 – Historic Preservation)

#### **17.65.070 Public Notice.**

- After the adoption of the initial inventory, all new additions, deletions, or changes to the inventory shall comply with subsection (c) of this section.*
- Any Historic Landmark Committee review of a Certificate of Approval application for a historic resource or landmark shall comply with subsection (c) of this section.*
- Prior to the meeting, owners of property located within 300 feet of the historic resource under consideration shall be notified of the time and place of the Historic Landmarks Committee meeting and the purpose of the meeting. If reasonable effort has been made to notify an owner, failure of the owner to receive notice shall not impair the validity of the proceedings*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** Notice of the Historic Landmarks Committee's consideration of the Certificate of Approval application was mailed to property owners located within 300 feet of the historic resource. A copy of the written notice provided to property owners is on file with the Planning Department.

**17.72.020 Application Submittal Requirements.**

*Applications shall be filed on forms provided by the Planning Department and shall be accompanied by the following;*

- A. *A scalable site plan of the property for which action is requested. The site plan shall show existing and proposed features, such as access, lot and street lines with dimensions in feet, distances from property lines, existing and proposed buildings and significant features (slope, vegetation, adjacent development, drainage etc.)*
- B. *An explanation of intent, nature and proposed use of the development, and any pertinent background information.*
- C. *Property description and assessor map parcel numbers(s).*
- D. *A legal description of the property when necessary.*
- E. *Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.*
- F. *Materials required by other sections of the McMinnville Zoning Ordinance specific to the land use application.*
- G. *Other materials deemed necessary by the Planning Director to illustrate compliance with applicable review criteria, or to explain the details of the requested land use action.*

**APPLICANT'S RESPONSE:** This submittal includes the required materials.

**FINDING: SATISFIED.**

**17.72.095 Neighborhood Meetings.**

- A. *A neighborhood meeting shall be required for:*
  1. *All applications that require a public hearing as described in Section 17.72.120, except that neighborhood meetings are not required for the following applications:*
    - a. *Comprehensive plan text amendment; or*
    - b. *Zoning ordinance text amendment; or*
    - c. *Appeal of a Planning Director's decision; or*
    - d. *Application with Director's decision for which a public hearing is requested.*
  2. *Tentative Subdivisions (up to 10 lots)*
  3. *Short Term Rental*
- B. *Schedule of Meeting.*
  1. *The applicant is required to hold one neighborhood meeting prior to submitting a land use application for a specific site. Additional meetings may be held at the applicant's discretion.*
  2. *Land use applications shall be submitted to the City within 180 calendar days of the neighborhood meeting. If an application is not submitted in this time frame, the applicant shall be required to hold a new neighborhood meeting.*
- C. *Meeting Location and Time.*
  1. *Neighborhood meetings shall be held at a location within the city limits of the City of McMinnville.*
  2. *The meeting shall be held at a location that is open to the public and must be ADA accessible.*
  3. *An 8 ½ x 11" sign shall be posted at the entry of the building before the meeting. The sign will announce the meeting, state that the meeting is open to the public and that interested persons are invited to attend.*
  4. *The starting time for the meeting shall be limited to weekday evenings between the hours of 6 pm and 8 pm or Saturdays between the hours of 10 am and 4 pm. Neighborhood meetings shall not be held on national holidays. If no one arrives within 30 minutes after the scheduled starting time for the neighborhood meeting, the applicant may leave.*
- D. *Mailed Notice.*
  1. *The applicant shall mail written notice of the neighborhood meeting to surrounding property owners. The notices shall be mailed to property owners within certain distances of the exterior boundary of the subject property. The notification distances shall be the same as the distances*

used for the property owner notices for the specific land use application that will eventually be applied for, as described in Section 17.72.110 and Section 17.72.120.

2. Notice shall be mailed not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.
3. An official list for the mailed notice may be obtained from the City of McMinnville for an applicable fee and within 5 business days. A mailing list may also be obtained from other sources such as a title company, provided that the list shall be based on the most recent tax assessment rolls of the Yamhill County Department of Assessment and Taxation. A mailing list is valid for use up to 45 calendar days from the date the mailing list was generated.
4. The mailed notice shall:
  - a. State the date, time and location of the neighborhood meeting and invite people for a conversation on the proposal.
  - b. Briefly describe the nature of the proposal (i.e., approximate number of lots or units, housing types, approximate building dimensions and heights, and proposed land use request).
  - c. Include a copy of the tax map or a GIS map that clearly identifies the location of the proposed development.
  - d. Include a conceptual site plan.
5. The City of McMinnville Planning Department shall be included as a recipient of the mailed notice of the neighborhood meeting.
6. Failure of a property owner to receive mailed notice shall not invalidate the neighborhood meeting proceedings.

**E. Posted Notice.**

1. The applicant shall also provide notice of the meeting by posting one 18 x 24" waterproof sign on each frontage of the subject property not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.
2. The sign(s) shall be posted within 20 feet of the adjacent right-of-way and must be easily viewable and readable from the right-of-way.
3. It is the applicant's responsibility to post the sign, to ensure that the sign remains posted until the meeting, and to remove it following the meeting.
4. If the posted sign is inadvertently removed (i.e., by weather, vandals, etc.), that shall not invalidate the neighborhood meeting proceedings.

**F. Meeting Agenda.**

1. The overall format of the neighborhood meeting shall be at the discretion of the applicant.
2. At a minimum, the applicant shall include the following components in the neighborhood meeting agenda:
  - a. An opportunity for attendees to view the conceptual site plan;
  - b. A description of the major elements of the proposal. Depending on the type and scale of the particular application, the applicant should be prepared to discuss proposed land uses and densities, proposed building size and height, proposed access and parking, and proposed landscaping, buffering, and/or protection of natural resources;
  - c. An opportunity for attendees to speak at the meeting and ask questions of the applicant. The applicant shall allow attendees to identify any issues that they believe should be addressed.

**G. Evidence of Compliance.** In order for a land use application that requires a neighborhood meeting to be deemed complete, the following evidence shall be submitted with the land use application:

1. A copy of the meeting notice mailed to surrounding property owners;
2. A copy of the mailing list used to send the meeting notices;
3. One photograph for each waterproof sign posted on the subject site, taken from the adjacent right-of-way;
4. One 8 ½ x 11" copy of the materials presented by the applicant at the neighborhood meeting; and
5. Notes of the meeting, which shall include:
  - a. Meeting date;
  - b. Meeting time and location;
  - c. The names and addresses of those attending;

- d. *A summary of oral and written comments received; and*
- e. *A summary of any revisions made to the proposal based on comments received at the meeting. (Ord. 5047, §2, 2018, Ord. 5045 §2, 2017).*

**APPLICANT’S RESPONSE:** A virtual neighborhood meeting was held on April 25, 2022. The appropriate procedures were followed and the materials detailed in G above are included as Appendix A.

**FINDING: SATISFIED.**

Community Development Department  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7311



[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS OF THE MCMINNVILLE PLANNING COMMISSION FOR THE APPROVAL OF A DEMOLITION OF THE HISTORIC LANDMARK LOCATED AT 619 NE THIRD STREET. THIS IS A RULING IN FAVOR OF THE APPELLANT IN THE APPEAL OF THE HISTORIC LANDMARKS COMMITTEE’S DENIAL OF THIS LAND-USE APPLICATION**

- DOCKET:** AP 3 – 23, (Appeal of HL 8-22 - Certificate of Approval for Demolition)
- REQUEST:** Appeal of the Historic Landmarks Committee decision to deny the applicant’s request for the demolition of an existing historic landmark and building that is listed on the McMinnville Historic Resources Inventory as a “Environmental” historic resource (resource number D876). This building is also listed on the National Register of Historic Places as a Secondary Significant Contributing building in the McMinnville Downtown Historic District.
- LOCATION:** 619 NE Third Street. The resource is located at the property that is identified as Tax Lot 4201, Section 21BC, T. 4 S., R. 4 W., W.M.
- ZONING:** C-3 General Commercial (Downtown Overlay District)
- APPLICANT:** Mark Vuong, HD McMinnville LLC
- PROPERTY OWNER:** Phillip Frischmuth, Wild Haven, LLC.
- STAFF:** Heather Richards, Community Development Director
- DATE DEEMED COMPLETE:** September 7, 2022
- HEARINGS BODY & ACTION:** McMinnville Planning Commission
- HEARING DATE & LOCATION:** March 2, 6:30 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853  
  
Hearing continued to March 16, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853
- HEARINGS BODY & ACTION:** McMinnville Historic Landmarks Committee
- HEARING DATE & LOCATION:** September 29, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 859 9565 0539, Meeting Password: 661305

Hearing continued to December 8, 2022, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 892 5565 1124, Meeting Password: 257277

Hearing continued to January 5, 2023, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 831 7965 5545, Meeting Password: 725658

Meeting continued to January 26, 4:00 PM for Historic Landmarks Committee deliberation, a decision and adoption of written findings. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 885 9559 0268, Meeting Password: 925948.

**PROCEDURE:** An application for a Certificate of Approval for Demolition is processed in accordance with the procedures in Section 17.65.040 - 17.65.050 of the McMinnville Municipal Code and Oregon Administrative Rule 660-203-0200 (8)(a).

**CRITERIA:** The applicable criteria for a Certificate of Approval for Demolition are specified in Section 17.65.040 and 17.65.050 of the McMinnville Municipal Code. In addition, since this is a structure listed as part of a historic district on the National Register of Historic Places, Oregon Administrative Rule 660-203-0200(8)(a) is applicable. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

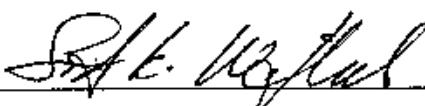
**APPEAL:** As specified in Section 17.59.030(E) of the McMinnville Municipal Code, the Historic Landmarks Committee's decision may be appealed to the Planning Commission within fifteen (15) days of the date written notice of decision is mailed, and according to Section 17.72.180 of the McMinnville Municipal Code, the Planning Commission decision may be appealed to the City Council within fifteen (15) days of the date written notice of decision is mailed. The City's final decision is subject to a 120 day processing timeline, including resolution of any local appeal. The 120-day deadline is January 5, 2023. Per an email dated September 29, 2022 from Garrett H. Stephenson, the applicant requested a 70-day extension to the 120 day decision deadline. The 190-day deadline is March 16, 2023. Per an email dated December 1, 2022 from Garrett H. Stephenson, the applicant requested an additional 30-day extension for a total of 100 days added to the 120 day decision deadline. The 220 day deadline is April 15, 2023. Per an email from Garrett H. Stephenson, the applicant requested an additional 24 day extension to May 9, 2023.

**COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; Oregon Department of Transportation; and State Historic Preservation Office. Their comments are provided in this document.

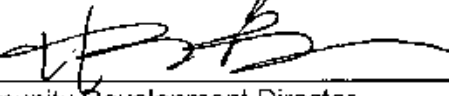


Based on the findings and conclusionary findings, the Planning Commissions finds in favor of the applicant that the applicable criteria are **SATISFIED** and **APPROVES WITH CONDITIONS** the Certificate of Approval for the demolition of the structure at 619 NE Third Street (HL 8-22).

////////////////////////////////////  
**APPROVAL WITH CONDITIONS**  
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Planning Commission   
Sidonie Winfield, Chair

Date: 3/16/23

Planning Department:   
Heather Richards, Community Development Director

Date: 3/19/23

**I. SUMMARY:**

**APPEAL:** The applicant is appealing the decision of the Historic Landmarks Committee to deny their request for a Certificate of Demolition for the historic resource at 619 NE Third Street.

In their notice of appeal dated February 10, 2023, the applicant asserted that their application met the applicable criteria and that the Historic Landmarks Committee unreasonably or incorrectly interpreted and applied the McMinnville Zoning Ordinance, failed to issue adequate findings, and failed to reasonably weigh the evidence in the record such that its decision is not substantially supported by the evidence in the record.

Per the McMinnville Municipal Code, an appeal of the Historic Landmarks Committee is noticed as a de novo public hearing of the Planning Commission. The Planning Commission opened a public hearing on March 2, 2023, continued it to March 16, 2023, closed the public hearing and the public record, and voted to adopt these findings in support of the applicant's land-use application with the amended conditions of approval entered into the record by city staff at the January 5, 2023, public hearing with the Historic Landmarks Committee.

**APPLICATION:** The applicant has provided information in their application narrative and findings regarding the history of the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current land use request, and excerpted portions are provided below to give context to the request, in addition to the City's findings.

***Proposed Project***

Below is an excerpt from the application describing the proposed improvement program. The applicant would like to demolish the structures at 609, 611 and 619 NE Third Street and redevelop the property with a mixed-use hotel project that includes ground floor commercial amenities and dedicated underground parking for the project.

*Within the last year, the properties at 609, 611, and 619 NE 3rd Street were listed for sale by the Bladine family and Wild Haven LLC. After analyzing the opportunity and studying both the history and potential of downtown McMinnville, the applicant saw an opportunity to greatly enhance both the economic and experiential vitality of 3rd Street.*

*McMinnville is in an early stage of responding to its goal of being the Willamette Valley's leader in hospitality and place-based tourism. The most recent renovation and redevelopment on the south side of 3rd Street, with new lodging, dining, and wine tasting, has been encouraging. However, the same opportunity for renovation for hospitality, commercial, and retail uses is not available to the subject buildings. As noted in the structural analysis included as Appendix C, changing the occupancy of these buildings from office to commercial, retail, or hospitality is likely to trigger significant seismic upgrades.*

*The applicant has indicated that this cost to fully renovate the buildings would be approximately \$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.*

*In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.*

*The proposal is to replace the three underutilized buildings at 609, 611, and 619 NE 3<sup>rd</sup> Street with a 90-95 room boutique hotel. The ground floor will include the hotel lobby, a signature restaurant at the corner of 3rd and Ford streets, with seasonal sidewalk dining, and small retail*

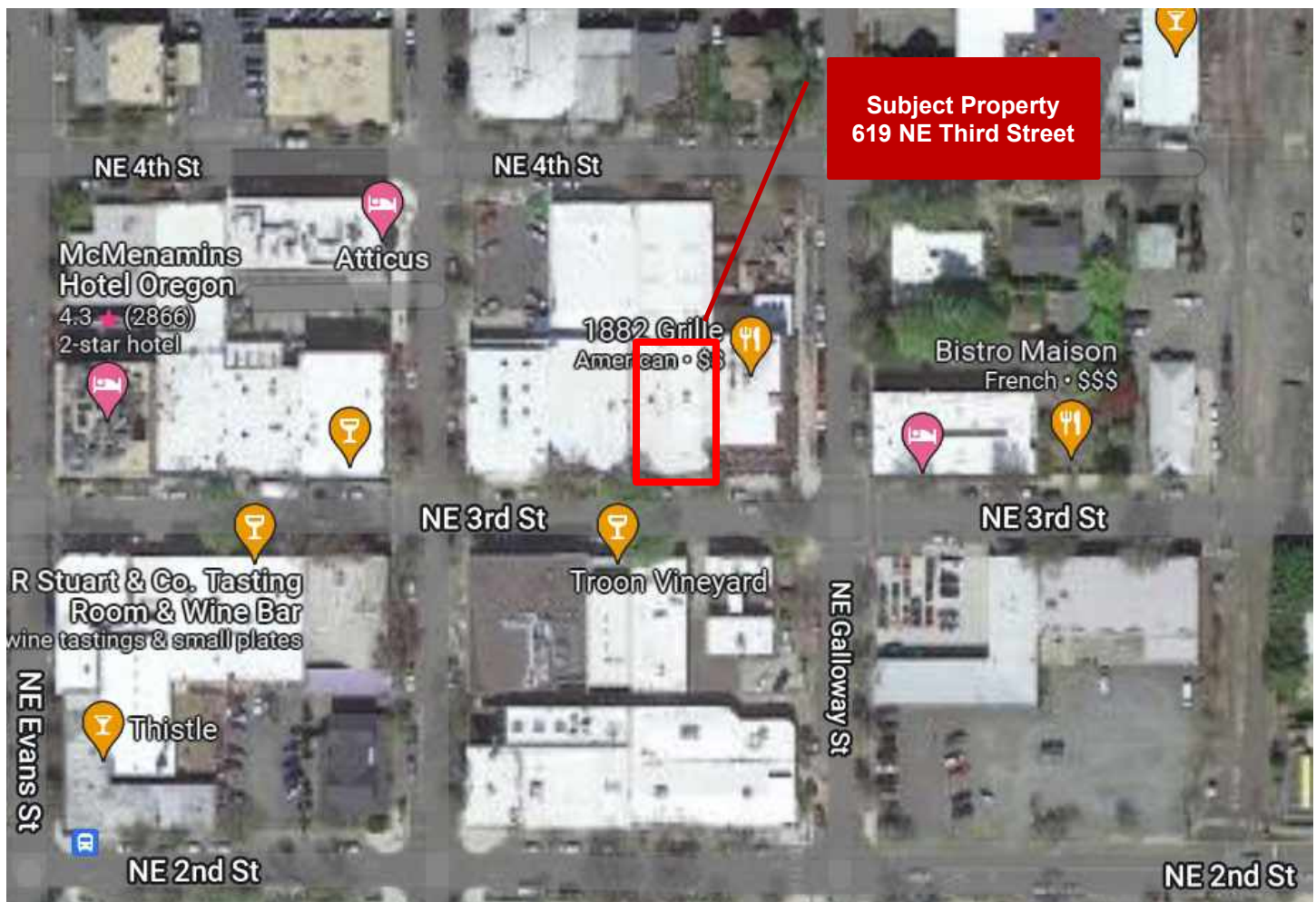
shop(s). The entire rooftop will be a mix of public uses, anchored by a small restaurant/bar opening onto a large terrace of seating and raised-bed landscaping. Though parking is not required in this location, a below-grade parking garage accommodating 68 (reduced to 67 parking spaces per supplemental materials provided on November 4, 2022) parking stalls is proposed. The garage ramp will be at the north end of the property, mid-block on Ford Street, to avoid interrupting the 3<sup>rd</sup> Street pedestrian experience.

(Application Narrative, page 3)

**Subject Property & Request**

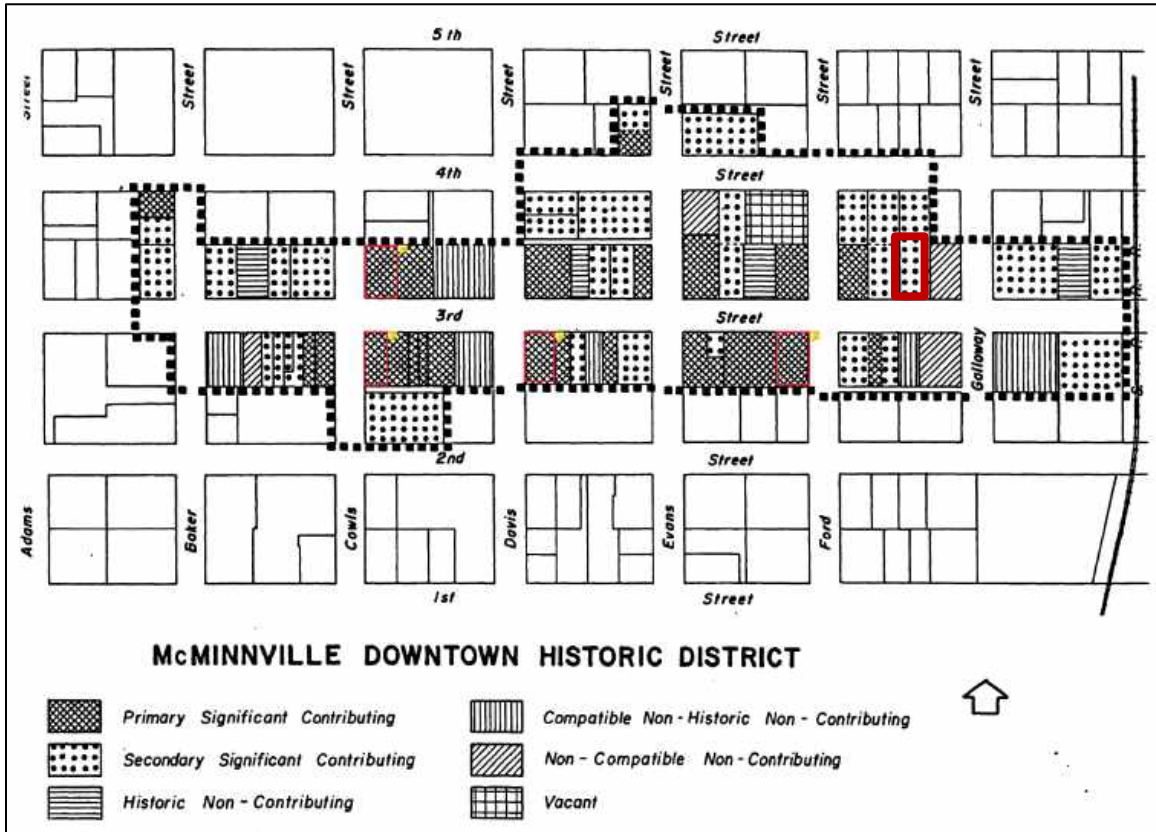
The subject property is located at 619 NE Third Street. The property is identified as Tax Lot 4500, Section 21BC, T. 4 S., R. 4 W., W.M. See **Vicinity Map (Figure 1) below, which identifies the approximate location of the building in question.**

**Figure 1. Vicinity Map (Building Outline Approximate)**



The existing building on the subject property is listed as a Secondary Significant Contributing property in the McMinnville Downtown Historic District on the National Register of Historic Places. See **McMinnville Downtown Historic District Map (Figure 2) and Description of 619 NE Third Street in the McMinnville Downtown Historic District National Register of Historic Places Nomination (Figure 3) below.**

Figure 2. McMinnville Downtown Historic District Map



**Figure 3. Description of 619 (misabeled as 641) East Third Street in the McMinnville Downtown Historic District National Register of Historic Places Nomination (Section 7, Page 22-23) (1987)**

29 ADDRESS: 641 East Third Street  
 CLASSIFICATION: Secondary Significant Contributing  
 OWNER: Joyce and Robert Morton  
 ASSESSOR MAP: 4421 BC TAX LOT: 4200  
 PLAT: Rowland's Addition LOT: 2, 7 BLOCK: 7  
 YEAR BUILT: ca. 1923 STYLE: Modernistic  
 ALTERATIONS: 1975 (moderate) USE: Commercial

DESCRIPTION: This rectangular one-story painted brick structure has a flat parapet with a corbelled cornice and six bays articulated by seven pilasters. Five pilasters extend to the ground and two end at the transom level. The storefront is divided into four bays with the western bay containing a large garage door. The next bay to the east has a wood frame plate glass window with plywood covered transom and bulkhead. The next bay contains a wood frame glass door with sidelights and a transom which has been painted out. The bay to the east has a wood frame plate glass window with painted out transom. The sill and bulkhead are brick.

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The Bennette family had an auto agency in this building from 1936-1977. The building does not show on the Sanborn Fire Insurance Company maps until 1928. Yamhill County Tax Assessor records show 1923 for the date of construction.

The existing building on the subject property is listed on the McMinnville Historic Resources Inventory as a "Environmental" resource (resource number D876). **Please see "Statement of Historical Significance and Description of the Property", Figure 4 below.**

**Figure 4. Statement of Historical Significance and Description of the Property, Historic Resources Survey, City of McMinnville, Yamhill County, Oregon (1983)**

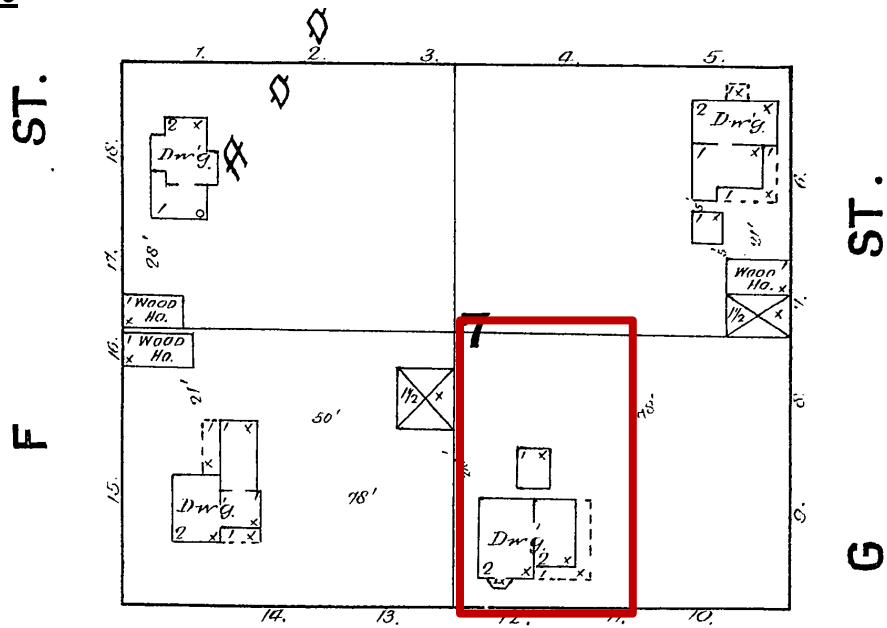
This building is a one story brick structure facing south on Third street and extending north the entire depth of the block with a similar elevation on Fourth. A flat roof is concealed by parapet walls on either end and the facades each have seven stepped forward piers and corbelled cornice lines. The south facade has a large window and three doors. Two of them are large enough to accommodate automobiles. Three low gabled projections creating a partial second story, protrude from the roof toward the rear. The building has always accommodated garages.

Bennette family (John, then Richard) operated auto agency from 1936-1977

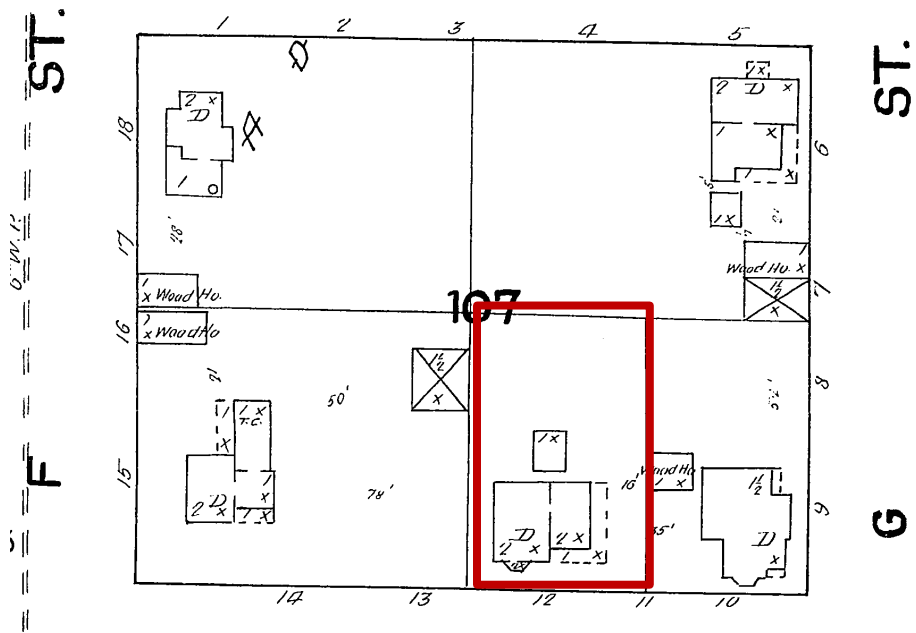
The property originally started off as an dwelling structure, prior to 1889, and between 1912 and 1928 it was redeveloped into an automobile garage. **Please see Figure 5, Series of Sanborn Maps below.**

Figure 5. Series of Sanborn Maps

Sanborn Map, 1889

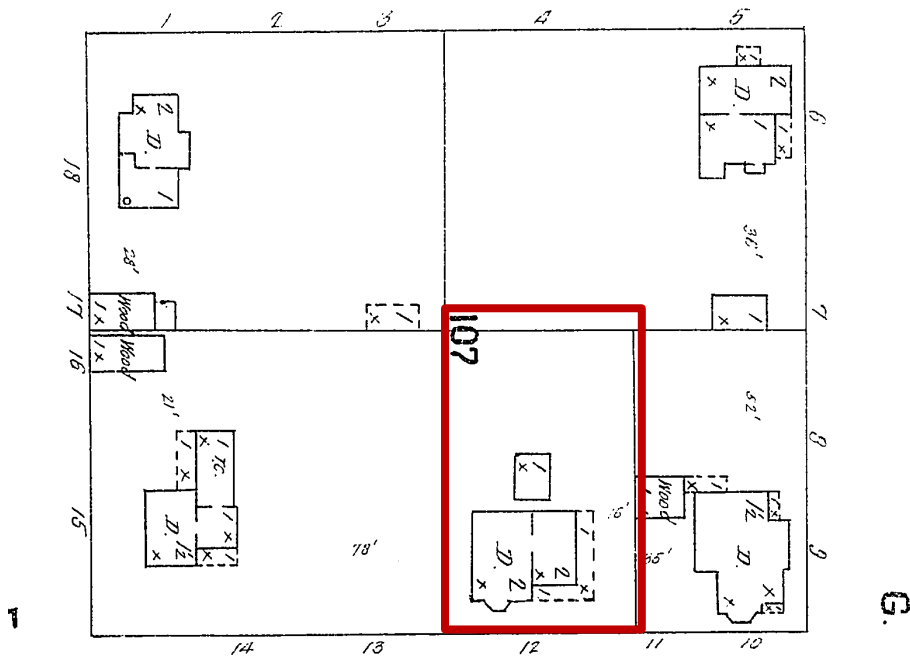


Sanborn Map, 1892

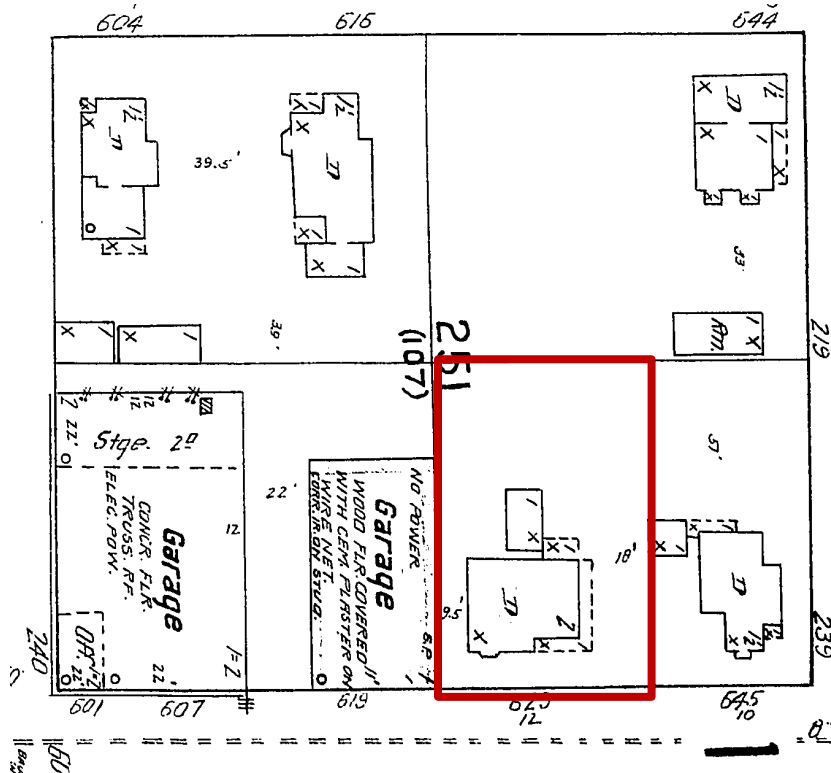




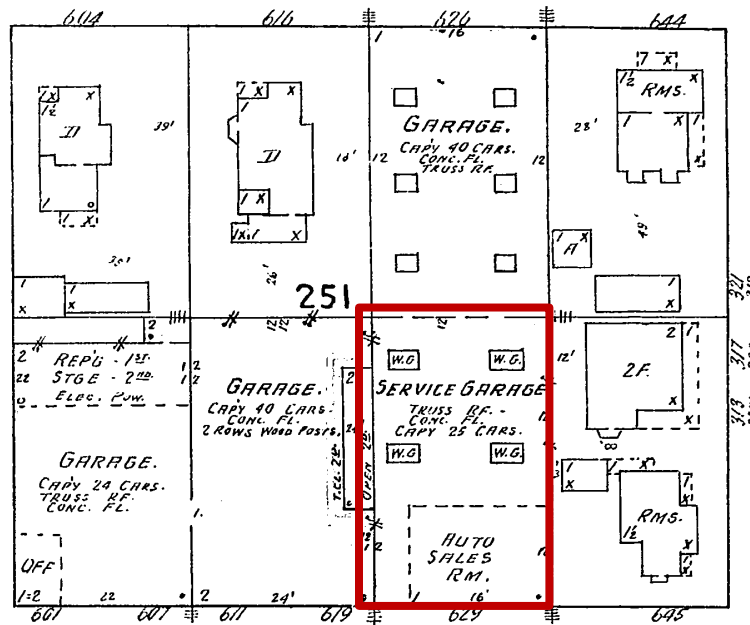
**Sanborn Map, 1902**



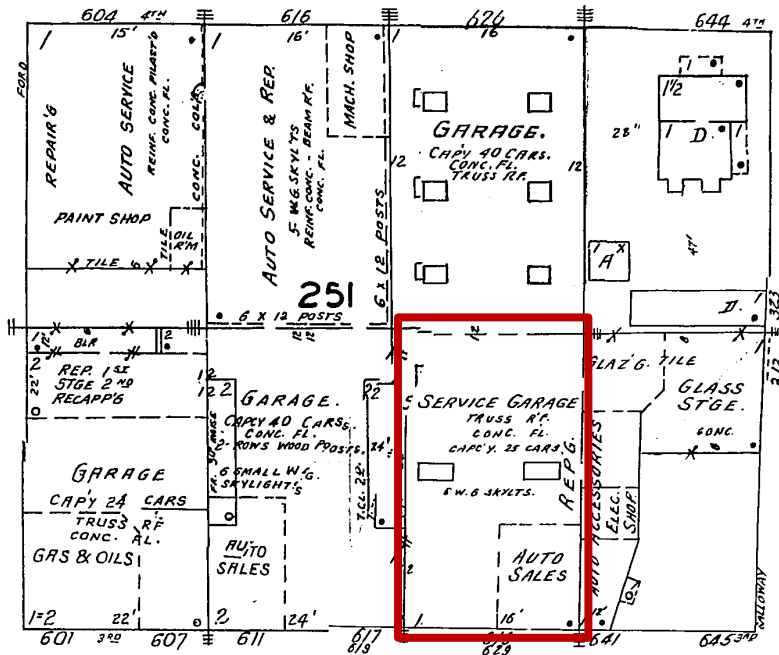
**Sanborn Map, 1912**



**Sanborn Map, 1928**



**Sanborn Map, 1948**



Architecturally the subject property has changed overtime to accommodate the new uses on the property. **Please see Series of Photos, Figure 6 below.**

**Figure 6, Series of Photos Over Time**

**1969 Photo of 619 NE Third Street depicting the automobile bays.  
(Yamhill County News Register)**



**1983 photo of the property shows the modified automobile bays and decorative brick work.  
(Historic Resources Survey, City of McMinnville, Yamhill County, Oregon)**



**2018, Photo of 619 NE Third Street, the automobile bays have been modified into storefronts, and the brick is painted but the subtle brick decoration is still visible.**



### **Background**

The property was originally surveyed in 1983 and 1984, which are the dates that the “Statement of Historical Significance and Property Description” were drafted and included on the Historic Resources Inventory sheet (resource number (D876) for the subject property. This survey work led to the inclusion of the property on the Historic Resources Inventory, and the Historic Resources Inventory was adopted by the McMinnville City Council on April 14, 1987 by Ordinance 4401. The Historic Resources Inventory has since been incorporated into the McMinnville Municipal Code (MMC) through its adoption and reference in MMC Section 17.65.030(A).

The McMinnville Downtown Historic District was entered in the National Register of Historic Places on September 14, 1987.

### **Summary of Criteria & Issues**

The application (HL 8-22) is subject to Certificate of Approval for Demolition review criteria in Section 17.65.050 of the Zoning Ordinance and Oregon Administrative Rule 660-203-0200 (Section 8(a)). The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

Oregon Administrative Rule 660-203-0200 (Section 8(a)) states that:

- (8) *National Register Resources are significant historic resources. For these resources, local governments are not required to follow the process described in OAR 660-023-0030 through 660-023-0050 or sections (4) through (6). Instead, a local government:*
- (a) *Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;*

Section 17.65.050 of the McMinnville Zoning Ordinance state that:

17.65.050 Demolition, Moving, or New Construction. *The property owner shall submit an application for a Certificate of Approval for the demolition or moving of a historic resource, or any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.*

- A. *The Historic Landmarks Committee may approve, approve with conditions, or deny the application.*
- B. *The Historic Landmarks Committee shall base its decision on the following criteria:*
1. *The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;*
  2. *The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;*
  3. *The value and significance of the historic resource;*
  4. *The physical condition of the historic resource;*
  5. *Whether the historic resource constitutes a hazard to the safety of the public or its occupants;*
  6. *Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;*
  7. *Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and*
  8. *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.*
- C. *If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, the Planning Director may approve the application without processing the request through the Historic Landmarks Committee.*
- D. *The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any resource listed on National Register consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.*
- E. *Any approval may be conditioned by the Planning Director or the Historic Landmarks Committee to secure interior and/or exterior documentation of the resource prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. The Historic Landmarks Committee may require documentation in another format or medium that is more suitable for the historic resource in question and the technology available at the time. Any approval may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings or other details.*
- F. *If any proposed new construction is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).*

The applicant has provided findings to support the request for a Certificate of Approval for Demolition. These will be discussed in detail in Section VII (Conclusionary Findings) below.



**II. CONDITIONS:**

1. The Certificate of Approval for Demolition of 619 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not constructed with a final occupancy permit within three years of the issuance of the building permit will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. If the successful completion of the replacement project is stalled due to unforeseen conditions the Applicant can appeal this condition of approval in writing to the Planning Commission for review. (OAR 660-023-0200(8)(a)).
2. 619 NE Third Street, McMinnville Historic Resource Inventory (D876) will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished. (OAR 660-023-0200(9))
3. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
4. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 8.00)
5. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)
6. The Applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the Applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)
7. Prior to submittal for a building demolition permit provide Engineering with detailed demolition plans for review and approval. (Comprehensive Plan Policy #25.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)



10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy 151.00)
11. Prior to the issuance of a building permit, the Applicant will need to meet with the McMinnville Downtown Association to develop a program that will educate local citizens on the benefits associated with an active historic preservation program, that will then be approved by the Planning Director.
12. Prior to the approval of a demolition permit, the Applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses. (McMinnville Municipal Code, 17.65.010(B))
13. The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives. (McMinnville Municipal Code 17.65.050(B)(7))
14. Prior to demolition the Applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection. (McMinnville Municipal Code 17.65.050(B)(8))
15. Prior to demolition the Applicant will provide the City with an archaeological plan describing how the Applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (McMinnville Municipal Code 17.65.050(B)(8))

### **III. ATTACHMENTS (On file with the Planning Department):**

#### **Planning Commission Appeal Application Materials Plus Supplemental Materials**

##### ❖ AP 3-23 (Appeal of HL 8-22 Decision) Application and Attachments

###### Original Submittal (February 10, 2023)

- Application Form
- Notice of Appeal
- Exhibit 1 – Notice of Historic Landmarks Committee Decision, January 27, 2023
- Exhibit 2 – Staff Draft Decision Documents for HL 6-22, HL 7-22, HL 8-22 and DDR 2-22, dated January 5, 2023

###### Supplemental Submittal (February 27, 2023)

- Letter from Schwabe, Williamson and Wyatt, February 27, 2023
- Exhibit 1 – Applicant's Response from Schwabe Williamson and Wyatt, December 15, 2022
- Exhibit 2 – Historic Landmarks Committee Staff Report, January 5, 2023, and attached draft decision documents for HL 6-22, HL 7-22, HL 8-22, DDR 2-22

###### Supplemental Submittal (March 9, 2023)

- Memorandum, Otak, March 9, 2023
- Practice Hospitality – Wage Breakdown
- Historic Resources Assessment

## Supplemental Submittal (March 13, 2023)

- Financial Models – Hotel with Seismic (Base Case), Hotel with Seismic (Highest Case) and Office without Seismic

## ❖ Public Testimony

**Historic Landmarks Committee Application Materials Plus Supplemental Materials**

## ❖ HL 8-22 Application and Attachments

## Original Submittal (August 9, 2022)

- Application Form
- Application Narrative
- Project Structural Analysis
- Project Site Plan and Concept Drawings
- Traffic Impact Analysis
- Memorandum
- Neighborhood Meeting Materials

## Supplemental Submittal (November 4, 2022)

- Approvability Memorandum
- Structural Report
- Historic Resources Assessment
- Contaminated Media Management Plan (October 13, 2022)
- MAC Lease Rates
- 619 NE Third Street Tax Statement
- Third Party Contractor Assessment
- Historic Preservation Incentives Memorandum
- Economic Report
- Architectural Plans
- Traffic Impact Analysis Addendum

## Supplemental Submittal (December 15, 2022)

- Letter to City with Additional Findings
- Exhibit 1, Historic Resources Assessment, Architectural Resource Group, November 2022
- Exhibit 2, Existing Building Structural Summary, HHPR, November 6, 2022
- Exhibit 3, Documentation of Existing Building Structures, HHPR, July 29, 2022
- Exhibit 4, Contaminated Media Management Plan (Draft)
- Exhibit 5, Economic Value of Structures in Downtown McMinnville, Oregon, Johnson Economics, November 2, 2022
- Exhibit 6, Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022
- Exhibit 7, McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022
- Exhibit 8, Memorandum Regarding Historic Preservation Incentives, Otak, October 31, 2022.
- Exhibit 9, 2022 Tax Statements
- Exhibit 10, The Gwendolyn Financial Pro-Forma, December 15, 2022

## ❖ Department/Agency Comments

## ❖ Public Testimony

**IV. COMMENTS:****Agency Comments**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and Oregon State Historic Preservation Office. The following comments were received:

**McMinnville Engineering Department*****TRANSPORTATION***

Comments and/or conditions of approval related to transportation include:

1. ADA Sidewalk and Driveway Standards are now being applied to all new construction and remodels. These standards are intended to meet the current ADA Standards as shown in the "PROWAG" Design Guidelines. The standards can be found at the following webpage: <https://www.access-board.gov/files/prowag/PROW-SUP-SNPRM-2013.pdf> prior to final occupancy, the applicant shall construct new driveways and sidewalks in the right-of way that conform to these standards.
2. Study shows that queue lengths exceed storage length at the eastbound thru and westbound all of 2<sup>nd</sup> St at Baker St. Queue lengths also exceed storage lengths at the westbound thru and southbound left at the intersection of Johnson St/Lafayette St & 3<sup>rd</sup> St.

***SANITARY SEWER***

Comments and/or conditions of approval related to sanitary sewer service include:

1. The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rain water into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance.
2. Sewer Capacity may be an issue with the change of use of the property, the developer shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be born by the developer.

***MISCELLANEOUS***

Additional comments and/or suggested conditions of approval:

1. In the narrative, Part 4. B. Chapter 17.54.050 Yards part F. Response (Page 23) – 3<sup>rd</sup> St is listed as a Local Street. It is a Major Collector, please change to reflect the correct street classification.
2. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance.
3. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance.

4. The engineering department will need to review building permit submittals that show in detail items that could be missing in the applications provided. These reviews will be prior to any issuance of building permits.
5. The Contaminated Media Management Plan dated July 20, 2022, is not included in this application. This is a key point of discussion and should be included in the application.
6. CPP (Comprehensive Plan Policy): 2.00 “The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.”
  - a. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city’s right of ways.
7. CPP 8.00 “The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.”
  - a. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City’s Right of Way and downstream users and properties.
8. CPP 132.40.05 Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:
  - a. Improvement of on-site transportation facilities,
  - b. Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards.
9. The Applicant shall demonstrate its demolition, excavation and onsite construction activities do not create safety concerns related to the DEQ LUST matter and its site and known polluted soil and water. Additionally, the Applicant shall demonstrate how its demolition and construction activities will improve the use of the city’s off-site transportation facility, including but not limited to underground facility uses.
10. CPP 132.46.00 Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010).
  - a. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.
11. CPP 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.
  - a. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.

12. CPP 151.00 The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:

- a. Federal, state, and local water and waste water quality standards can be adhered to.
- b. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.

### McMinnville Building Department

No building code concerns. Analysis of IEBC appears to be accurate and based on Oregon adopted code.

### McMinnville Water and Light

Water: Please contact MW&L to turn off water meters and disconnect customer side of the meter – A16972894, C47575190 & A16972900 prior to demolition of property.

Power: Please contact MW&L to coordinate the removal of existing electric services prior to demolition. The Bindery Event space does not appear to have a dedicated electric service. There will need to be a provision for re-serving the Bindery Event Space with electricity during demolition.

## **Public Comments**

### Planning Commission Appeal

Notice of this appeal was mailed on February 9, 2023 to property owners located within 300 feet of the subject site and all participants in the Historic Landmarks Committee public hearing who provided contact information for the public record, and notice of the public hearing was published in the News Register on Tuesday, February 21, 2023. The following testimony was received by the Planning Department or provided at the public hearings on March 2 and March 16, 2023.

- Letter from Oregon Restaurant and Lodging Association, 02.17.23
- Email from Phyllice Bradner, 02.20.23
- Letter from Ernie Munch, MAP Architecture, 02.21.23
- Letter from Nathan Coopriider, 02.21.23
- Email from Marilyn Kosel, 02.22.23
- Email from Daniel Kiser, 02.25.23
- Email from Jenny Wilson, 02.26.23
- Email from Alex Sokol Blosser, 02.27.23
- Email from Janice Weiser, 02.27.23
- Letter from Katherine Huit, 02.27.23
- Email from Beth Caster, 02.28.23
- Email from Karen Milton, 02.28.23
- Email from Marie Fruga, 02.28.23
- Email from Carol Paddock, 03.01.23
- Email from Margaret Cross, 03.01.23
- Letter from Restore Oregon, 03.01.23
- Letter from Peter Kircher, 03.02.23
- Presentation at March 2, 2023 Public Hearing, Daniel Kiser
- Testimony Handout at March 2, 2023 Public Hearing, Ernie Munch

- Testimony Handout at March 2, 2023 Public Hearing, Jeb Bladine
- Testimony Handout at March 2, 2023 Public Hearing, Nathan Coopriider
- Email from Susan Marrant, 03.06.23
- Letter from Mike Colvin, 03.10.23
- Email from Jeb Bladine, 03.12.23
- Letter from Brian Libby, 03.13.23
- Carole Ray, 03.13.23
- Email from Frank Lisciandro, 03.13.23
- Email from Marie Frugia, 03.13.23
- Email from Mike Goins, 03.13.23
- Email from Carol Paddock, 03.14.23
- Email from Loretta Johnson, 03.14.23
- Email from Carol Paddock, 03.15.23
- Letter from Nathan Coopriider, 03.15.23
- Letter from Ernie Munch, 03.15.23
- Letter from Katherine Huit, 03.15.23
- Letter from Ilsa Perse, 03.15.23
- Letter from Marilyn Kosel, 03.15.23
- Testimony Presentation at March 16, 2023 Public Hearing, Marilyn Kosel
- Testimony Handout at March 16, 2023 Public Hearing, Nathan Coopriider

#### Historic Landmarks Committee Application

Notice of this request was mailed to property owners located within 300 feet of the subject site on September 8, 2022 and notice of the public hearing was published in the News Register on Tuesday, September 20, 2022 and Friday, September 23, 2022. The following testimony was received by the Planning Department or provided at the public hearings on September 29, 2022 and January 5, 2023.

- Email from Kira Barsotti, 09.16.22
- Email from Shanna Dixon, 09.16.22
- Email from Marianne Mills, 09.18.22
- Email from Megan McCrossin, 09.18.22
- Email from Courtney Cunningham, 09.20.22
- Email from Jordan Robinson, 09.20.22
- Email from Phyllice Bradner, 09.20.22
- Email from Victoria Anderson, 09.20.22
- Letter from Marilyn Kosel, 09.20.22
- Letter from Patti Webb, 09.20.22
- Email from Sylla McClellan, 09.21.22
- Email from Meg and Zach Hixson, 09.22.22
- Email from Sharon Julin, 09.25.22
- Email from Daniel Kiser, 09.27.22
- Letter from Carol Dinger, 09.28.22
- Letter from Carol Paddock, 09.28.22
- Letter from Katherine Huit, 09.28.22
- Letter from Jeb Bladine, 09.28.22
- Letter from Practice Hospitality, 09.28.22
- Email from Kellie Peterson, 09.28.22
- Letter from JP and Ames Bierly, 09.28.22
- Memo from Nathan Coopriider, 09.28.22
- Email from Elizabeth Goings, 09.29.22
- Email from Abigail Neilan, 09.29.22

- Letter from Ilsa Perse, 09.29.22
- Email from The Scott Family, 09.29.22
- Email from Mande Tatum, 10.05.22
- Email from Crystal55dreams, 10.25.22
- Email from Peter and Linda Enticknap, 11.22.22
- Letter from Karen Saxberg, 11.17.22
- Letter from Jeb Bladine, 11.29.22
- Letter from Nathan Coopriider, 11.29.22
- Letter from Ernie Munch, 11.30.22
- Letter from Marilyn Kosel, 11.30.22\
- Letter from Nathan Coopriider, 1.3.23
- Letter from Carol Paddock, 1.3.23
- Email from Daniel Kizer, 1.3.23
- Email from Michael Kofford, 1.3.23
- Email from Paul Lusignan, National Park Service, 1.3.23
- Email from Ernie Munch, 1.3.23
- Email from Beth Caster, 1.4.23
- Letter from Ernie Munch, 1.5.23

## **V. FINDINGS OF FACT - PROCEDURAL FINDINGS**

1. The applicant, Mark Vuong, on behalf of HD McMinnville LLC submitted the Certificate of Approval application (HL 8-22) on August 9, 2022.
2. The application was deemed complete on September 7, 2022. Based on that date, the 120 day land use decision time limit expires on January 5, 2023.
3. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and the Oregon State Historic Preservation Office on September 7, 2022.

Comments received from agencies are addressed in the Decision Document.

4. Notice of the application and the September 29, 2022, Historic Landmarks Committee public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.65.070(C) of the Zoning Ordinance on Thursday, September 8, 2021.
5. A public hearing notice was published in the News Register on Tuesday, September 20, 2022 and Friday, September 23, 2022.
6. On September 29, 2022, the Historic Landmarks Committee held a duly noticed public hearing to consider the request.
7. At the public hearing on September 29, 2022, the Historic Landmarks Committee chose to continue the public hearing to December 8, 2022. The applicant requested to extend the 120-day decision deadline by 70 days.
8. On November 4, 2022, the applicant provided supplemental application materials based on the requests from the Historic Landmarks Committee.



9. On December 1, 2022, the applicant requested, with the concurrence of city staff, to continue the public hearing from December 8, 2022, to January 5, 2023, and to extend the 120-day decision deadline by an additional 30 days for a total extension of 100 days.
10. On December 8, the Historic Landmarks Committee continued the public hearing to January 5, 2023.
11. On December 15, 2022, and December 19, 2022, the applicant provided supplemental materials per the request of city staff.
12. On January 5, 2023, the Historic Landmarks Committee continued and closed the public hearing, deliberated and directed staff to write findings for a decision of denial.
13. On January 26, 2023, the Historic Landmarks Committee voted 3-2 to deny the application.
14. On January 27, 2023, a notice of denial was emailed to the applicant and all of the participants in the public hearing process.
15. On February 10, 2023, the applicant appealed the decision of the Historic Landmarks Committee to the McMinnville Planning Commission.
16. Notice of the anticipated appeal application and the March 2, 2023, Planning Commission public hearing was mailed to property owners within 300 feet of the subject property and all participants in the Historic Landmarks Committee public hearing process on February 9, 2023. Confirmation was emailed on February 13, 2023.
17. A public hearing notice was published in the News Register on Tuesday, February 21, 2023.
18. On March 2, 2023, the Planning Commission held a duly noticed public hearing to consider the request and continued the public hearing to March 16, 2023.
19. On March 16, 2023, the Planning Commission continued the public hearing, closed the public hearing, deliberated, and voted 5 – 3 in favor of the applicant approving the application.

## **VI. FINDINGS OF FACT – GENERAL FINDINGS**

1. **Location:** 619 NE Third Street. The resource is located at the property that is identified as Tax Lot 4201, Section 21BC, T. 4 S., R. 4 W., W.M.
2. **Size:** The subject site and property is approximately 6,000 square feet.
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** C-3, General Commercial
5. **Overlay Zones/Special Districts:** Downtown Overlay District, Section 17.59 of the McMinnville Municipal Code.
6. **Current Use:** Office
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** Historic Resources Inventory – Resource Number D876.

- b. **Other:** Secondary Significant Contributing resource, McMinnville National Register of Historic Places Downtown Historic District
8. **Other Features:** The building is property tight with no setbacks, one story, unreinforced brick.
9. **Utilities:**
- a. **Water:** Water service is available to the subject site.
  - b. **Electric:** Power service is available to the subject site.
  - c. **Sewer:** Sanitary sewer service is available to the subject site.
10. **Transportation:** The site is located on the northern side of Third Street in the middle of the block between Ford and Galloway Streets. Third Street is a major collector in the McMinnville Transportation System Plan.

## **VII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Certificate of Approval for Demolition are specified in Section 17.65.050 of the McMinnville Municipal Code and Oregon Administrative Rule, Chapter 660 Division 23: Procedures and Requirements for Complying with Goal 5.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated but are to be undertaken in relation to all applicable land use requests.

### **Compliance with Oregon State Land Use Goals:**

#### ***OAR Chapter 660, Division 23, Procedures and Requirements for Complying with Goal 5:***

(1) *For purposes of this rule, the following definitions apply:*

- (a) *"Demolition" means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition.*
- (b) *"Designation" is a decision by a local government to include a significant resource on the resource list.*
- (c) *"Historic context statement" is an element of a comprehensive plan that describes the important broad patterns of historical development in a community and its region during a specified time period. It also identifies historic resources that are representative of the important broad patterns of historical development.*
- (d) *"Historic preservation plan" is an element of a comprehensive plan that contains the local government's goals and policies for historic resource preservation and the processes for creating and amending the program to achieve the goal.*
- (e) *"Historic resources" are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.*
- (f) *"Locally significant historic resource" means a building, structure, object, site, or district deemed by a local government to be a significant resource according to the requirements of this division and criteria in the comprehensive plan.*
- (g) *"National Register Resource" means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).*
- (h) *"Owner":*
  - (A) *Means the owner of fee title to the property as shown in the deed records of the county where the property is located; or*

- (B) Means the purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
  - (C) Means, if the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner; and
  - (D) Does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature; or
  - (E) Means, for a locally significant historic resource with multiple owners, including a district, a simple majority of owners as defined in (A)-(D).
  - (F) Means, for National Register Resources, the same as defined in 36 CFR 60.3(k).
  - (i) “Protect” means to require local government review of applications for demolition, relocation, or major exterior alteration of a historic resource, or to delay approval of, or deny, permits for these actions in order to provide opportunities for continued preservation.
  - (j) “Significant historic resource” means a locally significant historic resource or a National Register Resource.
- (2) Relationship of Historic Resource Protection to the Standard Goal 5 Process.
- (a) Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories, resource lists or programs regarding historic resources, except as specified in section (8). Local governments are encouraged to inventory and designate historic resources and must adopt historic preservation regulations to protect significant historic resources.
  - (b) The requirements of the standard Goal 5 process in [OAR 660-023-0030 \(Inventory Process\)](#) through [660-023-0050 \(Programs to Achieve Goal 5\)](#), in conjunction with the requirements of this rule, apply when local governments choose to amend acknowledged historic preservation plans and regulations.
  - (c) Local governments are not required to apply the ESEE process pursuant to [OAR 660-023-0040 \(ESEE Decision Process\)](#) in order to determine a program to protect historic resources.

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.**

- (3) *Comprehensive Plan Contents.* Local comprehensive plans should foster and encourage the preservation, management, and enhancement of significant historic resources within the jurisdiction in a manner conforming with, but not limited by, the provisions of [ORS 358.605 \(Legislative findings\)](#). In developing local historic preservation programs, local governments should follow the recommendations in the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, produced by the National Park Service. Local governments should develop a local historic context statement and adopt a historic preservation plan and a historic preservation ordinance in conjunction with inventorying historic resources.
- (4) *Inventorying Historic Resources.* When a local government chooses to inventory historic resources, it must do so pursuant to [OAR 660-023-0030 \(Inventory Process\)](#), this section, and sections
- (5) through (7). Local governments are encouraged to provide opportunities for community-wide participation as part of the inventory process. Local governments are encouraged to complete the inventory in a manner that satisfies the requirements for such studies published by the Oregon State Historic Preservation Office and provide the inventory to that office in a format compatible with the Oregon Historic Sites Database.
- (5) *Evaluating and Determining Significance.* After a local government completes an inventory of historic resources, it should evaluate which resources on the inventory are significant pursuant to [OAR 660-023-0030 \(Inventory Process\)](#)(4) and this section.
- (a) The evaluation of significance should be based on the National Register Criteria for Evaluation, historic context statement and historic preservation plan. Criteria may include, but are not limited to, consideration of whether the resource has:
    - (A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;

- (B) Significant association with the lives of persons significant to local, regional, state, or national history;
- (C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;
- (D) A high likelihood that, if preserved, would yield information important in prehistory or history; or
- (E) Relevance within the local historic context and priorities described in the historic preservation plan.
- (b) Local governments may delegate the determination of locally significant historic resources to a local planning commission or historic resources commission.
- (6) *Designating Locally Significant Historic Resources.* After inventorying and evaluating the significance of historic resources, if a local government chooses to protect a historic resource, it must adopt or amend a resource list (i.e., “designate” such resources) pursuant to [OAR 660-023-0030 \(Inventory Process\)](#)(5) and this section.
- (a) The resource list must be adopted or amended as a land use decision.
- (b) Local governments must allow owners of inventoried historic resources to refuse historic resource designation at any time during the designation process in subsection (a) and must not include a site on a resource list if the owner of the property objects to its designation on the public record. A local government is not required to remove a historic resource from an inventory because an owner refuses to consent to designation.
- (7) *Historic Resource Protection Ordinances.* Local governments must adopt land use regulations to protect locally significant historic resources designated under section (6). This section replaces [OAR 660-023-0050 \(Programs to Achieve Goal 5\)](#). Historic protection ordinances should be consistent with standards and guidelines recommended in the *Standards and Guidelines for Archeology and Historic Preservation* published by the U.S. Secretary of the Interior, produced by the National Park Service.

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The City of McMinnville has an acknowledged Historic Preservation program, including an adopted Historic Preservation Plan as a supplemental document to the McMinnville Comprehensive Plan, Comprehensive Plan policies, an adopted Historic Resources Inventory that is actively maintained, historic resource protection ordinances, and an appointed Historic Landmarks Committee that administers and manages the historic preservation program, and makes quasi-judicial decisions on historic landmarks land-use decisions.

- (8) *National Register Resources are significant historic resources.* For these resources, local governments are not required to follow the process described in [OAR 660-023-0030 \(Inventory Process\)](#) through [660-023-0050 \(Programs to Achieve Goal 5\)](#) or sections (4) through (6). Instead, a local government:
- (a) Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;

**APPLICANT’S RESPONSE:** For the reasons explained below, consideration of the several factors addressed herein demonstrates that the value of these buildings to the historic character of the Historic District is relatively low, that the buildings' values with their current or similar uses are very limited and likely insufficient to provide for needed repairs, that the buildings cannot be economically seismically-retrofitted in their current configuration to allow for a hospitality or other adaptive re-use, and that the public interest in preserving them is outweighed by the public and private benefits achieved by construction of the proposed Gwendolyn Hotel..

The above provision requires local governments to consider a number of factors when deciding whether to allow demolition of structures that are located within National Historic Districts. However, the obligation of the City is to consider these factors; the applicant is not required to prove that one or all of them are "met" as would be the case with a mandatory criterion begging a "yes or no" question. *Frankton Neighborhood Association v. Hood River County*, 25 Or LUBA 386, 395 (1993); *Von Lubken v. Hood River County*, 18 Or LUBA 18, 21-22 (1989). No particular balancing of these factors is required, either. The Historic Landmarks Committee ("HLC") can find (1) that these factors have all been considered with respect to the three buildings proposed for demolition and (2) consideration of these factors supports the Applicant's demolition proposal for each building, which are addressed separately, below.

**CITY RESPONSE:** Oregon Administrative Rule (OAR) 660-023-0200(1)(g) defines districts listed in the National Register of Historic Places as a National Register Resource, therefore this state rule applies to all properties within the McMinnville Downtown Historic District unless the local jurisdiction has excluded non-contributing resources. Per Section 17.65.040(A)(1) of the McMinnville Municipal Code, accessory structures and non-contributing resources within a National Register of Historic Places nomination are excluded from the Certificate of Approval process. Per Figure 2 of this decision document, 609 NE Third Street is considered a Primary Significant Contributing resource in the McMinnville Downtown Historic District.

**FINDING:** The City concurs with the Applicant's response that the provision applies but that the administrative rule does not provide any objective standards for how the Historic Landmarks Committee must consider these factors.

#### **OAR 660-023-0200(8)(a) Factors to Consider – Condition of the Property**

**APPLICANT RESPONSE (Original Application):** All three of the buildings are constructed of unreinforced brick. The buildings at 611 and 619 NE 3<sup>rd</sup> Street have more significant challenges, including interior water damage, a shared wall between the two, and deterioration of the exterior wall.

As noted in the structural report included as Appendix C, the building at 619 NE 3<sup>rd</sup> Street has rotting bearing points at the roof trusses.

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** The applicant is not requesting demolition of the property due to significant structural issues or imminent public safety hazards. However, additional information from the structural engineer has been provided in response to HLC requests. See Attachment 1.

*Attachment 1 – Memo from Jason Dhanens PE SE, Structural Manager, Harper Houf Peterson Righellis Inc. (HHPR) dated November 6, 2022.*



**Scope Summary:**

What follows is a response to the structural components of the City of McMinnville Staff Report dated September 29, 2022. The Staff Report is a response to the information submitted by the design team that contain information prepared by the HHPR Structural Team in relation to the structural condition of the existing buildings. The initial report prepared by HHPR is dated July 29, 2022.

**Response:**

There is a common comment that is applied to each of the three buildings. This is:

*“The structural analysis is very cursory and did not include any load test sites. Without load testing of the unreinforced masonry walls, the structural analysis did not indicate any structural issues that were significant or imminent public safety hazards, the condition of the building is not a significant determining factor requiring the demolition of the property.”*

- No analysis (structural calculations) was performed and would be premature based upon where we are in the process.
- Given that load testing of specific materials does not determine a building's seismic performance, and for the following additional reasons, HHPR's analysis does not include load testing of brick or other materials. Load testing the brick would be premature at this time and is typically used when the scope is to salvage the building. That scope would involve an ASCE Tier 1 Assessment and Tier 2 Retrofit. Industry knowledge regarding the shear capacity of brick-and-mortar assemblies is that they are known to be low strength in URM buildings, particularly older ones.
- An analysis of unreinforced masonry buildings (URM) is not required at this time to understand and convey the risks associated with URM buildings. We have used our knowledge and expertise as structural design professionals to convey the risks.
- Further, we have referenced FEMA documents below to further convey the risks associated with unreinforced masonry buildings.
- While our work did not find conditions that would require immediate demolition of the building structures, the list of previously presented Emergent Concerns do represent items that, if left unaddressed, could lead to a local failure or a partial collapse of the building structures.
- Items such as these are common across all buildings in that maintenance items, if left unaddressed, can become structural concerns that can lead to significant structural issues for a building. This varies across building type, age and environment. In general, the older the building and the longer without maintenance, the quicker the structural deterioration.

If we were in a position to advise the building owner, we would recommend that these items be addressed in the very near future. While the finding is that “The Historic Resource is not a hazard to the safety of the public,” the emergent concerns are significant and should be addressed in the very near future.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** The property at 619 NE 3rd Street is classified as a "Secondary Significant Contributing" building in the Downton Historic District. Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) explains that the property was developed as an automobile garage in 1923. At all times within the secondary historic period, the property was used as an automobile garage and by 1940 was used as a car dealership. At that time, ground floor building openings included an entry at the westernmost bay, with five windows to the east. Each of these six bays has been modified, including substantial reconfiguration of masonry openings. There were not then, and are not now, any upper-floor windows. According to Exhibit 1, the ground floor has been significantly modified.

Condition. The HRA notes that the roof and signage are in good condition, but identifies a number of issues:

- o The original white brick of the attic story/parapet remains, although it has been painted. Original unpainted white brick remains visible at the corner of the east elevation. Significant areas of brick cracking and displacement were observed in the attic story at the southeast corner of the building.
- o Little remains of the original building materials at the ground floor. The original brick moulding at the westernmost opening remains, although the opening has been infilled with a new door.

The HHPR Existing Building Structural Summary (Exhibit 2, Existing Building Structural Summary, HHPR, November 6, 2022) identifies the following structural deficiency in the building:

"The bearing points of the trusses are deteriorated along the west wall and supplemental support has been framed under the trusses. This condition exists at the connection to the 611 Building and is the result of water penetration along the north south valley between the buildings."

Exhibit 2 also notes that there is cracking in the brick facade along the south exterior elevation.

HHPR's initial structural review of the building, dated July 29, 2022 (Exhibit 3), identified the following issues:

- o "The bearing points of the trusses are deteriorated (rotten) along the west wall and supplemental support has been framed under the trusses.
- o This condition exists at the connection to the 611 Building and is the result of water penetration along the north south valley between the buildings.
- o The brick and mortar at south elevation show signs of deterioration and diagonal cracks along the mortar lines.
- o The east wall exterior has significant deterioration and is exposed due to the separation between the 619 Building and the recently constructed building to the east."

**CITY RESPONSE:** The structural analysis does not indicate any structural issues that were significant or imminent public safety hazards, the condition of the building is not a significant determining factor requiring demolition of the property by itself as a factor.

The structural analysis focuses on maintenance issues that are compromising the structural integrity of the building and the overall structural integrity of all historic unreinforced masonry buildings. This would assume that all historic unreinforced masonry buildings that have not been maintained adequately are justification for demolition of historic resources.

The Structural Report, provided by Harper Houf Peterson Righellis Inc. (HHPR) dated July 29, 2022, provides an existing condition report of 609, 611, and 619 Third Street. It points out observed structural issues and concludes with emergent concerns.



### Emergent Concerns

- Building 609 – previously noted truss node that is out of plane over 6 inches
- Building 611 – previously noted missing beams intended to spread load across floor below
- Building 619 – previously noted rotten bearing condition at truss
- All Buildings – previously noted overall condition of brick and mortar in locations in each building

Below is the detail on the rotten bearing condition at truss.

- The bearing points of the trusses are deteriorated along the west wall and supplemental support has been framed under the trusses (see Image 8 and 9)
- This condition exists at the connection to the 611 Building and is the result of water penetration along the north south valley between the building



The report also examines three options for preserving the historic resources: 1) retain existing buildings and construct a new hotel over the top of the existing buildings; 2) retain and maintain the existing buildings, and relocate the existing buildings.

The report concludes that the first option to construct a new hotel over the top of the existing buildings would require a complete seismic and structural upgrade to the buildings, and would be problematic relative to the placement of needed structural supports in the existing buildings.

The second option to retain and maintain the existing buildings would require investment in general maintenance, repair and remediation of the spaces as well as repair of the emergent concerns described above.

And the third option to relocate the three buildings is impractical due to the unreinforced masonry structure of the buildings.

**OAR 660-023-0200(8)(a) Factors to Consider – Historic Integrity of the Property**

**APPLICANT RESPONSE (Original Application):** According to the HRI, the building at 619 NE 3<sup>rd</sup> Street (referred to as 641 East Third Street in the HRI and the National Register nomination) was constructed between 1912 and 1928, and was therefore classified as a Secondary Significant Contributing structure. The Oregon Historic Sites Database notes the date of construction as 1923 with a secondary construction date of 1975.

The HRI statement indicated that the building was constructed to house hardware and farm implements, but also notes that it has always accommodated garages. The HRI image shows a large garage entrance on the left side of the building and an enclosed storefront on the east side of the building.

**619 NE 3rd Street in 1983**



Source: City of McMinnville Historic Resources Survey, 1983.

Since 1983, the left side garage entrance has been enclosed to create another storefront. An awning has been added to the entrance, and the façade has been painted. According to the 1987 National Register nomination, the transom windows have been painted.

#### 619 NE 3rd Street in 2014



Given the significant alterations since the time of its construction, the Committee can find that the building no longer retains historic integrity.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Historic Integrity. In this context, the "Historic Integrity" of the building refers to features that existed within the date range of secondary significance. While the building is largely in the same configuration as it was in 1983 when the Historic District was established, the Historic District Nominating Form did not identify any period after 1937 as historically significant; therefore, features added after that date are not considered historically significant.

As explained in Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) and the Staff Report, the historic integrity of the building has been substantially compromised since it was originally constructed, principally due to:

- o Insertion of paired doors with wood trim elements in westernmost bay.
- o Removal of all five windows and window openings that were originally east of the westernmost bay (four have been replaced with two double-wide storefront windows and one has been replaced with a door with sidelights and awning).
- o White brick has been painted.



Exhibit I (Historic Resources Assessment, Architectural Resource Group, November 2022) goes on to identify the following "character defining features" confirmed to be remaining with the building<sup>1</sup> include the following:

- o Brick cladding.
- o Flat parapet with corbelled cornice and six bays articulated by seven pilasters.
- o Metal flue at southeast corner of building.
- o The original wood brick mould and protective bollards at the westernmost opening (wood posts, entry and transom at this location are not original).
- o Wood trusses spanning east-west over the width of the interior space.

Note that the report, while helpful, does not address "historic integrity" specifically but only "character defining features."

The photo and caption from the HRA is illustrative of the magnitude of the alterations of the building from its characteristics during the period of significance:



*By the time of this 1983 historic survey photograph, the window to the east of the double-wide opening had been converted to an entry and the windows in the two easternmost bays had been replaced with a storefront window spanning both bays (Historic Resources Survey, City of McMinnville, Yamhill County, Oregon).*

**CITY RESPONSE:** It appears that historic integrity is significantly compromised. The City agrees that the identification of primary and secondary contributing resources in the 1987 McMinnville Downtown National Register of Historic Places Historic District was based primarily on the estimated age of the

<sup>1</sup> The HRA also lists the building's massing, flat roof, and structural members as "character-defining features," but loss of these features would only occur if the building had been demolished to some extent or added on to, and are not properly considered part of the building's "historic integrity," as they indicate no more than that the building still exists with the same number of stories. Indeed, all of these characteristics would be the same even if the building had been gutted and refinished entirely. Regardless, the above factor concerns "historic integrity," not "character defining features."

structure and not the historic integrity of the extant structure. The City also agrees that the structure underwent significant modifications when the automobile bays were modified into storefronts (**See Figure 5, Series of Sanborn Maps and Figure 6, Series of Photos in this decision document**), however the parapet is still, for the most part, intact per the original building.

The HRA report clearly states that all three properties are important in terms of historic significance as they represent the time period of the McMinnville National Register of Historic Places Historic District context statement relative to the emergence of automobile transportation in McMinnville. It then describes that a building's historic integrity is different from its historic significance and is reflective of the materials, form and massing that are original to the building from the time period of its significance.

For 619 NE Third Street, little remains at the ground floor of the original materials and configuration. The parapet remains intact and the sign on the side has been restored/replicated.



*Current view of 619 NE 3rd Street (ARG, October 2022). Paired doors with wood trim elements have been inserted into the westernmost bay, while the formerly double-wide opening has been replaced with a storefront window matching the window in the easternmost bays.*



Original red brick east wall, white brick at south wall and metal flue. Original painted sign restored / recreated.

*619 NE 3rd Street, Southwest corner, showing restored signage at east elevation (ARG, October 2022).*

However, as the applicant points out, the historic integrity is based on the historic context of the National Register of Historic Places nomination which identified the emergence of the automobile industry for the historic context and integrity of this property. Unfortunately, the most significant changes to this property is the original ground floor that have been removed and modified.



1927 photograph showing the original configuration of 619 NE 3rd Street (News-Register Publishing Co).

**OAR 660-023-0200(8)(a) Factors to Consider – Age of the Property**

**APPLICANT RESPONSE (Original Application):** As noted, the building at 609 NE 3<sup>rd</sup> Street was constructed in 1904 and is 118 years old. The building at 619 NE 3<sup>rd</sup> Street was constructed in 1920 and is 102 years old. The building at 619 NE 3<sup>rd</sup> Street was constructed in 1923 and is 99 years old.

As noted in the structural report included as Appendix C, all three buildings are showing signs of their age.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Age. The Historic District Nominating Form identifies its construction year as 1923.

**CITY RESPONSE:** The date of construction falls within the historic context statement of the McMinnville National Register of Historic Places context statement. However, the modifications are significant.





Photo: 1927, 4 years after construction



Current Structure

### **OAR 660-023-0200(8)(a) Factors to Consider – Historic Significance of the Property**

**APPLICANT RESPONSE (Original Application):** As described in the McMinnville Historic Preservation Plan (Ord. 5068), the HRI defined the historic resource classes in the following way:

- *Distinctive: Resources outstanding for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places.*
- *Significant: Resources of recognized importance to the City due to historical association or architectural integrity, uniqueness, or quality.*
- *Contributory: Resources not in and of themselves of major significance, but which enhance the overall historic character of the neighborhood or City. Removal or alteration would have a deleterious effect on the quality of historic continuity experienced in the community.*
- *Environmental: This category includes all resources surveyed that were not classified as distinctive, significant, or contributory. The resources comprise an historic context within the community.*

As noted in the 1987 National Register nomination, buildings on the McMinnville HRI were classified based on the building date, building style, type and number of alterations, building setback, and roof shape. At the time, there were 52 contributing (Primary and Secondary) and 14 non-contributing buildings in the district.

The National Register nomination describes the categories as such:

1. *Primary Significant Contributing: Structures are classified as Primary Significant if they were built on or before 1912, or reflect the building styles, traditions, or patterns of structures typically constructed before this date. These buildings represent the primary period of construction and development in downtown McMinnville from initial settlement in 1881 to 1912, when city improvements and use of the Oregon Electric and Southern Pacific Railroad service prompted new construction in the downtown area.*
2. *Secondary Significant Contributing: Structures are classified as Secondary Significant if they were built in or between 1913 and 1937. These buildings represent the secondary period of construction and development from the increase of city improvements and auto traffic.*
3. *Historic Non-Contributing: Structures are classified as Historic Non-Contributing if they were*

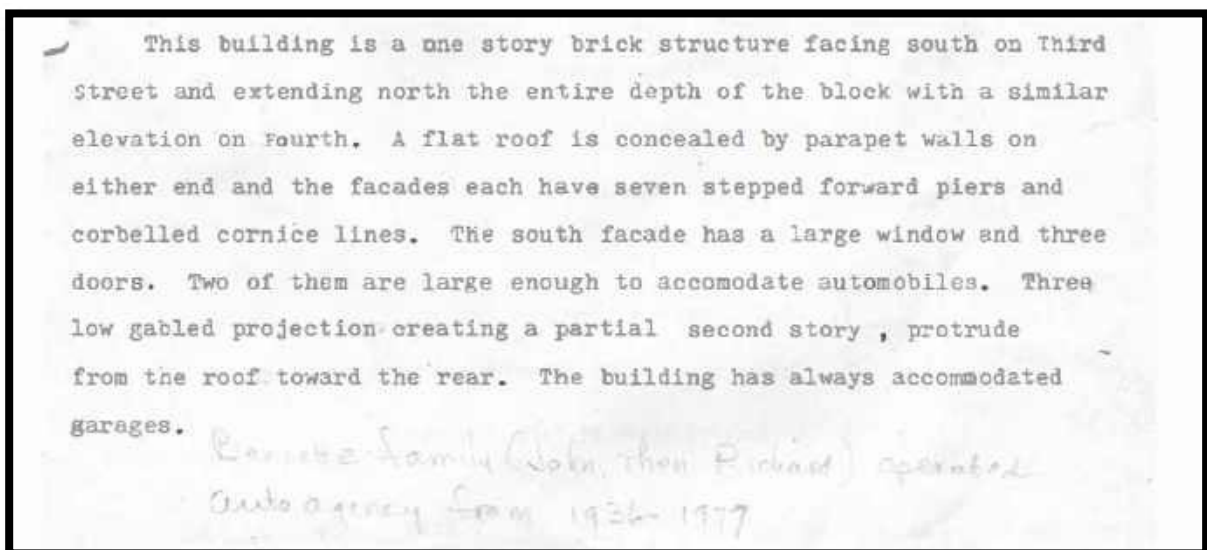
*built either during the primary or secondary periods of construction but have been so altered over time that their contributing elements (siding, windows, massing, entrances, and roof) have been lost or concealed. If their contributing elements were restored, these buildings could be reclassified as Primary or [sic] Secondary Significant.*

4. *Compatible Non-Historic and Non-Contributing: Structures are classified as Compatible Non-Contributing if they were built after 1937 (When the nomination was being prepared in 1987, buildings constructed in 1937 were then 50 years old and met the threshold for National Register eligibility). but are compatible architecturally (i.e. scale, materials, use) with the significant structures and the historic character of the district.*
5. *Non-Compatible Non-Contributing: Structures are classified as Non-Compatible Non-Contributing if they were built after 1937 and are incompatible architecturally (i.e. scale, materials, and use) with the significant structures and the historic character of the District.*
6. *Vacant: Properties are classified as Vacant if there are no buildings sited on them (i.e., vacant lots, alleys, parking lots).*

The HRI statements of historical significance do not provide any detail about why the buildings were classified as Primary or Secondary resources, aside from the date of construction, so it is difficult to determine what features of the buildings warranted their classification. Arguably, as described below, each of these buildings could have met the criteria for designation as Historic Non-Contributing buildings, as they met the age threshold but had been substantially altered prior to their HRI designations.

The building at 619 NE 3<sup>rd</sup> Street has been substantially altered since its HRI designation. The applicant was unable to locate earlier photos of the building, perhaps because this end of 3<sup>rd</sup> Street consists of more modest and utilitarian structures than the more detailed Italianate buildings north of Ford Street. The 1940 News-Register photo appears to show an open garage entrance on the left side of the building and a storefront with transom windows on the east side of the building, with the entrance in the center. At some point after 1983, the garage bay was enclosed and converted to storefront/office area and faux transom windows were installed. While the renovation has resulted in an attractive and functional building, it has fully altered the façade.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022): Historic Significance.** The City's Historic District's 1983 statement of historic significance is as follows:



"Historic Significance" is not defined in OAR 660-033-023. However, OAR 660-033-023(5)(a) explains that the "evaluation of significance" should be based on the following<sup>2</sup>:

*"(A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;*

*(B) Significant association with the lives of persons significant to local, regional, state, or national history;*

*(C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;*

*(D) A high likelihood that, if preserved, would yield information important in prehistory or history; or*

*(E) Relevance within the local historic context and priorities described in the historic preservation plan. "*

With respect to (A), the Historic District's significance statement does not connect the building with any significant events. With respect to (B), the building is not noted as being associated with any particular person significant to local, regional, state, or national history. With respect to (C), there is no evidence that the building possessed a particularly distinctive or notable design, artistic values, "or represents a significant and distinguishable entity whose components may lack individual distinction." With respect to (D), given the substantial changes to the building significant and its historic use as an automobile garage and car dealership, it does not "yield information important in prehistory or history."

Finally, with respect to (E) the Historic District's nominating form describes the local historic context for primary contributing buildings as follows:

"Structures are classified as Secondary-Significant if they were built in or between 1913 and 1937. These buildings represent the secondary period of construction and development from the increase of city improvements and auto traffic."

All that is required to qualify a building as Secondary-Significant is construction within the date range above. According to its nomination form, the building was included because it was built in 1923.

**CITY RESPONSE:** Both the National Register of Historic Places and the City of McMinnville have adopted provisions that identify the property as historically significant per the National "Register of Historic Places McMinnville Historic District nomination and the City of McMinnville's classification of the property as a "D" (Environmental) historic resource on the McMinnville Historic Landmarks Inventory. Albeit the local "D" classification is the lowest classification of resources on the McMinnville Historic Landmarks Inventory.

Although, if reviewed now, the property could be classified differently, that does not negate the policy action that has occurred. With that said, the assigned historic significance is not a stand-alone factor for preservation or demolition.

The McMinnville Downtown Historic District National Register of Historic Places nomination provides the following as the overall summary of the statement of significance for the historic district for a time period of 1880 – 1937.

<sup>2</sup> Note that these are virtually identical to the National Register's "Criteria for Evaluation."

The McMinnville Historic District is an area of approximately 15 acres in which the unifying theme represented by the 51 contributing buildings is the parallel development of commerce and railroad and highway transportation in the bustling Willamette Valley farming community and county seat between 1880 and 1937. The district meets National Register Criteria A and C in the context of local history as the place where the community's largest, best preserved and most noteworthy historic commercial buildings are concentrated. The district extends 6½ blocks along Third Street, historically the main, east-west stem of the business district. Buildings along Third Street represent several phases of development but have a marked cohesion by virtue of their density, common scale, materials and overall design elements. While ground story storefronts have been altered over the years, distinguishing features of the upper stories are intact and provide visual continuity. Descendents of many of the community's early settlers are owners of property or businesses within the district today.

(McMinnville Downtown Historic District, Section Number 8, Page 1)

The McMinnville Historic Preservation Plan discusses has the following language for the historic context of McMinnville's historic resources for the time period that most influenced the building at 619 NE Third Street:

### *Motor Age, Boom and Bust (1903—1940)*

This period marked the arrival of the automobile. Most of the garages added to the houses surveyed were built during this period. The city was amid a massive population growth extending from 1900 through 1910 and increased prosperity with industrial growth provided jobs and steady wages. By 1914 a spur from the main interurban railroad corridor along the Willamette Valley linked the city with Portland and cities to the south. Building construction grew considerably from 1900 to 1909 relative to pre-1900 construction, and then nearly doubled during the 1910s.<sup>5</sup>

Population growth continued between 1910 and 1940, increasing from 2,767 in 1920 to 3,706 in 1940.<sup>6</sup> New industries established in the city and surrounding area included including a small foundry, a machine shop, a planing mill, a creamery, and an incandescent and arc light factory. The launch of Prohibition in 1919 devastated the hops industry, the area's second-most profitable crop, motivating farmers to diversify their products to include legumes, clover, and animal products.

(McMinnville Historic Preservation Plan, page 16)

619 NE Third Street is not listed as a building as exemplary of this time period.

Commercial buildings from this period of construction (1913-1937) include:

- 226 E 3rd Street (ca. 1913), Commercial style
- 225 E 3rd Street (1918), Commercial style
- Spence Building, 425 E 3rd Street (1925), Commercial style
- 236 E 3rd Street (ca. 1930), Commercial style

(McMinnville Historic Preservation Plan, page 18)

However, based on the methodology at the time (which appears to be relative to primarily the date the building was originally constructed and not the historic integrity of the building or how much the building actually reflects its original architecture), the subject property is listed as a "Secondary Significant Contributing" property in the McMinnville Downtown Historic District National Register of Historic Places nomination and is identified as an "Environmental" resource on the McMinnville Historic Resources Inventory, the lowest level of historic significance.



As discussed above, the historic integrity of the building has been significantly modified since its original construction.

**OAR 660-023-0200(8)(a) Factors to Consider – Value to the Community**

**APPLICANT RESPONSE (Original Application):** The value the buildings current(ly) provide to the community include providing a consistent edge along historic 3<sup>rd</sup> Street corridor, jobs for office-based employees, and a reminder of the community’s past. The buildings provide minimal street-level activation due to their uses as offices, and deferred maintenance of the buildings has resulted in interior and exterior damage as noted in the structural report included as Appendix C.

The proposed development provides the same value to the community, and additional values. The building retains the 0 ft. setback along 3<sup>rd</sup> and Ford streets to provide a continuous street wall in accordance with historic downtown development patterns. The ground floor will be activated by retail and restaurant uses, and outdoor seating is anticipated to create a lively atmosphere during the warmer months. The new building will be energy- efficient and modern while nodding to the historic structures surrounding it. It will also provide employment for approximately 60 people, more than three times as many people currently employed on the site.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** Value to the Community. Within living memory the building has been used as an automotive repair shop, car dealership, and small retail spaces. The building is not associated with any particularly meaningful community history, has never been used as a community gathering place, and does not appear to have any value to the community beyond its inclusion in the Historic District.

**CITY RESPONSE:** Balancing the assumptions that the subject structure does not retain much historic integrity, and is financially infeasible to rehabilitate, the replacement project has more value to the community than the preservation of the building.

619 NE Third Street does not appear to have the historic integrity or historic significance that many believe that it has due to the amount of modifications that have occurred. The City has received several letters from the public asking to save the historic properties. 619 NE Third Street is part of the historic building fabric of Third Street in McMinnville, a built environment which collectively has a lot of value to the community. Any replacement project would need to be able to become an asset to that built environment and not a disrupter. Presumably the downtown overlay district design standards was developed to ensure that infill on Third Street would compliment the existing built environment. And any replacement project would need to comply with those design standards (Section 17.59 of the McMinnville Municipal Code.

The applicant provided a cost analysis in their application that indicates that the cost of rehabilitating the structure and the return yield on the square footage of the rehabilitated space would not be financed as the project would not yield a positive return for 40 years.

*The applicant has indicated that this cost to fully renovate the buildings would be approximately*

*\$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.*

*In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.*

*(Application Narrative, page 3)*

The costs to rehabilitate the building will require higher lease rates than are currently in the McMinnville downtown market, which will either significantly impact the local lease market downtown negatively impacting existing businesses downtown or prevent a rehabilitation project from moving forward leading to further deterioration of the building. A hotel with revitalized ground floor commercial space will generate a downtown consumer market for downtown businesses and create more vitality on the street. The project will need to meet the Downtown Design Overlay District code criteria for new construction, including mimicking the character and scale of the existing structures downtown.

### **OAR 660-023-0200(8)(a) Factors to Consider – Economic Consequences**

**APPLICANT RESPONSE:** The economic consequences of retaining the structures include cost, activity, and employment. The current use of all three buildings is office, which is a low activity use on McMinnville's main commercial street.

Theoretically one or more of the buildings could be renovated to house a more active use that made a greater contribution to the streetscape. However, most alternative uses would require seismic upgrades to meet current building code at a significant out-of-pocket cost. It is reasonable to assume that if the current property owners had the means or desire to make those upgrades, they would have done so. The office uses occupying these buildings are low-intensity and do not attract foot traffic. Typically, people visit offices to work or by appointment to meet with those working within. Though office employees will eat at nearby restaurants and coffee shops, many downtowns prefer to have office uses located on upper floors to allow more active uses at the street level.

The economic consequences of removing the structures are largely positive. Approximately 20 people are employed in the existing buildings. The Gwendolyn Hotel is expected to employ approximately 60 people, in addition to employees of the ground floor restaurant and retail uses. These employees will also eat at nearby restaurants and shop at nearby stores, while the street level will be activated.

In addition, the new hotel will pay the City's lodging tax and the value of the development will be much greater than the existing development, which will result in increased property tax revenue to support urban renewal area activities. There will be new lodging options in downtown McMinnville that are expected to draw visitors from the Portland metro region and beyond. These visitors will contribute to the economic vitality of downtown McMinnville and nearby areas.

**CITY RESPONSE:** The replacement plan for a multi-story hotel and ground floor retail would benefit McMinnville economically. McMinnville needs more Class A office space, especially in its city center. However, due to long-term disinvestment in the second story of this building the costs of stabilizing the building and providing Class A office space is more than the market will bear which would lead to continued disinvestment in the second story and no office vitality outside of the ground floor. A hotel and ground floor commercial space would not be detrimental to McMinnville economically, as the downtown economy is emerging as a tourism destination, with tourists and local residents combining to support local food and beverage establishments and retail boutiques. In recent years, several lodging enterprises in downtown McMinnville have flourished and contributed positively to the overall economy of McMinnville.

**OAR 660-023-0200(8)(a) Factors to Consider – Design or Construction Rarity**

**APPLICANT RESPONSE (Original Application):** Each of the buildings is fairly utilitarian in design and are not identified as examples of rare design or construction in the HRI or the National Register nomination. They are modest, functional structures that have been significantly altered over the years.

According to the McMinnville Historic Preservation Plan (Ord. 5068), as of May 2018 there were 558 properties listed on the HRI at the top three levels (Distinctive, Significant, and Contributing). Sixty-nine (or 12 percent) were classified as Distinctive; 200<sup>3</sup> (or 36 percent) were listed as Significant and 289 (or 52 percent) were listed as Contributory. Therefore, as none of the buildings proposed for demolition are listed as Distinctive, they are not rare structures within the City.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** The building is not identified as being rare at all in terms of design or construction.

**CITY RESPONSE:** 619 NE Third Street does not possess any specific design or construction standard that would be described as rare or significant for McMinnville.

**OAR 660-023-0200(8)(a) Factors to Consider – Consistency and Consideration of other Policy Objectives in the Comprehensive Plan.U**

**APPLICANT RESPONSE:** Other relevant policy objectives of the McMinnville Comprehensive Plan include cultural, historical, and educational resources; economic development policies; and energy policies. Each of these policies is addressed in more detail in Section 5 of this narrative.

The relevant cultural and historical resource policies of Comprehensive Plan Chapter II include:

**Goal III 2:** *To preserve and protect sites, structures, areas, and Objects of historical, cultural, architectural, or Archaeological significance to the city of McMinnville.*

The relevant economic development policies of Comprehensive Plan Chapter IV include:

**Goal IV 1:** *To encourage the continued growth and diversification of McMinnville’s economy in order to enhance the general well-being of the community and provide employment opportunities for its citizens.*

**Goal IV 2:** *To encourage the continued growth of McMinnville as the commercial center of Yamhill County in order to provide employment opportunities, goods, and services for the city and county residents.*

**Goal IV 3:** *To ensure commercial development that maximizes efficiency of land use through utilization of existing commercially designated lands, through appropriately locating future neighborhood-serving and other commercial lands, and discouraging strip development.*

**Goal IV 4:** *To promote the downtown as a cultural, administrative, service, and retail center of McMinnville.*

The relevant energy policies of Comprehensive Plan Chapter VIII include:

**Goal VIII 2:** *To conserve all forms of energy through utilization of Land use planning tools.*



*178.00 The City of McMinnville shall encourage a compact urban development pattern to provide for conservation of all forms of energy.*

*179.00 The City of McMinnville shall amend pertinent ordinances to allow for design techniques which increase the efficient utilization of land and energy. Areas to examine shall include, but not be limited to:*

- 1. The zoning ordinance requirements, including density, lot areas, and setbacks to increase utilizable space in lots, while maintaining health and safety standards.*
- 2. The geographic placement of various uses (commercial, industrial, residential) on the Comprehensive Plan Map to encourage energy-efficient locations.*

[...]

*180.50 The City of McMinnville supports local sustainability and endorses the utilization of proven and innovative energy efficient design and construction technologies to reduce building heat-gain, lower energy consumption, and lessen pollutant output. (Ord. 4903, December 9, 2008)*

Collectively, these policies call for balancing the protection of important historic and cultural resources with the efficient use of limited land within existing commercial centers, including downtown, and further establishing downtown as the cultural, employment, and retail center of McMinnville.

The subject site is currently occupied by three heavily altered low-rise buildings that are underutilized in terms of floor area, employment, and services. New construction on this site would advance all the City's Comprehensive Plan goals while avoiding negative impacts to "Distinctive" buildings elsewhere in the downtown.

**CITY RESPONSE: Please see below for a discussion of compliance with the City of McMinnville's Comprehensive Plan policies.** In summary, the proposed demolition of 619 NE Third Street does not meet the City's Comprehensive Plan goals for preservation of historic resources, however the demolition of the subject structure coupled with the redevelopment of the site does meet many of the City's economic development comprehensive plan policies.

**OAR 660-023-0200, Section 8(a):**

**OVERALL FINDING, SATISFIED WITH CONDITION OF APPROVAL: OAR 660-023-0200, Section 8(a) does apply to this land-use application.** OAR 660-023-0200, Section 8(a) states that the following factors must be considered when making a decision to approve, approve with conditions or deny an application for a historic resource on the National Register of Historic Places: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. But OAR 660-023-0200, Section 8(a) does not provide clear and objective criteria as to how to consider the factors and how many factors need to support an approval, approval with conditions or denial. Per the analysis above, 619 NE Third Street does not appear to be in bad structural condition and has lost all of its historic integrity on the ground floor, however the second floor and roofline appear to be historically original to the building. The value to the community could be described in two ways – historic value and overall value.

However, some of the factors are dependent upon a redevelopment plan that fits within the existing Third Street built environment as a complimentary attraction and asset and not a disrupter. The City of McMinnville has adopted Design Guidelines and Standards for New Construction in the Downtown Overlay District (Section 17.59 of the McMinnville Municipal Code), as a means to ensure that new development will build upon the overall sense of place on Third Street. A condition of approval needs to be established that the demolition of 619 NE Third Street will not be approved

without the successful approval of a replacement plan for the site that meets all of the city's local regulations, state regulations and federal regulations.

**CONDITION OF APPROVAL #1:** The Certificate of Approval for Demolition of 619 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not constructed with a final occupancy permit within three years of the issuance of the building permit will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped. If the successful completion of the replacement project is stalled due to unforeseen conditions the Applicant can appeal this condition of approval in writing to the Planning Commission for review. (OAR 660-023-0200(8)(a)).

*OAR 660-023-0200, Section 8*

*(b) May apply additional protection measures. for a National Register Resource listed in the National Register of Historic Places after the effective date of this rule, additional protection measures may be applied only upon considering, at a public hearing, the historic characteristics identified in the National Register nomination; the historic significance of the resource; the relationship to the historic context statement and historic preservation plan contained in the comprehensive plan, if they exist; the goals and policies in the comprehensive plan; and the effects of the additional protection measures on the ability of property owners to maintain and modify features of their property. Protection measures applied by a local government to a National Register resource listed before the effective date of this rule continue to apply until the local government amends or removes them; and*

**APPLICANT'S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The analysis above demonstrates that the structure at 619 NE Third Street does not have significant historic integrity except for in the bulkhead, and the structure does not have a relationship to the historic context statement of the National Register of Historic Places nomination outside of the year in which it was originally built, that would merit a need for additional protection measures outside of the City of McMinnville's Historic Preservation Code, Chapter 17.65 of the McMinnville Municipal Code.

*OAR 660-023-0200, Section 8*

*(c) Must amend its land use regulations to protect National Register Resources in conformity with subsections (a) and (b). Until such regulations are adopted, subsections (a) and (b) shall apply directly to National Register Resources.*

**APPLICANT'S RESPONSE:** The City of McMinnville is in the process of amending its zoning code to comply with these provisions. Until those amendments are effective (anticipated in Summer/Fall 2022) the provisions of this section are applicable.

**FINDING: SATISFIED.** The City concurs with the applicant's response.

*(9) Removal of a historic resource from a resource list by a local government is a land use decision and is subject to this section.*

*(a) A local government must remove a property from the resource list if the designation was imposed on the property by the local government and the owner at the time of designation:*

*(A) Has retained ownership since the time of the designation, and*

- (B) Can demonstrate that the owner objected to the designation on the public record, or
  - (C) Was not provided an opportunity to object to the designation, and
  - (D) Requests that the local government remove the property from the resource list.
- (b) Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist.
- (A) The resource has lost the qualities for which it was originally recognized;
  - (B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing;
  - (C) The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED WITH CONDITON OF APPROVAL #2.** If the structure at 619 NE Third Street is demolished it will automatically be removed from the McMinnville Historic Resources Inventory.

**CONDITION OF APPROVAL #2:** 619 NE Third Street, McMinnville Historic Resource Inventory D876 will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished.

- (10) A local government shall not issue a permit for demolition or modification of a locally significant historic resource during the 120-day period following:
- (a) The date of the property owner's refusal to consent to the historic resource designation, or
  - (b) The date of an application to demolish or modify the resource if the local government has not designated the locally significant resource under section (6).

**APPLICANT'S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** The structure at 619 NE Third Street has already been designated a McMinnville Historic Resource.

### **Comprehensive Plan Volume II:**

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, polices, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

#### **GOAL II 1: TO PRESERVE THE QUALITY OF THE AIR, WATER, AND LAND RESOURCES WITHIN THE PLANNING AREA.**

- 2.00 *The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.*

**APPLICANT RESPONSE (Original Application):** None

**APPLICANT RESPONSE (December 15, 2022):** A draft Contaminated Media Management Plan (CMMP) that addresses all three properties has been included (Contaminated Media Management Plan, October 13, 2022). The CMMP is a requirement of the Prospective Purchaser Agreement between the Applicant and Oregon Department of Environmental Quality ("DEQ"). As a practical matter, former automotive shops and fuel stations are routinely redeveloped and there is nothing about these buildings that presents a unique risk. The draft CMMP requires removal and safe disposal of any contaminated media (i.e. soil or ground water), and recommends only standard protective measures to mitigate the limited identified risk of petroleum contamination.

This is sufficient to satisfy Goal II of the City's Comprehensive Plan, which implements Statewide Planning Goal 6. Goal 6 requires that the local government establish that there is a reasonable expectation that the use for which land use approval is requested will also be able to comply with the state and federal environmental quality standards that it must satisfy to be built. *Hess v. City of Corvallis*, 70 Or LUBA 283 (2014). The City's comprehensive plan does not address soil contamination, and with respect to water, Policy 10.00 of the Comprehensive Plan provides that "The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to maintain water quality and to implement agreed upon programs for management of the water resources within the planning area." The Applicant's ongoing work with DEQ through the PPA process is evidence not only that DEQ will provide sufficient oversight to ensure the safety of workers and the public, but also demonstrates that the Application will be able to comply with DEQ's standards.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #3**

**CONDITION OF APPROVAL #3:** The applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways.

- 8.00 *The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.*

**APPLICANT RESPONSE:** None

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #4.**

**CONDITION OF APPROVAL #4:** The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

- 10.00 *The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to maintain water quality and to implement agreed upon programs for management of the water resources within the planning area.*

**APPLICANT RESPONSE:** None

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #5.**

**CONDITION OF APPROVAL #5:** The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

**GOAL III 2: TO PRESERVE AND PROTECT SITES, STRUCTURES, AREAS, AND OBJECTS OF HISTORICAL, CULTURAL, ARCHITECTURAL, OR ARCHAEOLOGICAL SIGNIFICANCE TO THE CITY OF McMinnville.**

**APPLICANT RESPONSE:** The proposed development will provide short-term lodging and retail services for the downtown McMinnville community. These services will both meet an identified demand and provide employment to local residents. The current businesses on the site employ approximately 20 people; the proposed development is expected to employ approximately 60 people. These employment opportunities will include hospitality, service industry, and management positions.

The subject site is currently occupied by three heavily altered low-rise buildings that are underutilized in terms of floor area, employment, and services. New construction on this site would advance all the City's Comprehensive Plan goals while avoiding negative impacts to "Distinctive" buildings elsewhere in the downtown.

**FINDING: NOT SATISFIED.** The focus of this comprehensive plan goal is to preserve and protect structures that have special historical or architectural significance. A demolition clearly does not meet that intent. The Planning Commission, after reviewing the application materials and receiving testimony, decided that other applicable criteria for the consideration of the demolition were met and therefore the demolition was approved. Findings for those other applicable review criteria are provided below.

16.00 *The City of McMinnville shall support special assessment programs as well as federal grants-in-aid programs and other similar legislation in an effort to preserve structures, sites, objects, or areas of significance to the City.*

**FINDING: SATISFIED.** The City is supportive of all of these programs to aid historic preservation.

17.00 *The City of McMinnville shall enact interim measures for protection of historic sites and structures. Those measures are identified in the McMinnville Comprehensive Plan, Volume I, Chapter III.*

**FINDING: SATISFIED.** Chapter III of Volume 1 of the McMinnville Comprehensive Plan states the following:

A viable preservation program for the city will involve four steps: (1) the adoption of goals and policies in the Comprehensive Plan supporting the preservation of historic resources and establishing a process to achieve stated objectives; (2) the formation of a historic preservation/landmarks committee; (3) the completion of a comprehensive inventory of the historic resources in the planning area; and (4) the implementation of preservation techniques, possibly through an historic preservation ordinance, to protect and conserve the identified resources.

Based on the information contained herein, and the work of the Citizens' Advisory Committee Community Needs Subcommittee, the City finds that:

1. There are sites, structures, objects, and areas that are of importance to McMinnville because of their historical, cultural, architectural archeological significance at the local, state, or national level. Some of the sites and structures are (or are in the process of being) designated to state and national historical lists.
2. There may be pressure to destroy or alter historically significant sites and structures in the future. There is no active historical, or preservation program in McMinnville at this time to resolve conflicts between historical resources and developmental proposals.

3. Completion of Phase I of the inventory of the historic resources in McMinnville has been completed. Approximately 0.9 of a square mile of the McMinnville core (the area bounded by Fifteenth Street on the north, Fellows Street on the south, Elmwood Avenue on the west, and Kirby Street on the east) has been surveyed and some 500 potential historic resources have been identified. The survey, under the direction of Janice Rutherford, involved the efforts of some 30 volunteers, who, after attending training sessions by professional preservationists, conducted the field work and research necessary to identify the resources. Completion of this survey for the remainder of the city should be a priority concern in the historic preservation program established by the City.
4. Historical structures should be recognized as underutilized resources that could potentially be restored and/or adapted for beneficial urban uses. Preservation techniques applicable to the historical structures identified in the core area of the city could assist in the continued redevelopment of the central business district.
5. The historical designation of sites and structures within the core business area could involve large economic ramifications for the city and property owners. A variety of incentives for rehabilitation of historically designated properties does exist. A feasibility analysis of the economic advantages and disadvantages of establishing historical sites and/or districts downtown needs to be made.
6. Preservation of historical sites and structures will necessarily involve procedures that regulate the alteration, and/or demolition of historically designated properties. The cooperation of owners of potential historical sites and structures will, therefore, be necessary for a viable preservation program.
7. A number of local groups and citizens, including the Chamber of Commerce, Committee on Redevelopment, various civic and social groups, and local historical groups, have expressed interest in an historical preservation program. Enlistment of volunteers for the completion of the comprehensive inventory of historical resources and other preservation projects should be explored.
8. There are a number of state and federal antiquity codes that may assist in the preservation of the historical resources in our city, and provide some financial incentives for preserving our heritage. Those codes are noted in the background information for the comprehensive plan.
9. The involvement of the private sector of the city is of paramount importance to the development of a preservation program. The primary initiative for setting up such a program will come from the governmental sector. However, it is only through the cooperation of property owners, volunteer workers, knowledgeable citizens, and governmental leaders that such a program will be made workable.
10. A program involving creation of an Historical Landmark Committee, a local Historical Landmarks Register, and an Historical Ordinance is being proposed by the City to establish a historical presentation program. Implementation of the program is expected to take a considerable amount of study, discussion, and therefore, time. Interim preservation measures shall be enforced until formal adoption and implementation of a preservation program.

The City of McMinnville has implemented most of the programs outlined above.

**GOAL IV 1: TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF McMinnville's Economy in order to enhance the general well-being of the community and provide employment opportunities for its citizens.**

**APPLICANT RESPONSE:** The proposed development will provide short-term lodging and retail services for the downtown McMinnville community. These services will both meet an identified demand and provide employment to local residents. The current businesses on the site employ approximately 20 people; the proposed development is expected to employ approximately 60 people. These employment opportunities will include hospitality, service industry, and management positions

**COMMERCIAL DEVELOPMENT**

**GOAL IV 2: TO ENCOURAGE THE CONTINUED GROWTH OF McMinnville as the commercial center of Yamhill County in order to provide employment opportunities, goods, and services for the city and county residents.**

**APPLICANT RESPONSE:** This Comprehensive Plan policy is supplemented by several documents including the 2013 Urban Renewal Area Plan (Area Plan), the 2013 Economic Opportunities Analysis (EOA), the 2019 MAC-Town 2032 Economic Development Strategic Plan<sup>7</sup> (MAC-Town 2032), and the 2020 McMinnville Growth Management and Urbanization Plan (MGMUP). The site is within the McMinnville Urban Renewal Area and downtown McMinnville is the focus of MAC-Town 2032.

Infrastructure Improvements

The Area Plan includes reconstruction of the 3<sup>rd</sup> Street Streetscape, which is currently in the conceptual design phase. Depending on the timing of the development, the project may be able to participate in construction of the streetscape improvements.

Economic Opportunities

The EOA identifies limited durations of tourism visitation as a factor affecting community economic development. The analysis found that visitors tend not to stay overnight, but rather are often day visitors, and do not appear to be making substantial expenditures while in the area. A key challenge for the future, as identified in this analysis, is to provide more and better value-added opportunities for visitors to spend more time and money while visiting the McMinnville area.

Hospitality and Tourism

As noted above, the application is consistent with the 2019 MAC-Town 2032 Economic Development Strategic Plan. Goal 6 of MAC-Town 2032 particularly encourages downtown McMinnville to “Be a leader in Hospitality and Place-Based Tourism” and identifies hotel stays and retail sales as performance measures. Action items within that goal identify additional high-quality hospitality offerings and additional conference space. Focus groups participating in MAC Town

**GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE NEIGHBORHOOD-SERVING AND OTHER COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.**

22.00 *The maximum and most efficient use of existing commercially designated lands will be encouraged as will the revitalization and reuse of existing commercial properties.*

**APPLICANT RESPONSE:** The proposed development is a commercial development on properties zoned C-3 and designated for commercial uses and development. The building meets the applicable development standards for the zone and site will intensify the uses on the site and maximize the efficiency of a key site within downtown McMinnville.



The site is located within the McMinnville Urban Renewal Area (Area). The City’s Urban Renewal Plan notes that the programs and infrastructure improvements proposed within the Area will “maximize the efficient use of land by encouraging more intense uses on lands already developed or designated for urban development, will help keep the urban pattern compact, and will prevent sprawl and strip development.”<sup>8</sup> The Gwendolyn Hotel, along with its associated retail and restaurant spaces, will redevelop three, one- to two-story buildings, while enhancing the adjacent pedestrian environment. This aids in achieving Goal III of the Area which is to encourage a unique district identity through enhancing the physical appearance of the district and providing active use opportunities within the Area. The redevelopment of the site will intensify the use of a key site within the downtown McMinnville commercial area and enhance its status as the retail center of McMinnville.

In addition to urban renewal policies, Principle #5 of the Growth Management and Urbanization Plan calls for “Density. Adopt policies that allow the market to increase densities, and push it to do so in some instances.” The plan notes that “activity centers” are the appropriate locations for these increases in density, and the Framework Plan identifies downtown McMinnville as one of four “activity centers,” and the largest. Though this Framework Plan is not an adopted Comprehensive Plan map, it does illustrate the City’s plans to meet its housing and employment needs during the planning horizon.

**FINDING: SATISFIED.** The proposed project maximizes the existing commercially designated lands by building a higher density commercial program on the site, which will also serve to revitalize the east side of Third Street that was identified as a redevelopment area in the adopted 2000 Downtown Improvement Plan.

25.00 *Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development.*

**FINDING: SATISFIED WITH CONDITIONS OF APPROVAL #6 and #7.** Higher density commercial development in the city center utilizes existing infrastructure efficiencies. The following conditions of approval will need to be met to ensure that the existing infrastructure will support the development.

**CONDITION OF APPROVAL #6:** The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rain water into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance.

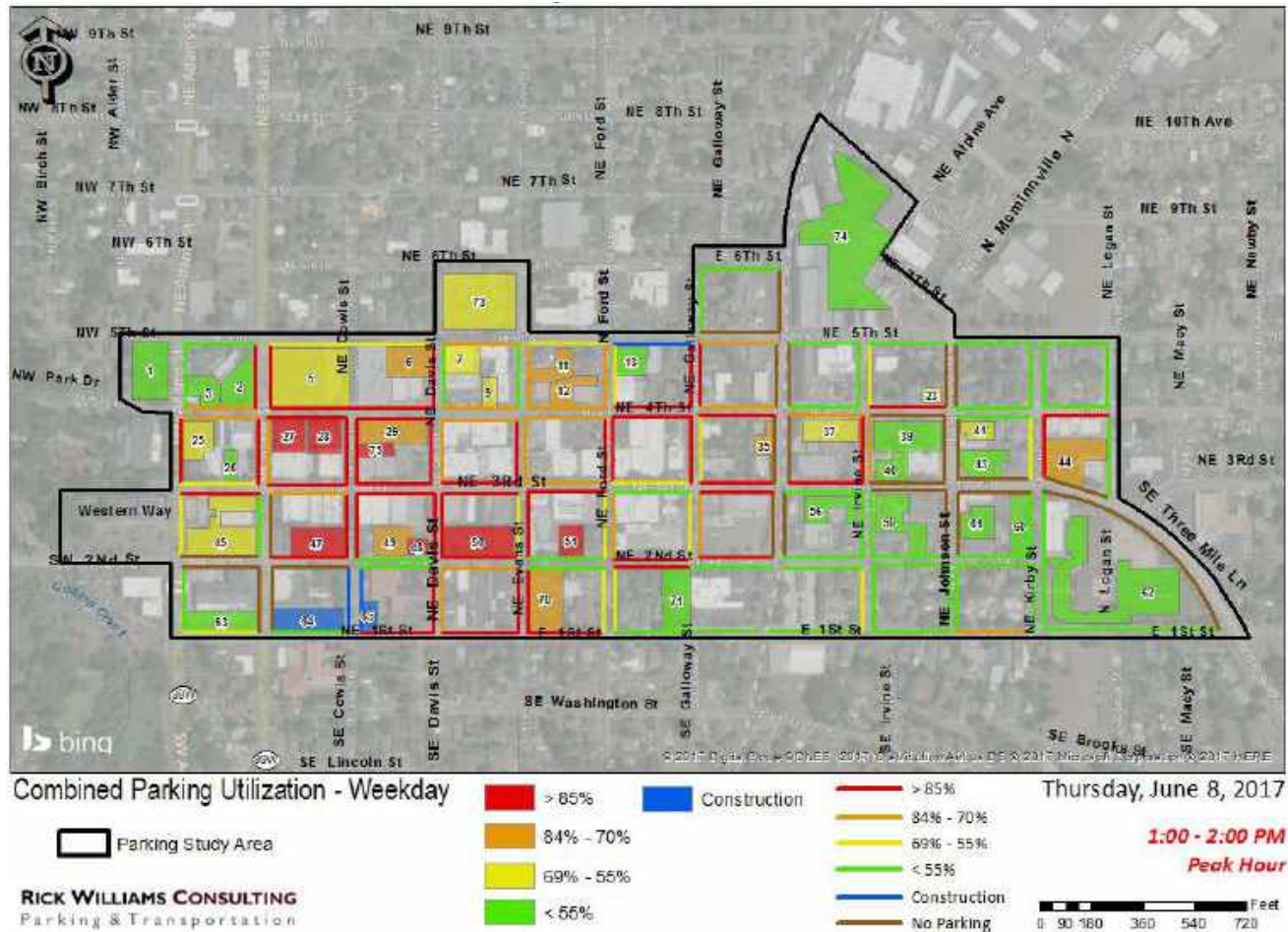
**CONDITION OF APPROVAL #7:** Prior to submittal for building demo permit provide Engineering with detailed demolition plans for review and approval.

26.00 *The size of, scale of, and market for commercial uses shall guide their locations. Large-scale, regional shopping facilities, and heavy traffic-generating uses shall be located on arterials or in the central business district, and shall be located where sufficient land for internal traffic circulation systems is available (if warranted) and where adequate parking and service areas can be constructed.*

**FINDING: SATISFIED.** The replacement plan project will be located in the Central Business District. The Transportation Impact Analysis provided as part of the application indicates that all intersections studied perform within mobility standards with the project as developed. No mitigation measures were identified.

Parking in the core downtown area is limited. However, a utilization study conducted in 2017 identified that parking on Ford Street between 3<sup>rd</sup> and 4<sup>th</sup> Streets was maximized at the peak hour of a weekday. Although the McMinnville Municipal Code does not require the provision of off-street parking for new

developments on this site, the replacement project is providing 67 off-street parking stalls in an underground parking structure.



(City of McMinnville, Oregon, Downtown Strategic Parking Management Plan, March 27, 2018, page 17)

**GOAL IV 4: TO PROMOTE THE DOWNTOWN AS A CULTURAL, ADMINISTRATIVE, SERVICE, AND RETAIL CENTER OF McMINNVILLE.**

*Downtown Development Policies:*

36.00 *The City of McMinnville shall encourage a land use pattern that:*

1. *Integrates residential, commercial, and governmental activities in and around the core of the city;*
2. *Provides expansion room for commercial establishments and allows dense residential development;*
3. *Provides efficient use of land for adequate parking areas;*
4. *Encourages vertical mixed commercial and residential uses; and,*
5. *Provides for a safe and convenient auto-pedestrian traffic circulation pattern. (Ord.4796, October 14, 2003)*

**FINDING: SATISFIED.**

37.00 *The City of McMinnville shall strongly support, through technical and financial assistance, the efforts of the McMinnville Downtown Steering Committee to implement those elements of Phase II of the “Downtown Improvement Plan” that are found proper, necessary, and feasible by the City. (Ord.4796, October 14, 2003)*

**FINDING: NOT APPLICABLE.** Phase II of the Downtown Improvement Plan is a list of public improvement projects that are not associated with this application.

38.00 *The City of McMinnville shall encourage the renovation and rehabilitation of buildings in the downtown area, especially those of historical significance or unique design.*

**FINDING: SATISFIED.** The City provides grants and loans to encourage the renovation and rehabilitation of buildings in the downtown area.

The extant structure at 619 NE Third Street is not of historical significance or unique design.

44.00 *The City of McMinnville shall encourage, but not require, private businesses downtown to provide off-street parking and on-site traffic circulation for their employees and customers.*

**FINDING: SATISFIED.** The replacement plan project is providing an off-street underground parking structure with 67 parking stalls.

**GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.**

127.00 *The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.*

**FINDING: SATISFIED.** The replacement plan project is providing an off-street underground parking structure with 67 parking stalls.

132.40.05 *Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:*

1. *Improvement of on-site transportation facilities,*
2. *Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards; and*
3. *Transportation Demand Management strategies. (Ord. 4922, February 23, 2010)*

**FINDING: SATISFIED.** Due to the size of the replacement plan project, the City required the applicant to provide a Transportation Impact Analysis that identified no need for mitigating measures with the development of the project.

132.46.00 *Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010)*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #8:**

**CONDITION OF APPROVAL #8:** The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.

142.00 *The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #9:**

**CONDITION OF APPROVAL #9:** The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.

151.00 *The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:*

1. *Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, are available or can be made available, to fulfill peak demands and insure fire flow requirements and to meet emergency situation needs.*
2. *Sufficient municipal sewage system facilities, as determined by the City Public Works Department, are available, or can be made available, to collect, treat, and dispose of maximum flows of effluents.*
3. *Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the City, respectively, are available, or can be made available, for the maintenance and operation of the water and sewer systems.*
4. *Federal, state, and local water and waste water quality standards can be adhered to.*
5. *Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #10:**

**CONDITION OF APPROVAL #10:** The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.

**GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.**

**GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.**

Policy 188.00 *The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The process for a Certificate of Approval for Demolition provides an opportunity for citizen involvement throughout the process through the public notice and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public meeting(s). All members of the public have access to provide testimony and ask questions during the public review and meeting process.

**McMinnville Municipal Code**

The following Sections of the McMinnville Municipal Code (MMC) provide criteria applicable to the request:

**Chapter 17.03. General Provisions**

**17.03.020 Purpose.** *The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

**17.65.010 Purpose.** *Districts, buildings, objects, structures, and sites in the City having special historical, architectural, or cultural significance should be preserved as a part of the City’s heritage. To this end, regulatory controls and administrative procedures are necessary for the following reasons:*

- A. *Stabilize and improve property values through restoration efforts;*

**APPLICANT RESPONSE:** The applicant proposes to make a substantial investment in downtown McMinnville through the development of a new luxury lodging option. See Table 2 for current assessed value and market value of the buildings. Note that Assessed Value is lower than Real Market Value due to Measures 5 and 50, which limit the increase in assessed value to 3 percent per year. As a result, there is a difference of almost \$500,000 between the assessed value and the real market value of these buildings. See Table 2.

**Table 2 2021 Assessed and Market Value of Buildings**

Site	2021 Assessed Value	2021 Real Market Value
609 NE 3 <sup>rd</sup> Street	\$515,480	\$664,643
611 NE 3 <sup>rd</sup> Street	\$742,760	\$1,010,601
611 NE 3 <sup>rd</sup> Street BPP	\$41,333	\$41,333
619 NE 3 <sup>rd</sup> Street	\$482,993	\$556,964
<b>Total</b>	<b>\$1,782,566</b>	<b>\$2,273,541</b>

Source: Yamhill County Assessor

The assessed value “resets” at the time of redevelopment. The applicant estimates that the new development will have a real market value of approximately \$60,000,000, which would result in a significant increase in taxes paid to the City and funding for urban renewal area projects. In addition, the hotel would increase the lodging taxes collected by the City.

The proposed development will increase the value of the subject properties; it is reasonable to assume that nearby properties will also see an increase in value.

**FINDING: NOT SATISFIED.** This application is for a demolition permit and not a restoration project.

*B. Promote the education of local citizens on the benefits associated with an active historic preservation program;*

**APPLICANT RESPONSE:** The proposed development will attempt to incorporate significant components of the existing building at 619 NE 3<sup>rd</sup> Street. The applicant team intends to promote the history of the site and its importance to the development of McMinnville. The specific approach is to be determined and will be defined in coordination with community members and groups.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #11.** One of the challenges of restoring historic properties in downtown McMinnville is the differential between the market value of the land/property and the costs of rehabilitating a historic structure that has experienced minimal code upgrades over its lifetime with the community value of maintaining low lease rates to support local businesses. In many cases, the proforma is not yielding the necessary returns for a successful project.

**CONDITION OF APPROVAL #11:** Prior to the approval of a demolition permit, the applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses.

*C. Foster civic pride in the beauty and noble accomplishments of the past;*

**APPLICANT RESPONSE:** The existing buildings are utilitarian and were originally developed as functional structures. The applicant intends to incorporate components of the original buildings into the new building as appropriate and as determined through coordination with community members and groups. Examples of information that could be incorporated into the new development include plaques or other historic markers with information about the builders of the structures.

**FINDING: SATISFIED.**

*D. Protect and enhance the City's attractions for tourists and visitors; and*

**APPLICANT RESPONSE:** As noted elsewhere in this narrative, The Gwendolyn is intended to advance the City's economic development goals by expanding the lodging options in downtown McMinnville. A signature restaurant is planned for the ground floor, which may be an additional draw for visitors who are not spending the night. The proposed building will establish a gateway effect at NE 3<sup>rd</sup> and Ford streets and complement the three-story buildings on each corner.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #12.**

**CONDITION OF APPROVAL #12:** The replacement plan project must not only meet the minimum standards of Section 17.59, Downtown Design Guidelines, McMinnville Municipal Code, but it must enhance the overall historic sense of place of downtown McMinnville by replicating the form and design of the building stock on Third Street.

*E. Strengthen the economy of the City.*

**APPLICANT RESPONSE:** The proposed development is intended to enhance the City's attractions for tourists and visitors by providing space for new specialty retail and commercial services, creating a destination for visitors to nearby wineries, and providing employment opportunities for up to 60 employees. The proposed hotel will provide a luxury boutique lodging option along with a meeting/conference room that will serve guests and community members.

**FINDING: SATISFIED**

**17.65.040 Certificate of Approval Process.** *A property owner shall obtain a Certificate of Approval from the Historic Landmarks Committee, subject to the procedures listed in Section 17.65.050 and Section 17.65.060 of this chapter, prior to any of the following activities:*

- A. *The alteration, demolition, or moving of any historic landmark, or any resource that is listed on the National Register for Historic Places;*
  - 1. *Accessory structures and non-contributing resources within a National Register for Historic Places nomination are excluded from the Certificate of Approval process.*
- B. *New construction on historical sites on which no structure exists;*
- C. *The demolition or moving of any historic resource.*

**APPLICANT RESPONSE:** The proposal includes the demolition of a historic landmark (619 NE 3<sup>rd</sup> Street) and two contributing buildings within the McMinnville Downtown Historic District, and replacement of all three structures with a new building. As such, the provisions of this section are applicable.

**FINDING: SATISFIED.** The proposal includes the demolition of a resource on the National Register of Historic Places that is considered a Primary Significant Contributing Resource. Per 17.65.040(A), section 17.65.050 of the McMinnville Municipal Code applies. The applicant has applied for a Certificate of Demolition.

**17.65.050 Demolition, Moving, or New Construction.** *The property owner shall submit an application for a Certificate of Approval for the demolition or moving of a historic resource, or any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The applicant filed an application and request to demolish 619 NE Third Street that is designated as a Significant resource on the Historic Resources Inventory. The application was reviewed by the Historic Landmarks Committee within 30 days of the application being deemed complete.

**17.65.050 Demolition, Moving, or New Construction.**

- A. *The Historic Landmarks Committee may approve, approve with conditions, or deny the application.*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** The Historic Landmarks Committee issued a decision that approved, approved with conditions or denied the application.



B. *The Historic Landmarks Committee shall base its decision on the following criteria:*

**17.65.050(B)(1).** *The City’s historic policies set forth in the comprehensive plan and the purpose of this ordinance;*

**APPLICANT’S RESPONSE:** The purpose of this ordinance is addressed in the responses to subsection 17.65.010 (in the narrative). The relevant Comprehensive Plan policies are addressed in Section 5 of the narrative. The applicant has demonstrated that the proposed development meets this criterion.

**FINDING: NOT SATISFIED.** Most of the City’s historic policies in the comprehensive plan focus on the establishment of the Historic Landmarks Committee, public awareness of historic preservation, and other activities for the City to pursue to increase documentation of historic resources. However, the goal most specifically related to historic preservation is as follows:

Goal III 2: To preserve and protect sites, structures, areas, and objects of historical, cultural, architectural, or archaeological significance to the City of McMinnville.

Goal III 2 is a goal statement and not a policy.

Per the analysis above, this application achieves some of the purpose statements but not all due to the fact that it is a demolition project and not a preservation/rehabilitation/restoration project.

The focus of the comprehensive plan goal and the purpose of the Historic Preservation chapter are to preserve structures that have special historical or architectural significance through restoration efforts. A demolition clearly does not meet that intent. The Historic Landmarks Committee, after reviewing the evidence and hearing the public testimony, decided that other criteria for the consideration of the demolition were satisfied and therefore the demolition was approved with conditions.

**17.65.050(B)(2).** *The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;*

**APPLICANT’S RESPONSE (Original Application):** There are three potential approaches to using or repurposing the site:

- Do nothing: continue to operate the buildings as currently operated
- Renovation/Change of use: upgrade the buildings to accommodate a change of use to commercial or retail uses
- Redevelop: Replace the existing buildings with a new development.

Each approach is described in more detail below.

#### Do Nothing

The current amount of income from the tenants is unknown, but it is assumed that the owners’ land costs are lower than the eventual purchase price, as they have owned the properties for many years.

If a buyer were to purchase the properties and retain the current tenants at the current rents, it is likely that the new owner would face challenges keeping up with the maintenance needs of these buildings. As noted in the structural report included as Appendix C, there are areas of damage that have not been repaired to date, presumably due to cost and availability of financial resources.

#### Renovation/Change of Use

The applicant has indicated that this cost to fully renovate the buildings would be approximately \$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.

In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.

Redevelopment

The applicant proposes redevelopment of the site with a mixed-use commercial building. This cost is estimated at approximately \$60,000,000 including land cost, soft costs, hard costs, finance fees, broker fees, pre-opening costs, marketing, etc. Lease rates are estimated at \$25 per sq. ft. triple-net/NNN, the same as in the renovation/change of use scenario, but most of the income would be generated by the hotel uses on upper floors

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** The applicant has provided the following additional information as described in Attachments 4-8:

- Phillip Higgins, a licensed commercial real estate broker, has provided a memo addressing existing net income, net income of a fully-leased building at market rate, and an evaluation of the existing rental/lease market. This memo includes high-level profit and loss information. See Attachment 4.
- 2022 Yamhill County Tax Assessor data including Assessed Value, Taxable Value, and Real Market Value and property taxes paid between 2018 and 2022 has been provided. See Attachment 5.
- An estimate of the cost of rehabilitation of the property from Hugh Construction, which is an entity separate from Hugh Development, provided the enclosed pro-forma showing the costs and likely returns from rehabilitation of the three structures. While no other contractors could provide an estimate without a more developed renovation plan set, the contractors Hugh consulted confirmed that Hugh Construction’s estimate was reasonable. See Attachment 6.
- A report of available economic incentives for rehabilitation of the existing buildings is included as Attachment 7.
- A report by Johnson Economics comparing the economic value of the project vs. preservation of the buildings is enclosed as Attachment 8.

The following table, provided by Hugh Construction, further defines the findings included in Attachment 6:

	Current Results	Ideal Results (Gwendolyn Hotel)
<b>Cash on Cash return</b>	3%	23%
<b>Unlevered IRR</b>	-9.10%	13%
<b>Levered IRR</b>	0%	26.80%
<b>Equity Multiple</b>	0.82x	4.11x

**APPLICANT’S RESPONSE (December 15, 2022):** The Application proposes demolition of the three structures discussed above in order to allow it to construct the Gwendolyn Hotel. The economic value of

the three buildings and their future use case are substantially limited. When compared to the potential economic value of the proposed hotel, the economic factors weight in favor of demolition for all three buildings.

While certainly not a model of linguistic clarity, 17.65.050(8)(2) appears to get at the comparative economic value when compared to the historic value of the buildings proposed for demolition. It appears to also evaluate the comparative economic value of the buildings if preserved or renovated.

The potential economic value of the Gwendolyn Hotel is addressed in Exhibit 5 (Economic Value of Structures in Downtown McMinnville, Oregon, Johnson Economics, November 2, 2022), and can be summarized as follows:

- Total project value: \$59,735,000
- Construction cost: \$36,500,000
- Annualized property tax project: \$576,197 (2026), \$590,602 (2027), \$605,367 (2028).

In comparison, a preservation use case (with similar occupancies and no renovation) are of very limited future value. Phillip Higgins, a licensed commercial real estate broker, has provided a memo addressing existing net income, net income of a fully-leased building at market rate, and an evaluation of the existing rental/lease market. This memorandum includes projected profit and loss information. Exhibit 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022). Mr. Higgins findings are summarized below:

"Combined rents across all 3 properties are \$11,365 (assuming fully occupied) or \$136,380 annual gross. The owners did not report taxes, insurance, utility costs, but an easy assumption is that a buildings operating costs are 45-55% of the gross revenue. Using the lower ratio: \$243,280 -45% = \$75,009 Net operating income. At a 6% CAP rate this would result in a [current] Market Value of \$1,250,150."

Mr. Higgins notes that the lease rates result in a net operating income is roughly \$75,000 annually, before any loan service, tenant improvements, or major repairs:

"The Current Market Valuation excludes any debt service, excludes tenant improvements, excludes any cost to bring the buildings up to current occupancy standards/ code compliance, with the addition of these line items the [net operating income] would shrink significantly below lender underwriting standards for OCR/ Debt Coverage Ratios for income to payments."

Based on this analysis, the buildings in their current form are of little or no net economic value to a new owner, given the need to service acquisition debt at their current value. Stated simply, the cost of debt and tenant improvements is likely so near the net operating income that a sound financial institution is unlikely to lend on such an acquisition with an as-is use case.

Even so, the July 29, 2022 HPR Report (Exhibit 3) demonstrates that significant work must be done on these buildings in order for them to remain viable even for this use case. Necessary repairs would include the following:

- "The 2nd level of the 609 Building would require repair and remediation should that space be occupied.
- The 2nd level of the 611 Building would require repair and remediation should that space be occupied.

- As noted in the General Conditions section, each of the three buildings have structural conditions that we recommend be further analyzed for possible remedial actions should they remain.
  - o This includes the roof truss node that is out of plane in the 609 Building, the removed built up floor beam in the 611 Building, and the rotten truss bearing in the 619 Building.
- Additionally, all three buildings have sections of the roof framing that is deteriorated and requires repair."

While there are some grants and historic preservation tax credits that may be available, work to bring the buildings back into a sound condition is likely in the hundreds of thousands of dollars. The primary historic tax benefit, the "Special Assessment of Historic Property Program" is no longer available for the 609 and 611 Buildings. The most beneficial available federal program, the Federal Historic Tax Preservation Tax Incentive Program, provides a 20% income tax credit. With a current federal income tax rate of 21%, this would yield only about \$5,700 per year for all three buildings collectively, and this assumes that the gross income from these properties would otherwise be fully taxable. State grants for particular historic buildings generally yield a maximum \$20,000. Exhibit 8 (Memorandum Regarding Historic Preservation Incentives, Otak, October 31, 2022.) All of this assumes successful competition for such grants, which is certainly not a guarantee given the diminished historic character of these buildings. In summary, there is no reason to believe that historic grant programs and tax credits will be even close to sufficient to provide the repairs identified in the HHPR report.

Upgrading the buildings to a different use would almost certainly require seismic upgrades. To explore an alternative use case that would preserve but reuse the buildings for a hotel, the Applicant engaged its subsidiary Hugh Construction Company to prepare a financial pro-forma for re-use of the buildings as a hotel with ground-floor retail.<sup>3</sup> This is enclosed as Exhibit 6 (Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022). The key findings are as follows:

- The base construction costs are anticipated to be \$11,430,000, with a total project cost of roughly \$20,000,000, excluding land acquisition.
- The total construction costs, along with soft costs and land acquisition costs are anticipated to be \$24,994,838.
- Due to the limited number of rooms, high cost of historic rehabilitation and retrofit, and debt service, the total net operating income from the project will be approximately \$813,419, with an annual cash flow of only \$516,922. Note that this is before debt service. Net cash flow from the property as a whole is negative, with cash investments in the negative throughout the period to fiscal year 2032, as demonstrated by the cash income statement on pg. 8 of Exhibit 6 (Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022).

Considering this alternative program, the Johnson Economic Study dated Nov. 2, 2022 analyzed the potential returns as follows:

"Renovation of the site for lodging uses would require a significant investment in restoration to bring the structure into conformance with current code. The estimated current costs to develop this program is just under \$20 million in current dollars (excluding acquisition), with an overall cost of roughly \$25 million. The projected net operating income at stabilization is estimated at \$580,500, representing a 2.3% return on cost."

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<sup>3</sup> While no other contractors could provide an estimate without a more developed renovation plan set, the contractors Hugh consulted confirmed that Hugh Construction's estimate was reasonable.

"The estimated capitalization rate for this type of project is likely in the 6.5% to 7 .5% range. Assuming a 7 .0% cap rate, the estimated value of the project would only be \$8.3 million in this configuration, roughly a third of estimated costs.

While the assumptions may shift, renovation of the current structure for retail and hotel space is highly unfeasible."

"Renovation of the structure does not provide the owner with a "reasonable economic use". There would be no expectation that the property owner or a rational developer would pursue this project as a renovation."

The upshot of the above discussions is that there is no rational economic value to a rehabilitation and re-use case for the buildings.

**CITY RESPONSE:** The applicant has provided the requested information to determine if rehabilitation of the structure is financially feasible within the existing McMinnville market. Based on the structure's construction needs (not just to meet existing building codes but to structurally maintain the existing uses within the building), the amount of leasable space within the existing McMinnville market does not support the acquisition and rehabilitation of the property.

**17.65.050(B)(3).** *The value and significance of the historic resource;*

**APPLICANT'S RESPONSE:** An evaluation of the significance of the buildings is provided in Section 3 of this narrative. This section provides additional information.

The McMinnville Downtown Historic District was evaluated in 1983/1984 and was listed on the National Register of Historic Places in 1987. The Historic District nomination included a description of each property including its date of construction, initial use, changes (alterations) over time, and mention of multiple owners up to the time of nomination. Each building was deemed to be distinctive, significant, contributing, or noncontributing to the historic significance of the District. The individual building descriptions describe the significance of the historic resource and the role of each building in the larger context of specific timeframes.

As described in the McMinnville HRI and the Historic District nomination, the greatest period of downtown development occurred from approximately 1884-1905. The buildings from this period are still easy to identify to this day. Their size, style (often Italianate), quality of materials, and intricate detailing set them apart from buildings that came later. The second period of downtown development occurred between 1904-1928. Many buildings constructed during this time were functional, pragmatic buildings that were intended to serve the automobile. Many of the buildings in the eastern part of downtown, including the three buildings proposed for demolition, were initially constructed as automobile garages or service shops.

The proposal requests demolition of 3 buildings within the McMinnville Downtown Historic District. The building at 619 NE 3<sup>rd</sup> Street is listed as a Primary Significant Contributing resource on the City's HRI, and is defined by that designation as a Historic Landmark. The applicant is requesting the demolition of these 3 buildings for a replacement building that will implement and advance the future vision for Downtown McMinnville.

*Building Descriptions*

619 NE Third Street

The building at 619 NE 3<sup>rd</sup> Street (641 East Third Street at the time of the HRI) was previously known as the AAMCO Building and is now known as the Bennette Building. It is identified as Secondary Resource

#436 in the HRI. Its original use was as a garage and the architect is unknown. The HRI estimates its date of construction at between 1912 and 1928; the Historic District nomination identifies the date of construction as ca. 1923 and notes that moderate alterations occurred in 1975 and that the Bennette family had an auto agency in this building from 1936 to 1977. There is no information in either description about when the building was converted from garage to office uses.

According to the HRI:

“This building is a one-story brick structure facing south on Third Street and extending north the entire depth of the block with a similar elevation on Fourth. A flat roof is concealed by parapet walls on either end and the facades each have seven stepped forward piers and corbelled cornice lines. The south façade has a large window and three doors. Two of them are large enough to accommodate automobiles. Three low gabled projection [sic] creating a partial second story, protrude from the roof toward the rear. The building has always accommodated garages.”

**FINDING: SATISFIED. THE HISTORIC SIGNIFICANCE OF THE PROPERTY IS QUESTIONABLE DUE TO THE AMOUNT OF MODIFICATIONS THAT HAVE OCCURRED.** The City concurs that the attributed historic significance identified in the McMinnville Downtown Historic District National Register of Historic Places nomination for 619 NE Third Street as a Primary Significant Contributing resource in the district is misrepresented due to the amount of modifications that have occurred on the property.

**17.65.050(B)(4).** *The physical condition of the historic resource;*

**APPLICANT’S RESPONSE (Original Application):** As described in the structural evaluation included as Appendix C, existing buildings are in adequate physical condition for their existing uses as offices. However, a change of occupancy of these buildings from office to commercial and/or lodging uses would likely require costly seismic updates to each of these buildings.

**APPLICANT’S RESPONSE (December 15, 2022):** HHPR 's Existing Building Summary identified a number of structural issues with these buildings, which are explained in detail below. Its general conclusions are that the buildings need significant work soon: "If we were in a position to advise the building owner, we would recommend that these items be addressed in the very near future." Exhibit 2 (Existing Building Structural Summary, HHPR, November 6, 2022). This is just to get the building back to something resembling their original design structural capacity. All have significant structural issues. For example, the 609 Building has a major truss that must be replaced. The 611 Building has load-bearing laminated beams that have been cut. Most of the roof trusses in the 619 Building are rotten where they intersect the party wall along the 611 Building. All of these conditions must be addressed.

The buildings are also all constructed of unreinforced masonry. Exhibit 2 (Existing Building Structural Summary, HHPR, November 6, 2022) provides a detailed literature review explaining why seismic reinforcement of these buildings is advisable, and concludes as follows:

"Like other similar URM buildings, the three buildings under review in this report would have the potential for similar failure points. Generally, these failure points could be attributed to the lack of ductility associated with URM construction and the lack of positive connections between the floor and roof framing and the walls of the structure. The anticipated failure points could be:

- In plane shear failure of the URM walls
- Out of plane bending failure of the URM walls
- URM walls pulling away from the roof or floor framing resulting in roof or floor collapse

Given their higher risk profile, URM buildings represent a unique and complicated challenge to the structural engineering community, to the building owners and to the community at large."

It is important to recognize that any significant changes to these buildings (such as significant tenant improvement) would likely trigger seismic retrofit to some degree. This is a likely scenario, for example, if the upper floors of the 609 and 611 Buildings are put back into use and qualify as an "alteration." Also, changes in occupancy and structural alterations (such as those required to address the buildings' identified structural problems) would likely trigger additional upgrades under the Existing Building Structural Code, as adopted by the State Building Codes division.

The costs of such upgrades are likely infeasible for these buildings in their current occupancy; as explained by the Western States Seismic Policy Council, "upgrading existing buildings to resist earthquake forces is more expensive than meeting code requirements for new construction." <https://www.wsspc.org/public-policy/legislation/oregon/>. This is also demonstrated by the memorandum provided by Mr. Higgins (Exhibit 7, McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022), which demonstrates that such improvements are not financially feasible.

The physical condition of certain building elements-particularly those from the historic period of significance-is provided in the HRA. Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022). However, the HRA does not characterize the general condition of the buildings as a whole. The physical condition of the building is explained below:

619 NE Third Street: Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) notes that the roof and signage are in good condition, but identifies a number of issues:

- o "The original white brick of the attic story/parapet remains, although it has been painted. Original unpainted white brick remains visible at the corner of the east elevation. Significant areas of brick cracking and displacement were observed in the attic story at the southeast corner of the building.
- o Little remains of the original building materials at the ground floor. The original brick mould at the westernmost opening remains, although the opening has been infilled with a new door."

The HHPR Existing Building Summary (Exhibit 2, Existing Building Structural Summary, HHPR, November 6, 2022) identifies the following structural deficiency in the building:

"The bearing points of the trusses are deteriorated along the west wall and supplemental support has been framed under the trusses. This condition exists at the connection to the 611 Building and is the result of water penetration along the north south valley between the building."

Exhibit 2 also notes that there is cracking in the brick facade along the south exterior elevation.

HHPR 's initial structural review of the building, dated July 29, 2022 (Exhibit 3), identified the following issues:

- o "The bearing points of the trusses are deteriorated (rotten) along the west wall and supplemental support has been framed under the trusses.



- o This condition exists at the connection to the 611 Building and is the result of water penetration along the north-south valley between the building.
- o The brick and mortar at south elevation show signs of deterioration and diagonal cracks along the mortar lines.
- o The east wall exterior has significant deterioration and is exposed due to the separation between the 619 Building and the recently constructed building to the east."

The July 29, 2022 HHPR report describes the general condition of the buildings as follows:

- o "Each of the three buildings has portions of brick wall that are in poor condition that would require significant work to remediate including new mortar and the replacement of bricks.
- o Each of the three buildings has portions of the roof structure that are rotting and are in poor condition. While it may be that the roofing has been repaired, it does not appear that in certain areas the supporting structure has been repaired. These areas also coincide with areas of the brick wall that are in poor condition
- o The most southern roof truss in the 609 Building has a top chord node that is out of plane by over 6 inches. This represents a significant structural concern and should be evaluated further with possible remedial actions should the building remain. The remedial action includes installing a new girder and columns to support the truss thereby removing mezzanine and roof loading from the truss
- o The removed floor beams distributing roof load in the 611 Building represent a significant structural concern and should be evaluated further with possible remedial actions should the building remain.
- o The rotting bearing points of the roof trusses in the 619 Building represent a significant structural concern and should be evaluated further with possible remedial actions should the building remain."

Based on the information provided in Exhibits 1 (Historic Resources Assessment, Architectural Resource Group, November 2022), 2 (Existing Building Structural Summary, HHPR, November 6, 2022), and 3 (Documentation of Existing Building Structures, HHPR, July 29, 2022), the general condition of the buildings is best characterized as poor or marginal at best, depending on the proposed use case. While the buildings are not "dangerous" (which condition would require removal of the existing tenants), it is clear that significant work must be undertaken to ensure these buildings' future preservation, even if they are not seismically upgraded. Bear in mind that this is the requirement for continued use of the buildings for ground-floor retail or limited-occupancy offices; any more intensive uses will require substantially more structural upgrades. It is also important to note that, under both state and local criteria, the buildings need not be considered "dangerous" in order for their condition to be a major factor in allowing their demolition.

**CITY RESPONSE:** The applicant argues that the combination of structural issues associated with a lack of building maintenance and investment and the structural costs of reinforcing unreinforced masonry buildings is a significant cost burden for a one or two-story building to overcome. And the city concurs. However, unreinforced masonry buildings are rehabilitated all of the time and lack of maintenance should not be justification for demolition of a historic resource.

**FINDING:** The physical condition of the building is not a stand-alone reason to allow demolition of the property but however it is part of a collective consideration.

**17.65.050(B)(5).** *Whether the historic resource constitutes a hazard to the safety of the public or its occupants;*

**APPLICANT’S RESPONSE:** Each of the buildings is currently occupied and is assumed to not constitute a hazard to the safety of the public or its occupants.

**FINDING:** The historic resource is not a hazard to the safety of the public.

**17.65.050(B)(6).** *Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;*

**APPLICANT’S RESPONSE (Original Application):** The current structures are 1- and 2-stories in height and are occupied by office uses. The Gwendolyn Hotel development addresses many of the City’s identified economic development needs. The applicant proposes a development program that includes numerous benefits to the City:

- 90-95 luxury hotel rooms designed to accommodate visitors to nearby wineries and tasting rooms
- A ground-floor restaurant
- Ground-floor commercial/retail spaces
- 67 vehicular parking spaces
- A ground-floor meeting room for use by guests and local groups
- A reservable rooftop bar and patio
- A luxury soaking pool on the level 6 roof terrace

On March 12, 2019, the Common Council of the City of McMinnville voted unanimously to adopt the MAC-Town 2032 Economic Development Strategic Plan. The plan established eight important goals. Goal 6 is “Be a leader in hospitality and place-based tourism,” and includes a number of goals which are addressed below.

*Goal 6.1: Make Downtown the best it can be.*

- *Evaluate current zoning, historical districts and designations, and existing land use patterns, including underutilized parcels, to ensure that key downtown parcels offer the highest and best use for their location.*

As noted in Section 5 below, the MAC-Town 2032 plan further implements the Comprehensive Plan policies related to the economy. Following adoption of this plan, City staff presented zoning amendments to remove minimum parking requirements from downtown properties to allow new development to maximize the use of downtown parcels. Though not explicitly stated in the plan, allowing redevelopment of the subject site would also allow a key downtown parcel to offer the highest and best use for its location. The permitted height is 80 ft. and a broad range of commercial and residential uses are allowed, which indicates that the subject site was anticipated to be used more intensively in the future.

*Goal 6.2: Become the preferred destination for wine related tourism.*

- *Connect hoteliers and other hospitality professionals in Oregon and elsewhere to local opportunities for high quality additions to McMinnville’s current hospitality offerings.*

The applicant intends to develop a luxury hotel on this site, which expands McMinnville’s current hospitality offerings and addresses this goal.

*Goal 6.4: Market and promote McMinnville.*

- *Work with visit McMinnville and local hoteliers to identify gaps in available conference space and to establish a plan to expand McMinnville’s offerings for small and large conferences.*

Though the hotel is not intended to be a conference hotel, it will provide a meeting room on the ground floor for hotel guests and members of the community. This addresses a gap in the existing offerings in downtown McMinnville.

In addition to moving the MAC-Town 2032 goals forward, the proposed development will significantly expand the assessed value of the site, which will result in additional tax income for the community and additional funding for the urban renewal area.

The hotel and supportive commercial spaces are anticipated to employ 60 community members, and visitors to the hotel will eat in nearby restaurants and shop in nearby stores. Wine enthusiasts are expected to use the Gwendolyn Hotel as a home base for weekend wine tasting trips in the surrounding areas and for visiting local tasting rooms. Though not required, the proposed development includes below-grade vehicular parking spaces for use by hotel guests.

The corner of NE 3<sup>rd</sup> and Ford streets is a key corner of downtown McMinnville. The Gwendolyn will provide additional downtown lodging opportunities for people seeking an urban wine country experience.

**APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022):** As noted in the land use application narrative dated August 6, 2022, the MAC-Town 2032 Economic Development Strategic Plan includes several relevant goals. The application to these goals focused on the potential of the proposed new Gwendolyn Hotel to implement the MAC-Town 2032 Plan.

Per staff's request, these addition responses focus on how the existing buildings could, or could not, implement the Plan.

***Goal 6 : Be a leader in hospitality and place-based tourism***

Goal 6.1: Make downtown the best it can be.

*Evaluate current zoning, historical districts and designations, and existing land use patterns, including underutilized parcels, to ensure that key downtown parcels offer the highest and best use for their location.*

[...]

Following the adoption of the MAC-Town 2032 plan, the City revised its off-street parking and site landscaping requirements to exempt large portions of downtown, allowing more efficient use of the limited area in the downtown core.

Staff does not dispute that the current 1- and 2-story buildings do not represent the highest and best use of the site. The C-3 zone is applied to downtown McMinnville and other commercial areas, and includes a height allowance of 80 ft. The zero setback requirements, off-street parking exemptions, and landscaping exemptions encourage buildings that occupy the entire site. The proposed development will intensify the use of the corner of NE Third and Ford streets and will offer the highest and best use for the site under current zoning regulations.

***Goal 6.2: Become the preferred destination for wine-related tourism.***

[...]

*Connect hoteliers and other hospitality professionals in Oregon and elsewhere to local opportunities for high-quality additions to McMinnville's current hospitality offerings.*

“Hospitality” generally includes housing and entertaining visitors, including lodging, food and drink, and activities. Likewise, “local opportunities” typically refer to available properties with willing sellers.

The proposed development includes hotel, restaurant, and retail uses, as well as a rooftop deck and lap pool. The rooftop space will be available for rent for special events and gatherings, filling an identified need in downtown McMinnville.

The existing buildings are available for sale by willing sellers. They do not currently include hospitality uses and cannot be upgraded to accommodate them without triggering substantial seismic and building code upgrades.

As noted in Attachment 6, upgrading the buildings to add 13 hotel guestrooms would cost almost \$25 million, which is not financially feasible. The building could be converted to a wine tasting or food service use, which would trigger the same seismic and building code upgrades noted above and would provide even less income.

*Goal 6.4: Market and promote McMinnville.*

[...]

*Work with Visit McMinnville and local hoteliers to identify gaps in available conference space and to establish a plan to expand McMinnville’s offerings for small and large conferences.*

The current buildings include small meeting areas to serve the tenants. They do not include conference space or lodging for conference attendees. In order to accommodate conference space, the existing uses would need to be removed or downsized.

**APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022):** The HLC can find that this factor favors demolition for the following reasons.

- As explained in detail in response to OAR 660-023-0200(8)(a), the buildings are listed as contributing to the district primarily due to their dates of construction. All appear to have been constructed (or at least re-constructed) for use as automobile garages and a car dealership and, in the case of the 609 Building, a gas station. The buildings were designed and adapted to this purpose. The buildings have each lost at least half of their historic facades (indeed, the 609 Building has lost its entire original facade), and the upper floors of the 609 and 611 Buildings are unoccupied and have few remaining interior historic finishes. Remaining historic features generally include some window casings on the 609 Building, the parapets on the 611 and 619 Buildings, and some interior features. Otherwise, their remaining characteristics are simply their masses and structural elements. For this reason, their historic value is low after having been substantially compromised prior to establishment of the Downtown Historic District.

There is no evidence that any of these buildings are connected with important historical events. While the 609 Building was built by McMinnville resident Frank W. Fenton, Mr. Fenton was a developer and built several buildings, and there is no evidence that he made personal use of the building for long, if at all. And, this building does not resemble at all its original exterior during the period in which Mr. Fenton might have made use of it. There is also no evidence that these buildings served as community gathering spaces during their periods of historic significance.

Based on the above, the public interest in preservation of these buildings is confined to the fact that they are listed as contributing structures within the Historic District. There are no other factors that reasonably weigh in favor of preservation. On the other hand,

they are not remarkable in relation to the other contributing buildings within the Historic District and they retain very little of their respective historically-relevant features, most of which have been covered with stucco or removed. For all of the above reasons, the HLC can find that the public interest in their preservation is low.

- The buildings will require substantial structural repairs to continue to be used for the limited retail and office uses they have been used for since the establishment of the Historic District. Seismic retrofit of the buildings is unaffordable if their current configuration is maintained, and there is no positive return on investment if they were to be rehabilitated for use as a hotel.
- As explained in the HRA, the primary historical value of these buildings is their location, massing, and roof configuration. Assuming that the buildings' massing must be retained for that reason, no owner will be able to meaningfully intensify their uses. This is a further headwind against any substantial repair or seismic upgrade. Therefore, the economic value of the buildings to the City is represented by their current uses, with a Current Market Value of \$1,250,150 for all three buildings, collectively. Exhibit 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022). This is less than the combined assessed value of the buildings, noted below. Even excluding debt service obligations and tenant improvements, the collective market value of the buildings is only \$2,230,066. On the other hand, the projected market value of the Gwendolyn after construction and occupancy in FY 2025 is roughly \$64M after an investment of approximately \$61 M. Exhibit 10 (The Gwendolyn Financial Pro-Forma, December 15, 2022).

The combined assessed value of all three buildings in 2022 is \$1,793,470; at a combined rate of 16.4925 these collectively generate roughly \$29,500 in annual property tax revenue, with roughly \$10,670 of that amount going to the City of McMinnville. Exhibit 9 (2022 Tax Statements). Assuming a standard rate (non-historic) of 16.5854, property taxes after completion and occupancy of the Gwendolyn in 2025 would be \$327,917. Exhibit 10 (The Gwendolyn Financial Pro-Forma, December 15, 2022).

Construction of the Gwendolyn will be a significant draw to McMinnville's downtown, increasing traffic to businesses within the Historic District. Given that this will increase the value of the other buildings in the Historic District, construction of the hotel is likely not only a benefit to the City from a financial perspective, but also a long-term benefit to the district itself. According to the Nov. 2, 2022 Johnson Economics Report, "[t]he proposed new hotel would provide significant economic value on the site, supporting the ongoing positive investment patterns in downtown McMinnville. Keeping the existing structures would effectively preclude new investment on the site, and result in underutilization of the parcels while yielding no economic return.'

- For the above reasons, the HLC can find that the proposed Gwendolyn Hotel is an "an improvement program of substantial benefit to the City." Preservation of these buildings presents a substantial barrier to this program because these buildings must be removed to allow for construction of the Gwendolyn, because they have little to no economic viability for adaptive re-use, and because their value under their current use case is miniscule compared to the proposed development. It is also worth considering that the value of the buildings is likely to decline even in their current or similar tenancies unless structural repairs are made; as explained above, such repairs are likely not financially rational without a more intensive use case for the buildings, which itself may trigger seismic upgrades.

**FINDING:** The preservation of the buildings would be a deterrent to advancing several goals of the MAC Town 2032 Economic Development Strategic Plan.

**17.65.050(B)(7).** *Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and*

**APPLICANT'S RESPONSE (Original Application):** As noted in the response to 17.65.050.B.2 above, the cost to retain and renovate the existing buildings to current building code, including seismic upgrades, is significant and unlikely to be undertaken by any purchaser of the property. Retention of the buildings as-is will be unsustainable given the asking sale price, and the cost of renovation of the properties for new or different uses will take 40 years to recoup.

**APPLICANT'S RESPONSE (December 15 Application):** The public interest in the resource's preservation is not clearly articulated in any adopted document. However, the HLC can find that the public interest in preservation of these buildings is related to their ability to reflect their historical period of significance. As explained above, these buildings do so to only a limited degree because their facades have been largely replaced. Therefore, the public interest in their preservation should be viewed as reduced as compared to buildings that have not been substantially altered, and such interest is largely a factor of their year of construction.

The public interest in their preservation must necessarily include their ability to serve an economic function to McMinnville's historic Downtown. As explained above, the current economic viability of these buildings and their future prospects are poor. Adaptive re-use is not a realistic option because of the significant structural upgrades that would be required, and re-use of the buildings for the hotel use proposed by the Applicant is not economically feasible.

In view of both of these factors, the public's interest in these buildings' preservation seems limited at best, and low when compared to buildings in the District which have better future economic use prospects or better reflect their original appearance, or both.

The question posed by this criterion was directly evaluated in the Johnson Economics Report (Exhibit 5). This report concludes as follows:

"Keeping the buildings in their current use would negate the requirement to upgrade the structures but would also limit the amount of investment that could be made within triggering the requirement. The buildings have structural deficiencies and obvious deterioration that would need to be addressed prior to re-tenanting in any of the buildings.

Building the hotel above the existing structures would require a complete seismic upgrade of the structures, and new columns to support the hotel would need to penetrate the structures. The cost of this type of structure would be substantially higher than new construction and the resulting development would be significantly less efficient.

As a result of these myriad factors, the retention of the existing structures would cause substantial financial hardship to the owners. Based on our previous experience, the likely cost of the necessary improvements and upgrades would render the cost of space to likely be hundreds of dollars more per square foot than new construction. If the redevelopment was not done and the buildings were kept in their current use without significant upgrades, they would pose a life safety hazard and may not be insurable. The structures are depreciated to a point in which Investments in the structures would be unlikely over time as they would not yield an economic return. As a result the properties would be likely to face an extended period of declining condition and underutilization for the foreseeable future."

This conclusion is consistent with the other information discussed above, which generally demonstrates that the buildings are not likely to generate a meaningful return for Hugh Development with a current or similar tenant mix. This is reflected by the fact that the actual market value when accounting for debt

service is actually less than the assessed value of the property. See Exhibits 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022) and 9 (2022 Tax Statements).

For the above reasons, the HLC can find that retention of the buildings in their current configurations would not just be a financial hardship to the owner, but will likely result in the eventual degradation of the buildings to the point where demolition for safety reasons becomes increasingly likely. These practical headwinds against continued use of the buildings in their current configurations far outweigh the buildings' relative contribution to the objectives of the Historic District, as discussed above, and therefore outweighs the public's interest in preservation.

**FINDING. SATISFIED WITH CONDITION OF APPROVAL #13:** Based on the data provided, the City concurs with the applicant, unless another solution can be provided.

**CONDITION OF APPROVAL #13:** The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives.

**17.65.050(B)(8).** *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.*

**APPLICANT'S RESPONSE (Original Application):** Given the economic and physical benefits of the proposed development, as described elsewhere in this narrative, the HLC can find that the retention of the existing buildings is not in the best interests of a majority of community residents and that redevelopment of the site advances the goals of the community related to the economy, tourism, and energy efficiency. On balance, the proposed development meets or exceeds all relevant policies and regulations.

The architectural and structural team have examined the three buildings extensively, and have listed their deficiencies. See the structural report included as Appendix C. All the alternative means of preservation listed here are possible and acceptable, if directed by the HLC.

As noted previously in this narrative, retaining the buildings in their current state is likely to result in continuing decline in their condition, and renovation of the buildings is cost-prohibitive and will result in a substantial loss for the development team. As noted in the structural report, relocating one or more of these buildings, which technically possible, is extremely complicated and costly and has a high potential for failure due to their construction of unreinforced brick.

**APPLICANT'S RESPONSE (December 15, 2022 Application).** For the above reasons, the HLC can find that the retention of these three buildings would not be in the best interests of the citizens of the City. These reasons can be summarized as follows:

- The buildings do not reflect their appearance or use during their respective periods of significance.
- The building have few remaining residual historic features charactering the Historic District, aside from their masses, structural frames, and roof lines.
- The buildings have limited value under current uses.



- Current or similar uses are probably unable to generate sufficient value to repair the buildings.
- Adaptive re-use would require seismic upgrades and the buildings cannot be economically used for hospitality.

On the other hand, the economic opportunity for the Historic District presented by the proposed Gwendolyn Hotel far outweighs the limited benefits of building preservation, as discussed above.

Historic features identified by the HRA, such as belt courses and cornices, are emulated by the proposed architectural design of the Gwendolyn. Any moveable historic features of these buildings, such as windows, can be incorporated into the proposed building. The remaining characteristics of the buildings—their massing and roof line—can be easily documented with photographs.

For these reasons, the HLC can find that on balance, retention of these buildings would not be in the best interest of the City's citizens when weighed against the benefits of the proposed Gwendolyn Hotel.

**FINDING. SATISFIED WITH CONDITIONS OF APPROVAL #14 and #15:** The City concurs with the applicant's findings.

**CONDITION OF APPROVAL #14:** Prior to demolition the applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection.

**CONDITION OF APPROVAL #15:** Prior to demolition the applicant will provide the City with an archaeological plan describing how the applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (Comprehensive Plan Goal III 2 – Historic Preservation)

#### **17.65.070 Public Notice.**

- After the adoption of the initial inventory, all new additions, deletions, or changes to the inventory shall comply with subsection (c) of this section.*
- Any Historic Landmark Committee review of a Certificate of Approval application for a historic resource or landmark shall comply with subsection (c) of this section.*
- Prior to the meeting, owners of property located within 300 feet of the historic resource under consideration shall be notified of the time and place of the Historic Landmarks Committee meeting and the purpose of the meeting. If reasonable effort has been made to notify an owner, failure of the owner to receive notice shall not impair the validity of the proceedings*

**APPLICANT'S RESPONSE:** None.

**FINDING: SATISFIED.** Notice of the Historic Landmarks Committee's consideration of the Certificate of Approval application was mailed to property owners located within 300 feet of the historic resource. A copy of the written notice provided to property owners is on file with the Planning Department.

#### **17.72.020 Application Submittal Requirements.**

*Applications shall be filed on forms provided by the Planning Department and shall be accompanied by the following:*

- A scalable site plan of the property for which action is requested. The site plan shall show existing and proposed features, such as access, lot and street lines with dimensions in feet, distances from property lines, existing and proposed buildings and significant features (slope, vegetation, adjacent development, drainage etc.)*

- B. *An explanation of intent, nature and proposed use of the development, and any pertinent background information.*
- C. *Property description and assessor map parcel numbers(s).*
- D. *A legal description of the property when necessary.*
- E. *Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.*
- F. *Materials required by other sections of the McMinnville Zoning Ordinance specific to the land use application.*
- G. *Other materials deemed necessary by the Planning Director to illustrate compliance with applicable review criteria, or to explain the details of the requested land use action.*

**APPLICANT'S RESPONSE:** This submittal includes the required materials.

**FINDING: SATISFIED.**

**17.72.095 Neighborhood Meetings.**

- A. *A neighborhood meeting shall be required for:*
  - 1. *All applications that require a public hearing as described in Section 17.72.120, except that neighborhood meetings are not required for the following applications:*
    - a. *Comprehensive plan text amendment; or*
    - b. *Zoning ordinance text amendment; or*
    - c. *Appeal of a Planning Director's decision; or*
    - d. *Application with Director's decision for which a public hearing is requested.*
  - 2. *Tentative Subdivisions (up to 10 lots)*
  - 3. *Short Term Rental*
- B. *Schedule of Meeting.*
  - 1. *The applicant is required to hold one neighborhood meeting prior to submitting a land use application for a specific site. Additional meetings may be held at the applicant's discretion.*
  - 2. *Land use applications shall be submitted to the City within 180 calendar days of the neighborhood meeting. If an application is not submitted in this time frame, the applicant shall be required to hold a new neighborhood meeting.*
- C. *Meeting Location and Time.*
  - 1. *Neighborhood meetings shall be held at a location within the city limits of the City of McMinnville.*
  - 2. *The meeting shall be held at a location that is open to the public and must be ADA accessible.*
  - 3. *An 8 ½ x 11" sign shall be posted at the entry of the building before the meeting. The sign will announce the meeting, state that the meeting is open to the public and that interested persons are invited to attend.*
  - 4. *The starting time for the meeting shall be limited to weekday evenings between the hours of 6 pm and 8 pm or Saturdays between the hours of 10 am and 4 pm. Neighborhood meetings shall not be held on national holidays. If no one arrives within 30 minutes after the scheduled starting time for the neighborhood meeting, the applicant may leave.*
- D. *Mailed Notice.*
  - 1. *The applicant shall mail written notice of the neighborhood meeting to surrounding property owners. The notices shall be mailed to property owners within certain distances of the exterior boundary of the subject property. The notification distances shall be the same as the distances used for the property owner notices for the specific land use application that will eventually be applied for, as described in Section 17.72.110 and Section 17.72.120.*
  - 2. *Notice shall be mailed not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.*
  - 3. *An official list for the mailed notice may be obtained from the City of McMinnville for an applicable fee and within 5 business days. A mailing list may also be obtained from other sources such as a title company, provided that the list shall be based on the most recent tax assessment rolls of the Yamhill County Department of Assessment and Taxation. A mailing list is valid for use up to 45 calendar days from the date the mailing list was generated.*

4. *The mailed notice shall:*
    - a. *State the date, time and location of the neighborhood meeting and invite people for a conversation on the proposal.*
    - b. *Briefly describe the nature of the proposal (i.e., approximate number of lots or units, housing types, approximate building dimensions and heights, and proposed land use request).*
    - c. *Include a copy of the tax map or a GIS map that clearly identifies the location of the proposed development.*
    - d. *Include a conceptual site plan.*
  5. *The City of McMinnville Planning Department shall be included as a recipient of the mailed notice of the neighborhood meeting.*
  6. *Failure of a property owner to receive mailed notice shall not invalidate the neighborhood meeting proceedings.*
- E. Posted Notice.**
1. *The applicant shall also provide notice of the meeting by posting one 18 x 24" waterproof sign on each frontage of the subject property not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.*
  2. *The sign(s) shall be posted within 20 feet of the adjacent right-of-way and must be easily viewable and readable from the right-of-way.*
  3. *It is the applicant's responsibility to post the sign, to ensure that the sign remains posted until the meeting, and to remove it following the meeting.*
  4. *If the posted sign is inadvertently removed (i.e., by weather, vandals, etc.), that shall not invalidate the neighborhood meeting proceedings.*
- F. Meeting Agenda.**
1. *The overall format of the neighborhood meeting shall be at the discretion of the applicant.*
  2. *At a minimum, the applicant shall include the following components in the neighborhood meeting agenda:*
    - a. *An opportunity for attendees to view the conceptual site plan;*
    - b. *A description of the major elements of the proposal. Depending on the type and scale of the particular application, the applicant should be prepared to discuss proposed land uses and densities, proposed building size and height, proposed access and parking, and proposed landscaping, buffering, and/or protection of natural resources;*
    - c. *An opportunity for attendees to speak at the meeting and ask questions of the applicant. The applicant shall allow attendees to identify any issues that they believe should be addressed.*
- G. Evidence of Compliance.** *In order for a land use application that requires a neighborhood meeting to be deemed complete, the following evidence shall be submitted with the land use application:*
1. *A copy of the meeting notice mailed to surrounding property owners;*
  2. *A copy of the mailing list used to send the meeting notices;*
  3. *One photograph for each waterproof sign posted on the subject site, taken from the adjacent right-of-way;*
  4. *One 8 ½ x 11" copy of the materials presented by the applicant at the neighborhood meeting; and*
  5. *Notes of the meeting, which shall include:*
    - a. *Meeting date;*
    - b. *Meeting time and location;*
    - c. *The names and addresses of those attending;*
    - d. *A summary of oral and written comments received; and*
    - e. *A summary of any revisions made to the proposal based on comments received at the meeting. (Ord. 5047, §2, 2018, Ord. 5045 §2, 2017).*

**APPLICANT'S RESPONSE:** A virtual neighborhood meeting was held on April 25, 2022. The appropriate procedures were followed and the materials detailed in G above are included as Appendix A.

**FINDING: SATISFIED.**



Community Development Department  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS OF THE MCMINNVILLE PLANNING COMMISSION FOR THE APPROVAL OF A NEW BUILDING AT 609, 611 AND 619 NE THIRD STREET WITHIN THE DOWNTOWN DESIGN AREA. THIS IS A RULING IN FAVOR OF THE APPELLANT IN THE APPEAL OF THE HISTORIC LANDMARKS COMMITTEE’S DENIAL OF THIS LAND-USE APPLICATION.**

**DOCKET:** AP 4 – 23 (Appeal of DDR 2-22 Downtown Design Review)

**REQUEST:** Appeal of the Historic Landmarks Committee decision to deny the applicant’s request for the approval of the exterior design of a proposed new five-story hotel with ground floor commercial, and an underground parking garage and an active roof deck, to be constructed on a property located within the Downtown Design Overlay District

**LOCATION AND PROPERTY OWNER:** 609 NE Third Street. Tax Lot R4421BC04500  
Property Owner, Jon Bladine, Oregon Lithoprint, Inc.

611 NE Third Street, Tax Lot R4421BC04300  
Property Owner, Jon Bladine, Bladine Family Limited Partnership

619 NE Third Street, Tax Lot R4421BC04201  
Property Owner, Phillip Frischmuth, Wild Haven, LLC

**ZONING:** C-3 General Commercial (Downtown Overlay District)

**APPLICANT:** Mark Vuong, HD McMinnville LLC

**STAFF:** Heather Richards, Community Development Director

**DATE DEEMED COMPLETE:** September 7, 2022

**HEARINGS BODY & ACTION:** McMinnville Planning Commission

**HEARING DATE & LOCATION:** March 2, 6:30 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853

Hearing continued to March 16, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853

**HEARINGS BODY****& ACTION:** McMinnville Historic Landmarks Committee**HEARING DATE****& LOCATION:** September 29, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 859 9565 0539, Meeting Password: 661305

Hearing continued to December 8, 2022, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 892 5565 1124, Meeting Password: 257277

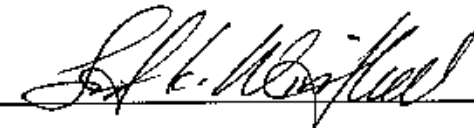
Hearing continued to January 5, 2023, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 831 7965 5545, Meeting Password: 725658

Meeting continued to January 26, 4:00 PM for Historic Landmarks Committee deliberation, a decision and adoption of written findings. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 885 9559 0268, Meeting Password: 925948.

**PROCEDURE:** An application for a Downtown Design Review is processed in accordance with the procedures in Section 17.59.030(A) of the McMinnville Municipal Code.**CRITERIA:** The applicable criteria for a Downtown Design Review are specified in Section 17.59.040 of the McMinnville Municipal Code. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.**APPEAL:** As specified in Section 17.59.030(E) of the McMinnville Municipal Code, the Historic Landmarks Committee's decision may be appealed to the Planning Commission within fifteen (15) days of the date written notice of decision is mailed, and according to Section 17.72.180 of the McMinnville Municipal Code, the Planning Commission decision may be appealed to the City Council within fifteen (15) days of the date written notice of decision is mailed. The City's final decision is subject to a 120 day processing timeline, including resolution of any local appeal. The 120-day deadline is January 5, 2023. Per an email dated September 29, 2022 from Garrett H. Stephenson, the applicant requested a 70-day extension to the 120 day decision deadline. The 190-day deadline is March 16, 2023. Per an email dated December 1, 2022 from Garrett H. Stephenson, the applicant requested an additional 30-day extension for a total of 100 days added to the 120 day decision deadline. The 220 day deadline is April 15, 2023. Per an email from Garrett H. Stephenson, the applicant requested an additional 24 day extension to May 9, 2023.**COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Comcast; Northwest Natural Gas; and Oregon Department of Transportation. Their comments are provided in this document.

Based on the findings and conclusionary findings, the Planning Commissions finds in favor of the applicant that the applicable criteria are **SATISFIED** and **APPROVES WITH CONDITIONS** the application for compliance with Downtown Design Standards and Guidelines of the Gwendolyn Hotel, DDR 2-22.

////////////////////////////////////  
**APPROVAL WITH CONDITIONS**  
////////////////////////////////////

Planning Commission:   
Sidonie Winfield, Chair

Date: 3/18/23

Planning Department:   
Heather Richards, Community Development Director

Date: 3/19/23

**I. SUMMARY:**

**APPEAL:** The applicant is appealing the decision of the Historic Landmarks Committee to deny their request for the review of the new construction project, Gwendolyn Hotel, for compliance with the Downtown Design Standards and Guidelines.

In their notice of appeal dated February 10, 2023, the applicant asserted that their application met the applicable criteria and that the Historic Landmarks Committee unreasonably or incorrectly interpreted and applied the McMinnville Zoning Ordinance, failed to issue adequate findings, and failed to reasonably weigh the evidence in the record such that its decision is not substantially supported by the evidence in the record.

Per the McMinnville Municipal Code, an appeal of the Historic Landmarks Committee is noticed as a de novo public hearing of the Planning Commission. The Planning Commission opened a public hearing on March 2, 2023, continued it to March 16, 2023, closed the public hearing and the public record, and voted to adopt these findings in support of the applicant's land-use application with the amended conditions of approval entered into the record by city staff at the January 5, 2023, public hearing with the Historic Landmarks Committee.

**APPLICATION:** The applicant has provided information in their application narrative and findings (attached as Attachment 1) regarding the history of the subject site(s) and the request(s) under consideration. Staff has found the information provided to accurately reflect the current land use request, and excerpted portions are provided below to give context to the request, in addition to the City's findings.

***Proposed Project***

Below is an excerpt from the application describing the proposed improvement program. The applicant would like to demolish the structures at 609, 611 and 619 NE Third Street and redevelop the property with a mixed-use hotel project that includes ground floor commercial amenities and dedicated underground parking for the project.

*Within the last year, the properties at 609, 611, and 619 NE 3rd Street were listed for sale by the Bladine family and Wild Haven LLC. After analyzing the opportunity and studying both the history and potential of downtown McMinnville, the applicant saw an opportunity to greatly enhance both the economic and experiential vitality of 3rd Street.*

*McMinnville is in an early stage of responding to its goal of being the Willamette Valley's leader in hospitality and place-based tourism. The most recent renovation and redevelopment on the south side of 3rd Street, with new lodging, dining, and wine tasting, has been encouraging. However, the same opportunity for renovation for hospitality, commercial, and retail uses is not available to the subject buildings. As noted in the structural analysis included as Appendix C, changing the occupancy of these buildings from office to commercial, retail, or hospitality is likely to trigger significant seismic upgrades.*

*The applicant has indicated that this cost to fully renovate the buildings would be approximately \$12,025,000 inclusive of land cost, soft costs, and hard costs. Tenant improvements would cost an additional \$35 per sq. ft. for a total project cost of \$12,806,200. The achievable rents would be \$25 per sq. ft., with approximately 22,320 sq. ft. of rentable area, or \$558,000 effective gross income per year. Operating expenses are assumed at 38 percent of gross income, along with mortgage loan interest. The net operating income (NOI) including debt service would be (\$111,861) a year, or a loss of \$111,861 each year.*

*In this scenario, it would take the project approximately 40 years to recoup the initial rehabilitation cost and start making a profit. This would be unable to receive funding from a bank or investor and therefore is highly unlikely, if not impossible.*

*The proposal is to replace the three underutilized buildings at 609, 611, and 619 NE 3<sup>rd</sup> Street with a 90-95 room boutique hotel. The ground floor will include the hotel lobby, a signature*



restaurant at the corner of 3rd and Ford streets, with seasonal sidewalk dining, and small retail shop(s). The entire rooftop will be a mix of public uses, anchored by a small restaurant/bar opening onto a large terrace of seating and raised-bed landscaping. Though parking is not required in this location, a below-grade parking garage accommodating 67 parking stalls is proposed. The garage ramp will be at the north end of the property, mid-block on Ford Street, to avoid interrupting the 3<sup>rd</sup> Street pedestrian experience.

(Application Narrative, page 3)

**Subject Property & Request**

The subject property is located at 609, 611 and 619 NE Third Street. The property is identified as Tax Lots 4500, 4300, and 4201, Section 21BC, T. 4 S., R. 4 W., W.M.

The site is at the northeast corner of NE 3<sup>rd</sup> Street and NE Ford Street and consists of three buildings: two tax lots addressed as 609 NE 3<sup>rd</sup> Street and 619 NE 3<sup>rd</sup> Street, and the southern portion of the tax lot addressed as 611 NE 3<sup>rd</sup> Street. All three tax lots are currently developed with buildings.

The property to the east of the development site, the Kaos Building at 645 NE 3<sup>rd</sup> Street, is developed with restaurant and other commercial uses. The sites south of NE 3<sup>rd</sup> Street are developed with a variety of commercial uses. The Tributary Hotel is on the southeast corner of NE 3<sup>rd</sup> Street and NE Ford Street. The site to the northwest is in use as a surface parking lot; the site north of 611 NE 3<sup>rd</sup> Street is the location of The Bindery event space.

See Vicinity Map and Proposed Site Plan (Figure 1 and Figure 2) below, which identifies the approximate location of the development site in question.

**Figure 1. Vicinity Map (Approximate Development Site)**

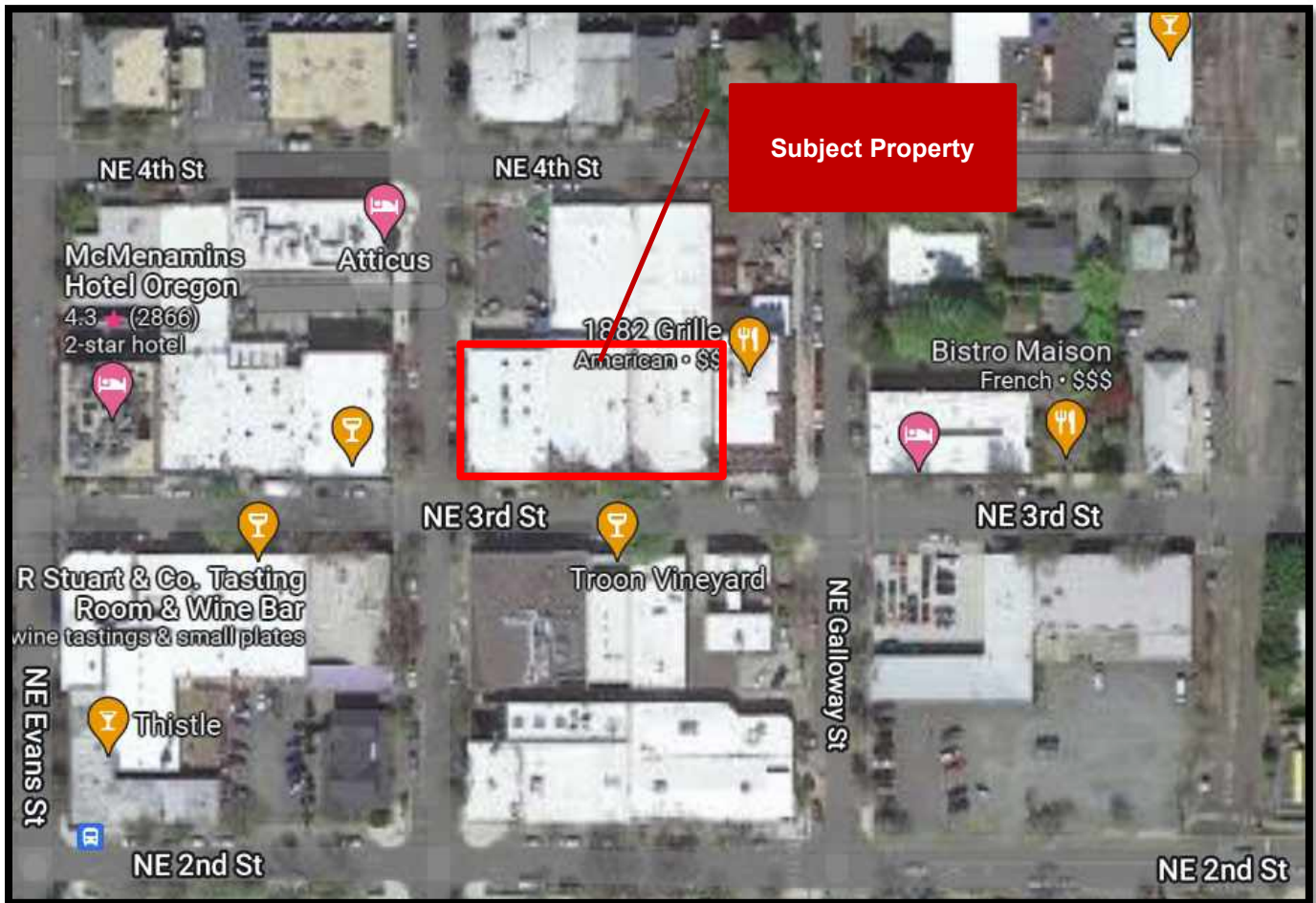
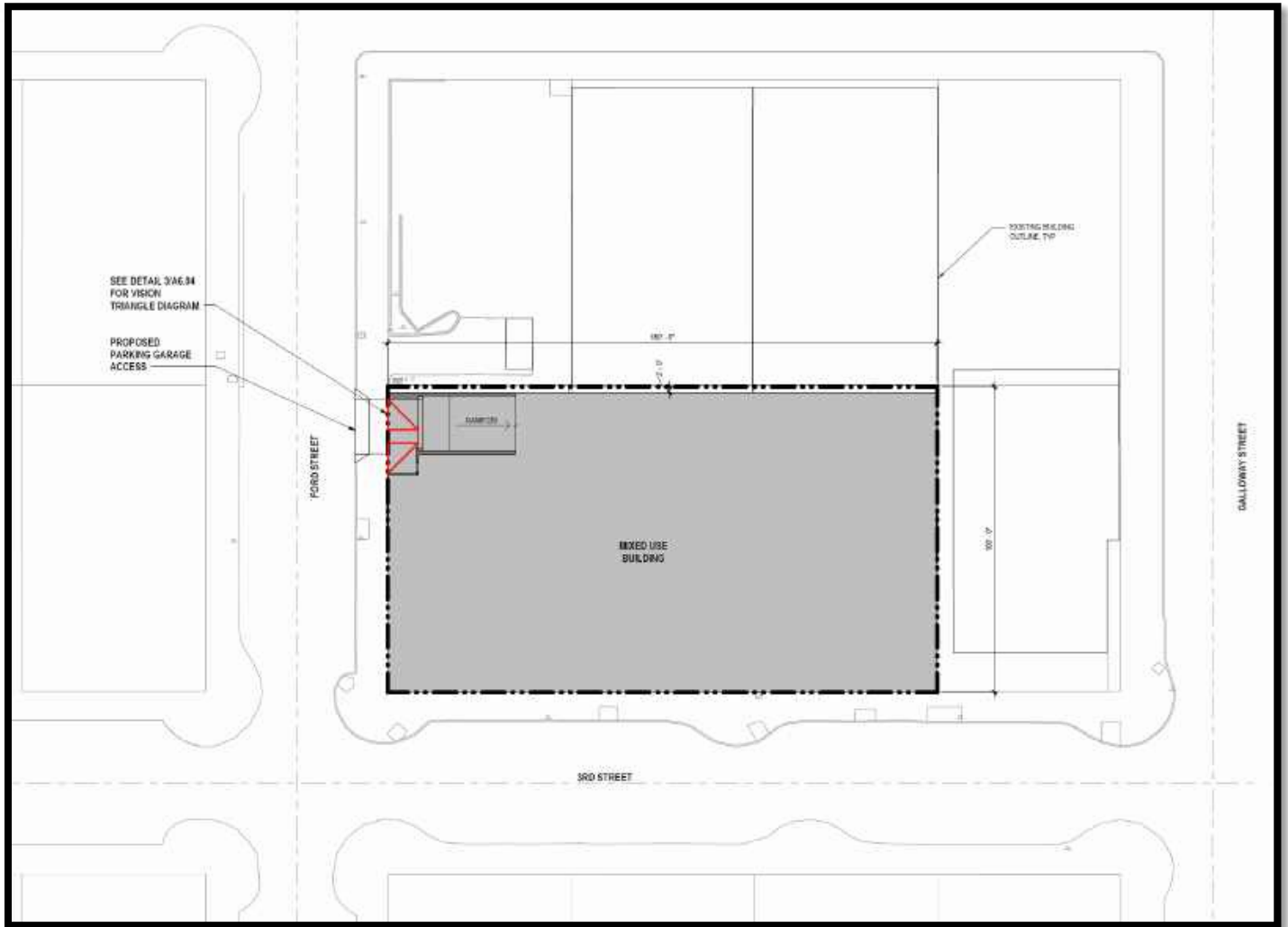
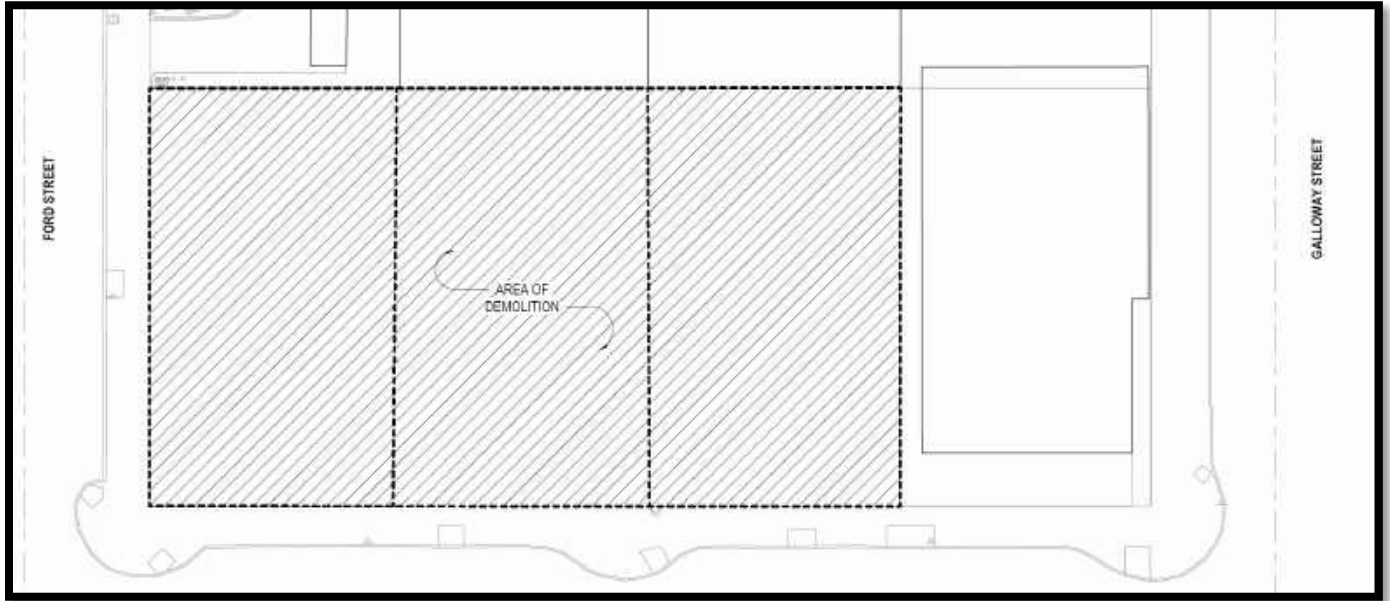


Figure 2. Proposed Site Plan



There are currently three structures on the properties. Each structure is listed on the McMinnville Historic Resources Inventory and is a contributing property to the Downtown McMinnville National Register of Historic Places District. The applicant has requested the consideration of three Certificates of Approval for the demolition of the structures at 609, 611 and 619 NE Third Street concurrently with this application. This application is contingent upon the successful approval of those applications, HL 6-22 (609 NE Third Street), HL 7-22 (611 NE Third Street) and HL 8-22 (619 NE Third Street). **Please see Figure 3 below.**

**Figure 3, Demolition Site and Historic Resources to be Demolished**



The proposed project is a five-story building with ground floor commercial and retail space, four floors of hotel rooms (90-95 rooms), a roof-top deck and an underground parking structure (67 parking stalls). The building has a series of setbacks designed into the different floors to reduce height impact. The tallest point of the building is in the northeast corner where the elevator shaft is located for a total height of 81 feet. The total width of the building is 180 feet on the ground floor and 98 feet in depth on the ground floor. ***Please see Figures 4 and 5 for exterior elevation renderings and series of floor plans.***



**Figure 4, Exterior Elevation Renderings**



**West Elevation Rendering**



**South Elevation Rendering**



**East Elevation Rendering**



**North Elevation Rendering**



**ENLARGED PARTIAL ELEVATION - 3RD STREET**

SCALE: 3/16" = 1'-0"

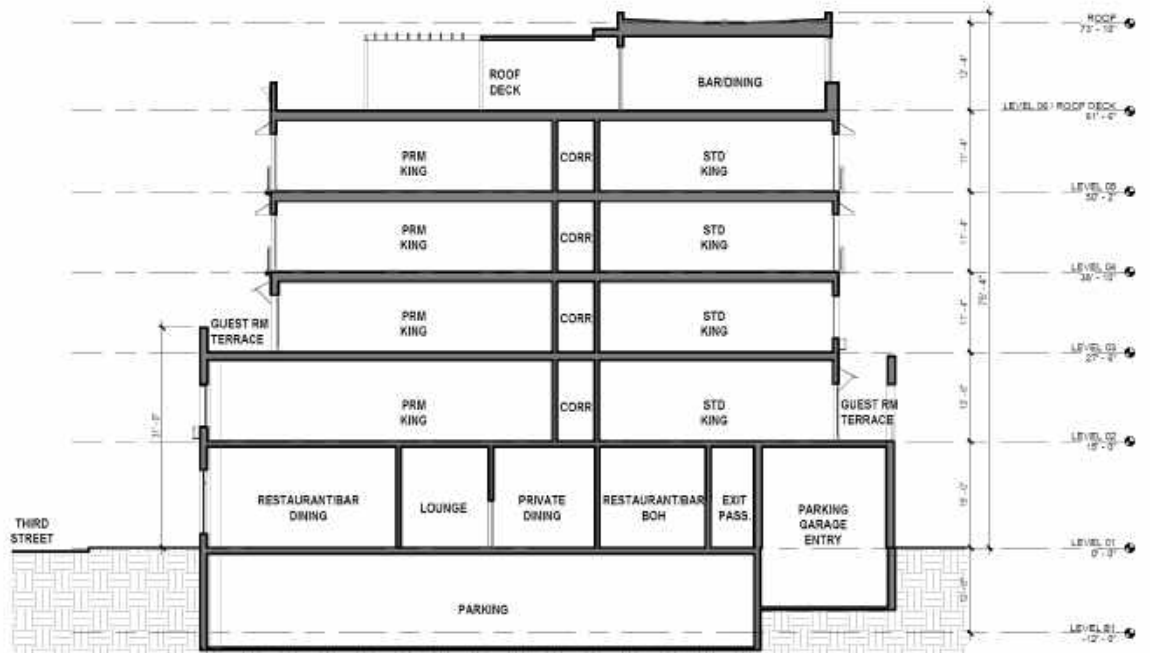


**AXONOMETRIC - CORNER OF 3RD AND FORD**



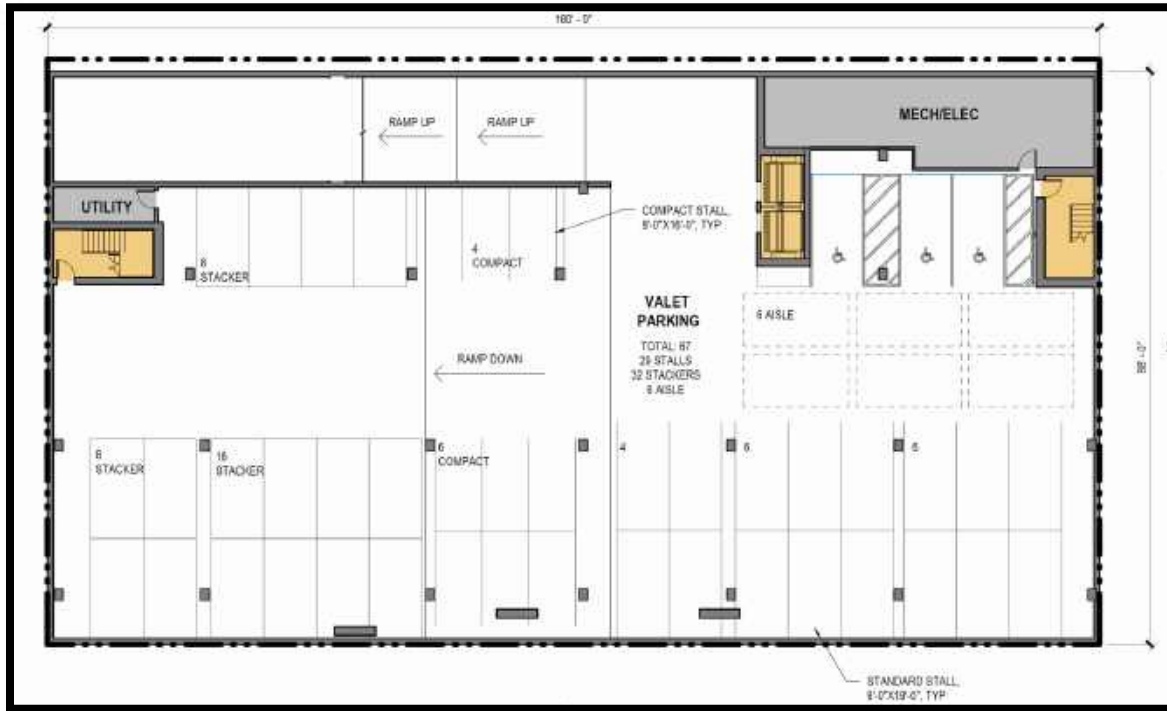


East – West Section

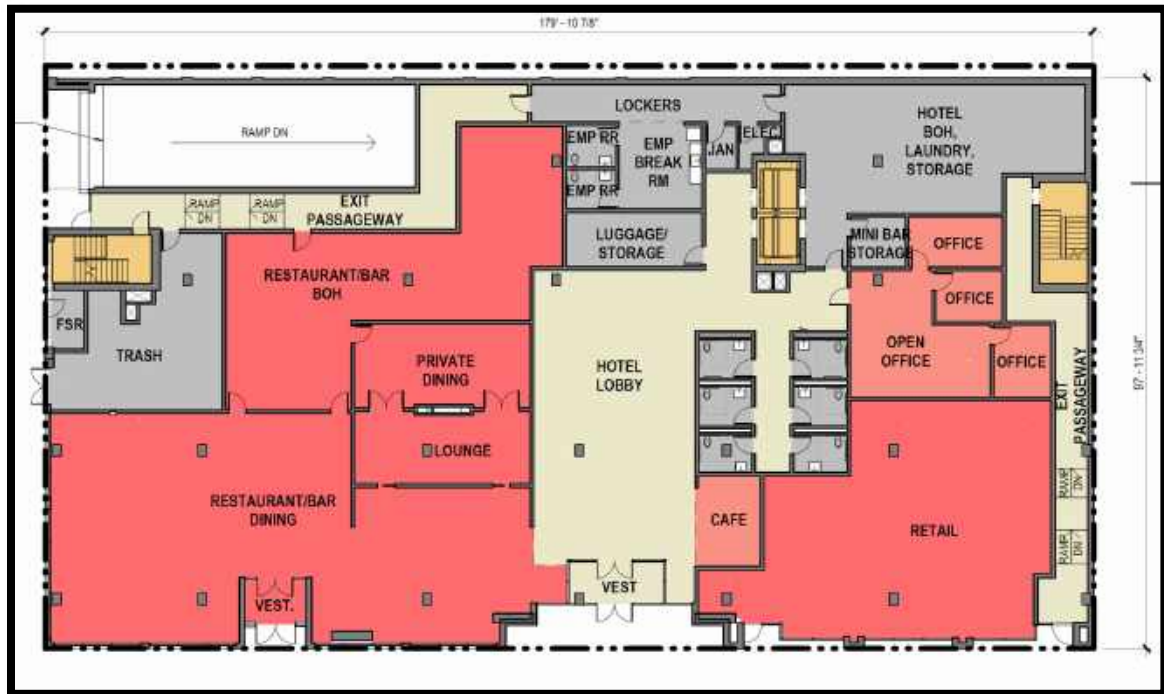


North – South Section

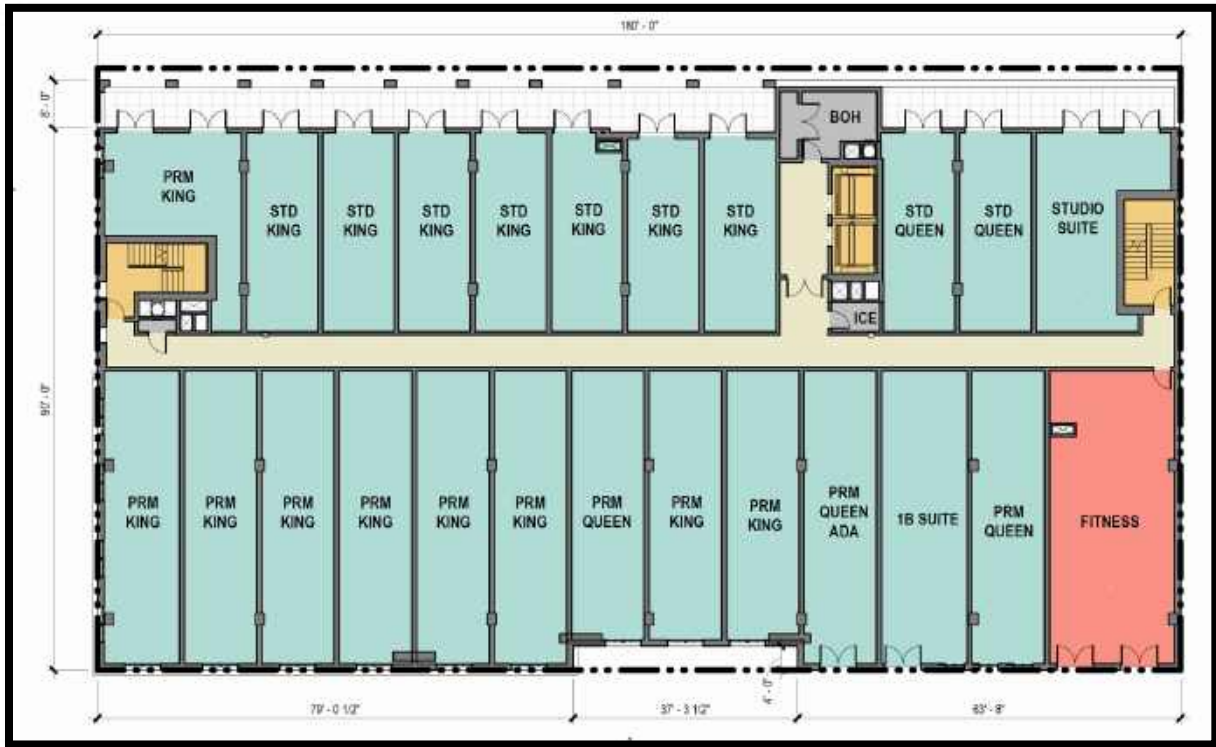
Figure 5, Series of Floor Plans



Basement – Underground Parking Structure



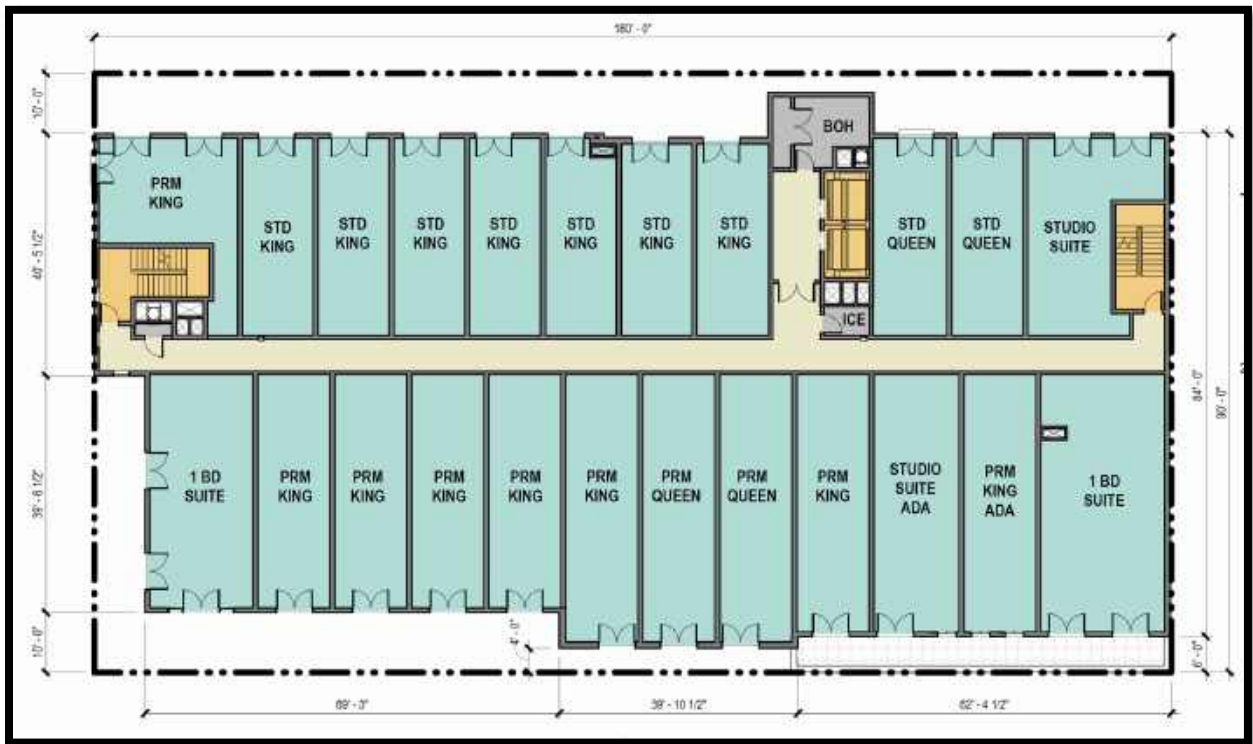
Ground Floor – Restaurant, Retail, Hotel Lobby



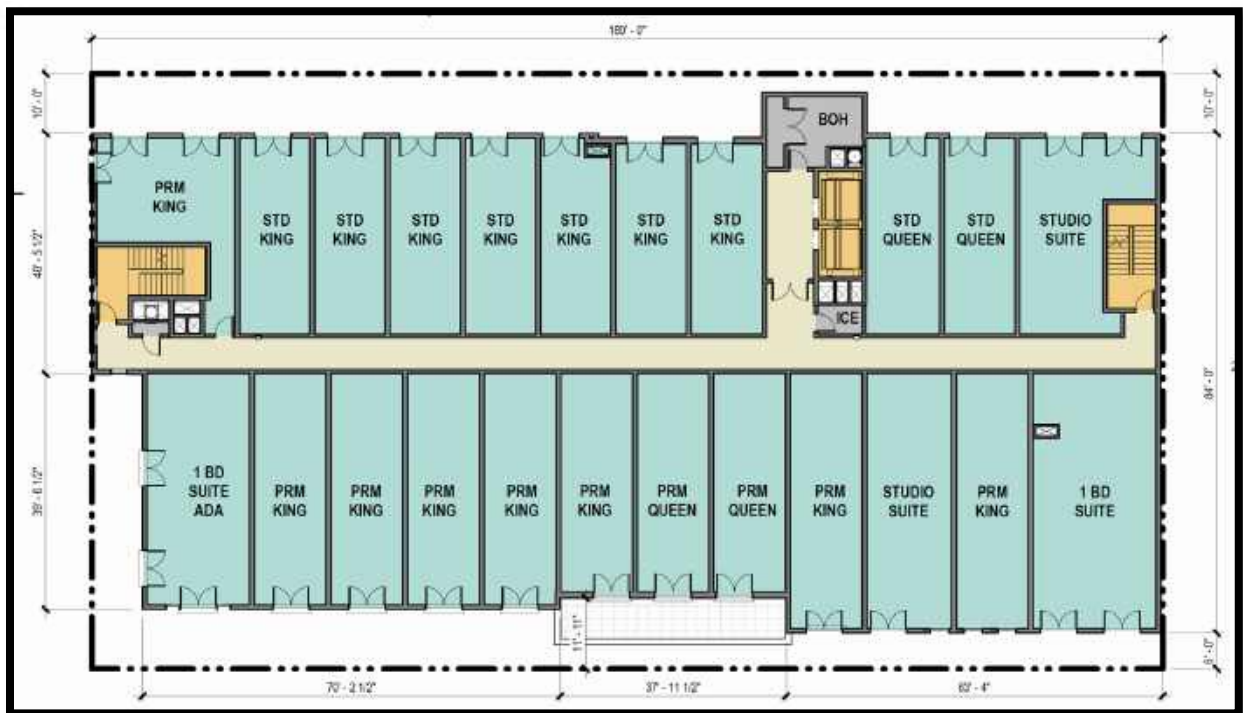
**Second Floor – Hotel Rooms**



**Third Floor – Hotel Rooms**



**Fourth Floor – Hotel Rooms**



**Fifth Floor – Hotel Rooms**



**Roof Deck with Pool, Spa and Dining**

### **Summary of Criteria & Issues**

This Downtown Design Review request was submitted for review concurrently with three other land use applications, as allowed by Section 17.72.070 of the MMC. The requested new construction is being reviewed concurrently with a Certificate of Approval for Demolition of a historic resource at 609, 611, and 619 NE Third Street. The Downtown Design Review request is being reviewed following the review and decision on the three Certificates of Approval for Demolition and is contingent upon those applications being approved.

The application (DDR 2-22) is subject to review criteria in Sections 17.33, 17.57, 17.59 and 17.60 of the McMinnville Municipal Code. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

The applicant has provided findings to support the request for a Downtown Design Review approval. These will be discussed in detail in Section VII (Conclusionary Findings) below.

### **II. CONDITIONS:**

1. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
2. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. . (Comprehensive Plan Policy 8.00)
3. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water



quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)

4. The Applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the Applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)
5. The Applicant shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be borne by the developer. The developer will be responsible for any necessary improvements identified by the capacity analysis. (Comprehensive Plan Policy #25.00)
6. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance. (Comprehensive Plan Policy #33.00)
7. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance. (Comprehensive Plan Policy #33.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)
10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy #151.00)
11. That the Applicant shall include window details in the construction plans submitted for building permit review that depict how all of the windows on the building will be recessed. (McMinnville Municipal Code, 17.59.050(B)(6))
12. That the Applicant shall provide samples or examples of the exterior building colors to the Planning Department for review and approval by the Planning Director prior to application on the building. (McMinnville Municipal Code, 17.59.050(C)(3))
13. The Applicant will need to submit a sign permit for review and approval prior to the application of any signs to the project. (McMinnville Municipal Code, 17.59.080)
14. Per the Applicant's narrative, all three properties will need to be consolidated into one property prior to building permit issuance.
15. Per the Applicant's testimony at the March 16, 2023, Planning Commission public hearing, the Applicant will need to memorialize the automobile heritage of this site with appropriate public art, murals, rooms named for historic McMinnville families and businesses as appropriate, and salvaging of the historic brick and interior materials as much as possible to be incorporated into the new project design.

**III. ATTACHMENTS (On file with the Planning Department):****Planning Commission Appeal Application Materials Plus Supplemental Materials**

## ❖ AP 4-24 (Appeal of DDR 2-22 Decision) Application and Attachments

## Original Submittal (February 10, 2023)

- Application Form
- Notice of Appeal
- Exhibit 1 – Notice of Historic Landmarks Committee Decision, January 27, 2023
- Exhibit 2 – Staff Draft Decision Documents for HL 6-22, HL 7-22, HL 8-22 and DDR 2-22, dated January 5, 2023

## Supplemental Submittal (February 27, 2023)

- Letter from Schwabe, Williamson and Wyatt, February 27, 2023
- Exhibit 1 – Applicant’s Response from Schwabe Williamson and Wyatt, December 15, 2022
- Exhibit 2 – Historic Landmarks Committee Staff Report, January 5, 2023, and attached draft decision documents for HL 6-22, HL 7-22, HL 8-22, DDR 2-22

## Supplemental Submittal (March 9, 2023)

- Memorandum, Otak, March 9, 2023
- Practice Hospitality – Wage Breakdown
- Historic Resources Assessment

## Supplemental Submittal (March 13, 2023)

- Financial Models – Hotel with Seismic (Base Case), Hotel with Seismic (Highest Case) and Office without Seismic

## ❖ Public Testimony

**Historic Landmarks Committee Application Materials Plus Supplemental Materials**

## ❖ DDR 2-22 Application and Attachments

## Original Submittal (August 9, 2022)

- Application Form
- Application Narrative
- Project Structural Analysis
- Project Site Plan and Concept Drawings
- Traffic Impact Analysis
- Memorandum
- Neighborhood Meeting Materials

## Supplemental Submittal (November 4, 2022)

- Architectural Plans
- DDR 2-22 OTAK Approvability Memorandum
- Contaminated Media Management Plan (October 13, 2022)
- Traffic Impact Analysis Addendum



## Supplemental Submittal (December 15, 2022)

- Letter to City with Additional Findings
- Additional Findings (Exhibits 1 – 3)
- Additional Findings (Exhibits 4 – 10)

## Supplemental Submittal (December 19, 2022)

- Supplemental Findings, DDR 2-22

- ❖ Department/Agency Comments
- ❖ Public Testimony

**IV. COMMENTS:****Agency Comments**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas and Oregon Department of Transportation. The following comments were received:

**McMinnville Engineering Department*****TRANSPORTATION***

Comments and/or conditions of approval related to transportation include:

1. ADA Sidewalk and Driveway Standards are now being applied to all new construction and remodels. These standards are intended to meet the current ADA Standards as shown in the "PROWAG" Design Guidelines. The standards can be found at the following webpage: <https://www.access-board.gov/files/prowag/PROW-SUP-SNPRM-2013.pdf> prior to final occupancy, the applicant shall construct new driveways and sidewalks in the right-of way that conform to these standards.
2. Study shows that queue lengths exceed storage length at the eastbound thru and westbound all of 2<sup>nd</sup> St at Baker St. Queue lengths also exceed storage lengths at the westbound thru and southbound left at the intersection of Johnson St/Lafayette St & 3<sup>rd</sup> St.

***SANITARY SEWER***

Comments and/or conditions of approval related to sanitary sewer service include:

1. The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rain water into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance.
2. Sewer Capacity may be an issue with the change of use of the property, the developer shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be born by the developer.

***MISCELLANEOUS***

Additional comments and/or suggested conditions of approval:

1. In the narrative, Part 4. B. Chapter 17.54.050 Yards part F. Response (Page 23) – 3<sup>rd</sup> St is listed as a Local Street. It is a Major Collector, please change to reflect the correct street classification.
2. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance.
3. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance.
4. The engineering department will need to review building permit submittals that show in detail items that could be missing in the applications provided. These reviews will be prior to any issuance of building permits.
5. The Contaminated Media Management Plan dated July 20, 2022 is not included in this application. This is a key point of discussion and should be included in the application.
6. CPP (Comprehensive Plan Policy): 2.00 “The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.”
  - a. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city’s right of ways.
7. CPP 8.00 “The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.”
  - a. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City’s Right of Way and downstream users and properties.
8. CPP 132.40.05 Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:
  - a. Improvement of on-site transportation facilities,
  - b. Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards.
9. The Applicant shall demonstrate its demolition, excavation and onsite construction activities do not create safety concerns related to the DEQ LUST matter and its site and known polluted soil and water. Additionally, the Applicant shall demonstrate how its demolition and construction activities will improve the use of the city’s off-site transportation facility, including but not limited to underground facility uses.
10. CPP 132.46.00 Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010).
  - a. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.
11. CPP 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through

requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.

- a. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.

12. CPP 151.00 The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:

- a. Federal, state, and local water and waste water quality standards can be adhered to.
- b. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.

### McMinnville Building Department

No building code concerns. Analysis of IEBC appears to be accurate and based on Oregon adopted code.

### McMinnville Water and Light

Water: Please contact MW&L to turn off water meters and disconnect customer side of the meter – A16972894, C47575190 & A16972900 prior to demolition of property.

Power: Please contact MW&L to coordinate the removal of existing electric services prior to demolition. The Bindery Event space does not appear to have a dedicated electric service. There will need to be a provision for re-serving the Bindery Event Space with electricity during demolition.

## **Public Comments**

### Planning Commission Appeal

Notice of this appeal was mailed on February 9, 2023 to property owners located within 300 feet of the subject site and all participants in the Historic Landmarks Committee public hearing who provided contact information for the public record, and notice of the public hearing was published in the News Register on Tuesday, February 21, 2023. The following testimony was received by the Planning Department or provided at the public hearings on March 2 and March 16, 2023.

- Letter from Oregon Restaurant and Lodging Association, 02.17.23
- Email from Phyllice Bradner, 02.20.23
- Letter from Ernie Munch, MAP Architecture, 02.21.23
- Letter from Nathan Coopriider, 02.21.23
- Email from Marilyn Kosel, 02.22.23
- Email from Daniel Kiser, 02.25.23
- Email from Jenny Wilson, 02.26.23
- Email from Alex Sokol Blosser, 02.27.23
- Email from Janice Weiser, 02.27.23
- Letter from Katherine Huit, 02.27.23
- Email from Beth Caster, 02.28.23
- Email from Karen Milton, 02.28.23
- Email from Marie Fruga, 02.28.23

- Email from Carol Paddock, 03.01.23
- Email from Margaret Cross, 03.01.23
- Letter from Restore Oregon, 03.01.23
- Letter from Peter Kircher, 03.02.23
- Presentation at March 2, 2023 Public Hearing, Daniel Kiser
- Testimony Handout at March 2, 2023 Public Hearing, Ernie Munch
- Testimony Handout at March 2, 2023 Public Hearing, Jeb Bladine
- Testimony Handout at March 2, 2023 Public Hearing, Nathan Coopridner
- Email from Susan Marrant, 03.06.23
- Letter from Mike Colvin, 03.10.23
- Email from Jeb Bladine, 03.12.23
- Letter from Brian Libby, 03.13.23
- Carole Ray, 03.13.23
- Email from Frank Lisciandro, 03.13.23
- Email from Marie Frugia, 03.13.23
- Email from Mike Goins, 03.13.23
- Email from Carol Paddock, 03.14.23
- Email from Loretta Johnson, 03.14.23
- Email from Carol Paddock, 03.15.23
- Letter from Nathan Coopridner, 03.15.23
- Letter from Ernie Munch, 03.15.23
- Letter from Katherine Huit, 03.15.23
- Letter from Ilsa Perse, 03.15.23
- Letter from Marilyn Kosel, 03.15.23
- Testimony Presentation at March 16, 2023 Public Hearing, Marilyn Kosel
- Testimony Handout at March 16, 2023 Public Hearing, Nathan Coopridner

### Historic Landmarks Committee Application

Notice of this request was mailed to property owners located within 300 feet of the subject site on September 8, 2022 and notice of the public hearing was published in the News Register on Tuesday, September 20, 2022 and Friday, September 23, 2022. The following testimony was received by the Planning Department or provided at the public hearings on September 29, 2022 and January 5, 2023.

- Email from Kira Barsotti, 09.16.22
- Email from Shanna Dixon, 09.16.22
- Email from Marianne Mills, 09.18.22
- Email from Megan McCrossin, 09.18.22
- Email from Courtney Cunningham, 09.20.22
- Email from Jordan Robinson, 09.20.22
- Email from Phyllice Bradner, 09.20.22
- Email from Victoria Anderson, 09.20.22
- Letter from Marilyn Kosel, 09.20.22
- Letter from Patti Webb, 09.20.22
- Email from Sylla McClellan, 09.21.22
- Email from Meg and Zach Hixson, 09.22.22
- Email from Sharon Julin, 09.25.22
- Email from Daniel Kiser, 09.27.22
- Letter from Carol Dinger, 09.28.22
- Letter from Carol Paddock, 09.28.22
- Letter from Katherine Huit, 09.28.22
- Letter from Jeb Bladine, 09.28.22

- Letter from Practice Hospitality, 09.28.22
- Email from Kellie Peterson, 09.28.22
- Letter from JP and Ames Bierly, 09.28.22
- Memo from Nathan Coopriider, 09.28.22
- Email from Elizabeth Goings, 09.29.22
- Email from Abigail Neilan, 09.29.22
- Letter from Ilsa Perse, 09.29.22
- Email from The Scott Family, 09.29.22
- Email from Mande Tatum, 10.05.22
- Email from Crystal55dreams, 10.25.22
- Email from Peter and Linda Enticknap, 11.22.22
- Letter from Karen Saxberg, 11.17.22
- Letter from Jeb Bladine, 11.29.22
- Letter from Nathan Coopriider, 11.29.22
- Letter from Ernie Munch, 11.30.22
- Letter from Marilyn Kosel, 11.30.22\
- Letter from Nathan Coopriider, 1.3.23
- Letter from Carol Paddock, 1.3.23
- Email from Daniel Kizer, 1.3.23
- Email from Michael Kofford, 1.3.23
- Email from Paul Lusignan, National Park Service, 1.3.23
- Email from Ernie Munch, 1.3.23
- Email from Beth Caster, 1.4.23
- Letter from Ernie Munch, 1.5.23

## **V. FINDINGS OF FACT - PROCEDURAL FINDINGS**

1. The applicant, Mark Vuong, on behalf of HD McMinnville LLC submitted the Downtown Design Review application (DDR 2-22) on August 9, 2022.
2. The application was deemed complete on September 7, 2022. Based on that date, the 120-day land use decision time limit expires on January 5, 2023.
3. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, and the Oregon Department of Transportation on September 7, 2022.

Comments received from agencies are addressed in the Decision Document.

4. Notice of the application and the September 29, 2022, Historic Landmarks Committee public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.65.070(C) of the Zoning Ordinance on Thursday, September 8, 2021.
5. A public hearing notice was published in the News Register on Tuesday, September 20, 2022, and Friday, September 23, 2022.
6. On September 29, 2022, the Historic Landmarks Committee held a duly noticed public hearing to consider the request.

7. At the public hearing on September 29, 2022, the Historic Landmarks Committee chose to continue the public hearing to December 8, 2022. The applicant requested to extend the 120-day decision deadline by 70 days.
8. On November 4, 2022, the applicant provided supplemental application materials based on the requests from the Historic Landmarks Committee.
9. On December 1, 2022, the applicant requested, with the concurrence of city staff, to continue the public hearing from December 8, 2022, to January 5, 2023, and to extend the 120-day decision deadline by an additional 30 days for a total extension of 100 days.
10. On December 8, the Historic Landmarks Committee continued the public hearing to January 5, 2023.
11. On December 15, 2022, and December 19, 2022, the applicant provided supplemental materials per the request of city staff.
12. On January 5, 2023, the Historic Landmarks Committee continued and closed the public hearing, deliberated and directed staff to write findings for a decision of denial.
13. On January 26, 2023, the Historic Landmarks Committee voted 3-2 to deny the application.
14. On January 27, 2023, a notice of denial was emailed to the applicant and all of the participants in the public hearing process.
15. On February 10, 2023, the applicant appealed the decision of the Historic Landmarks Committee to the McMinnville Planning Commission.
16. Notice of the anticipated appeal application and the March 2, 2023, Planning Commission public hearing was mailed to property owners within 300 feet of the subject property and all participants in the Historic Landmarks Committee public hearing process on February 9, 2023. Confirmation was emailed on February 13, 2023.
17. A public hearing notice was published in the News Register on Tuesday, February 21, 2023.
18. On March 2, 2023, the Planning Commission held a duly noticed public hearing to consider the request and continued the public hearing to March 16, 2023.
19. On March 16, 2023, the Planning Commission continued the public hearing, closed the public hearing, deliberated, and voted 5 – 3 in favor of the applicant approving the application.

## **VI. FINDINGS OF FACT – GENERAL FINDINGS**

1. **Location:** 609 NE third Street, 611 NE Third Street (Third Street Frontage), 619 NE Third Street. The property identified as Tax Lots 4500, 4300 and 4201, Section 21BC, T. 4 S., R. 4 W., W.M.
2. **Size:** Approximately 20,000 square feet.
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** C-3 (General Commercial)
5. **Overlay Zones/Special Districts:** Downtown Design Standards Area (per Section 17.59.020(A) of the Zoning Ordinance); Reduced Off-Street Parking Requirements Area (per Section 17.60.100); Reduced

Landscaping Requirements Area (per Section 17.57.080).

6. **Current Use:** Office
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** Historic Resources Inventory – Resource Number B859, B872, D876. Primary Significant Contributing property (609 NE Third Street), Secondary Significant Contributing Property (611 NE Third Street) and (619 NE Third Street) in the McMinnville Downtown Historic District.
  - b. **Other:** None
8. **Other Features:** There are no significant or distinguishing natural features associated with this property.
9. **Utilities:**
  - a. **Water:** Water service is available to the subject site.
  - b. **Electric:** Power service is available to the subject site.
  - c. **Sewer:** Sanitary sewer service is available to the subject site.
  - d. **Stormwater:** Storm sewer service is available to the subject site.
  - e. **Other Services:** Other utility services are available to the subject site. Northwest Natural Gas and Comcast is available to serve the site.
10. **Transportation:** The site is adjacent to NE Third Street, which is identified as a major collector in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for major collector streets as 74 feet. The right-of-way width adjacent to the subject site is only 60 feet, but the site is fully developed and within an area with historic buildings constructed up to the property line. Therefore, no right-of-way dedication is required during the course of development of the properties adjacent to NE Third Street.

## **VII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Downtown Design Review request are specified in Section 17.59.040 of the Zoning Ordinance.

In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. “Proposals” specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

### **Comprehensive Plan Volume II:**

The following Goals, Policies, and Proposals from Volume II of the Comprehensive Plan provide criteria applicable to this request:

The implementation of most goals, policies, and proposals as they apply to this application are accomplished through the provisions, procedures, and standards in the city codes and master plans, which are sufficient to adequately address applicable goals, policies, and proposals as they apply to this application.

The following additional findings are made relating to specific Goals and Policies:

#### **GOAL II 1: TO PRESERVE THE QUALITY OF THE AIR, WATER, AND LAND RESOURCES WITHIN THE PLANNING AREA.**

- 2.00 *The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.*



**APPLICANT RESPONSE:** A draft Contaminated Media Management Plan (CMMP) that addresses all three properties was submitted as Attachment 1 in the supplemental submittals on November 4, 2022 (Contaminated Media Management Plan for 609, 611 and 619 NE Third Street, Evren Northwest, October 13, 2022). The CMMP is a requirement of the Prospective Purchaser Agreement between the Applicant and Oregon Department of Environmental Quality (“DEQ”). As a practical matter, former automotive shops and fuel stations are routinely redeveloped and there is nothing about these buildings that presents a unique risk. The draft CMMP requires removal and safe disposal of any contaminated media (i.e. soil or ground water), and recommends only standard protective measures to mitigate the limited identified risk of petroleum contamination.

This is sufficient to satisfy Goal II of the City’s Comprehensive Plan, which implements Statewide Planning Goal 6. Goal 6 requires that the local government establish that there is a reasonable expectation that the use for which land use approval is requested will also be able to comply with the state and federal environmental quality standards that it must satisfy to be built. *Hess v. City of Corvallis*, 70 Or LUBA 283 (2014). The City’s comprehensive plan does not address spoil contamination, and with respect to water, Policy 10.00 of the Comprehensive Plan provides that “The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to maintain water quality and to implement agreed upon programs for management of the water resources within the planning area.” The Applicant’s ongoing work with DEQ through the PPA process is evidence not only that DEQ will provide sufficient oversight to ensure the safety of workers and the public, but also demonstrates that the Application will be able to comply with DEQ’s standards.

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #1.** A Contaminated Media Management Plan (CMMP) was prepared for Oregon Lithoprint, Inc. on July 20, 2022, to address residual petroleum contamination that may be encountered in soil and groundwater in the vicinity of the Oregon Lithoprint site located at 609 NE Third Street due to a former Leaking Underground Storage Tank (LUST). The Lithoprint LUST site involves underground gasoline storage tanks that were removed in the mid-1980s. The tanks were located beneath the sidewalk on the east side of NE Ford Street, just north of NE Third Street. Some gasoline-contaminated soil was excavated during the tank removal, but further investigation indicated that soil contamination extended beneath the O’Dell Building, which is owned by Lithoprint and is adjacent on the east of the former tanks. Groundwater contamination originating at the former tanks’ location extends to the southwest beneath NE Ford Street, the Oddfellows Building across NE Ford Street on the west, and into NE Third Street. Soil and groundwater conditions associated with the LUST site have been monitored for the past 30+ years and contamination persists in both soil and groundwater at concentrations exceeding Oregon’s cleanup requirements. Lithoprint’s consultant produced a Supplemental Site Investigation Summary Report in June 2022 that does not contemplate redevelopment of the O’Dell Building and states:

“Based on the current Site use, the primary potential risk exposure that was identified as being of potential concern is limited to construction worker exposure beneath the southwest corner of the O’Dell Building and in the vicinity of MW-4. This exposure would only present a potential risk if construction or excavation activities were undertaken without appropriate precautions. The potential for unacceptable risk to construction workers beneath the O’Dell Building is further limited by the fact that the building would need to be razed or excavation activities would need to be conducted within the existing building footprint for potential exposures to occur.”

This implies that if the building is razed and excavation occurs, there is a potential exposure that should be considered. The Supplemental Site Investigation Summary Report does not recommend whether additional remedial activities should occur if the O’Dell Building is demolished and allows access to contaminated soil. The Supplemental Site Investigation Summary Report should be expanded to consider the demolition of the O’Dell building.

On November 4, 2022, the applicant provided an Contaminated Media Management Plan for 609, 611 and 619 NE Third Streets dated October 13, 2022.

**CONDITION OF APPROVAL #1:** The applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways.

8.00 *The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.*

**APPLICANT RESPONSE:** None

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #2.** A Contaminated Media Management Plan (CMMP) was prepared for Oregon Lithoprint, Inc. on July 20, 2022, to address residual petroleum contamination that may be encountered in soil and groundwater in the vicinity of the Oregon Lithoprint site located at 609 NE Third Street due to a former Leaking Underground Storage Tank (LUST).

**CONDITION OF APPROVAL #2:** The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

10.00 *The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to maintain water quality and to implement agreed upon programs for management of the water resources within the planning area.*

**APPLICANT RESPONSE:** None

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #3.** A Contaminated Media Management Plan (CMMP) was prepared for Oregon Lithoprint, Inc. on July 20, 2022, to address residual petroleum contamination that may be encountered in soil and groundwater in the vicinity of the Oregon Lithoprint site located at 609 NE Third Street due to a former Leaking Underground Storage Tank (LUST).

**CONDITION OF APPROVAL #3:** The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

**GOAL IV 1: TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF McMINNVILLE'S ECONOMY IN ORDER TO ENHANCE THE GENERAL WELL-BEING OF THE COMMUNITY AND PROVIDE EMPLOYMENT OPPORTUNITIES FOR ITS CITIZENS.**

**APPLICANT RESPONSE:** The proposed development will provide short-term lodging and retail services for the downtown McMinnville community. These services will both meet an identified demand and provide employment to local residents. The current businesses on the site employ approximately 20 people; the proposed development is expected to employ approximately 60 people. These employment opportunities will include hospitality, service industry, and management positions

### **COMMERCIAL DEVELOPMENT**

**GOAL IV 2: TO ENCOURAGE THE CONTINUED GROWTH OF McMINNVILLE AS THE COMMERCIAL CENTER OF YAMHILL COUNTY IN ORDER TO PROVIDE EMPLOYMENT OPPORTUNITIES, GOODS, AND SERVICES FOR THE CITY AND COUNTY RESIDENTS.**

**APPLICANT RESPONSE:** This Comprehensive Plan policy is supplemented by several documents including the 2013 Urban Renewal Area Plan<sup>6</sup> (Area Plan), the 2013 Economic Opportunities Analysis (EOA), the 2019 MAC-Town 2032 Economic Development Strategic Plan<sup>7</sup> (MAC-Town 2032), and the 2020 McMinnville Growth Management and Urbanization Plan (MGMUP). The site is within the McMinnville Urban Renewal Area and downtown McMinnville is the focus of MAC-Town 2032.

#### Infrastructure Improvements

The Area Plan includes reconstruction of the 3<sup>rd</sup> Street Streetscape, which is currently in the conceptual design phase. Depending on the timing of the development, the project may be able to participate in construction of the streetscape improvements.

#### Economic Opportunities

The EOA identifies limited durations of tourism visitation as a factor affecting community economic development. The analysis found that visitors tend not to stay overnight, but rather are often day visitors, and do not appear to be making substantial expenditures while in the area. A key challenge for the future, as identified in this analysis, is to provide more and better value-added opportunities for visitors to spend more time and money while visiting the McMinnville area.

#### Hospitality and Tourism

As noted above, the application is consistent with the 2019 MAC-Town 2032 Economic Development Strategic Plan. Goal 6 of MAC-Town 2032 particularly encourages downtown McMinnville to “Be a leader in Hospitality and Place-Based Tourism” and identifies hotel stays and retail sales as performance measures. Action items within that goal identify additional high-quality hospitality offerings and additional conference space. Focus groups participating in MAC Town

**GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALLY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE NEIGHBORHOOD-SERVING AND OTHER COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.**

22.00 *The maximum and most efficient use of existing commercially designated lands will be encouraged as will the revitalization and reuse of existing commercial properties.*

**APPLICANT RESPONSE:** The proposed development is a commercial development on properties zoned C-3 and designated for commercial uses and development. The building meets the applicable development standards for the zone and site will intensify the uses on the site and maximize the efficiency of a key site within downtown McMinnville.

The site is located within the McMinnville Urban Renewal Area (Area). The City’s Urban Renewal Plan notes that the programs and infrastructure improvements proposed within the Area will “maximize the efficient use of land by encouraging more intense uses on lands already developed or designated for urban development, will help keep the urban pattern compact, and will prevent sprawl and strip development.”<sup>8</sup> The Gwendolyn Hotel, along with its associated retail and restaurant spaces, will redevelop three, one- to two-story buildings, while enhancing the adjacent pedestrian environment. This aids in achieving Goal III of the Area which is to encourage a unique district identity through enhancing the physical appearance of the district and providing active use opportunities within the Area. The redevelopment of the site will intensify the use of a key site within the downtown McMinnville commercial area and enhance its status as the retail center of McMinnville.

In addition to urban renewal policies, Principle #5 of the Growth Management and Urbanization Plan calls for “Density. Adopt policies that allow the market to increase densities and push it to do so in some instances.” The plan notes that “activity centers” are the appropriate locations for these increases in density, and the Framework Plan identifies downtown McMinnville as one of four “activity centers,” and the largest. Though this Framework Plan is not an adopted Comprehensive Plan map, it does illustrate the City’s plans to meet its housing and employment needs during the planning horizon.

**FINDING: SATISFIED.** The proposed project maximizes the existing commercially designated lands by building a higher density commercial program on the site, which will also serve to revitalize the east side of Third Street that was identified as a redevelopment area in the adopted 2000 Downtown Improvement Plan.

25.00 *Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development.*

**FINDING: SATISFIED WITH CONDITIONS OF APPROVAL #4 and #5.** Higher density commercial development in the city center utilizes existing infrastructure efficiencies. The following conditions of approval will need to be met to ensure that the existing infrastructure will support the development.

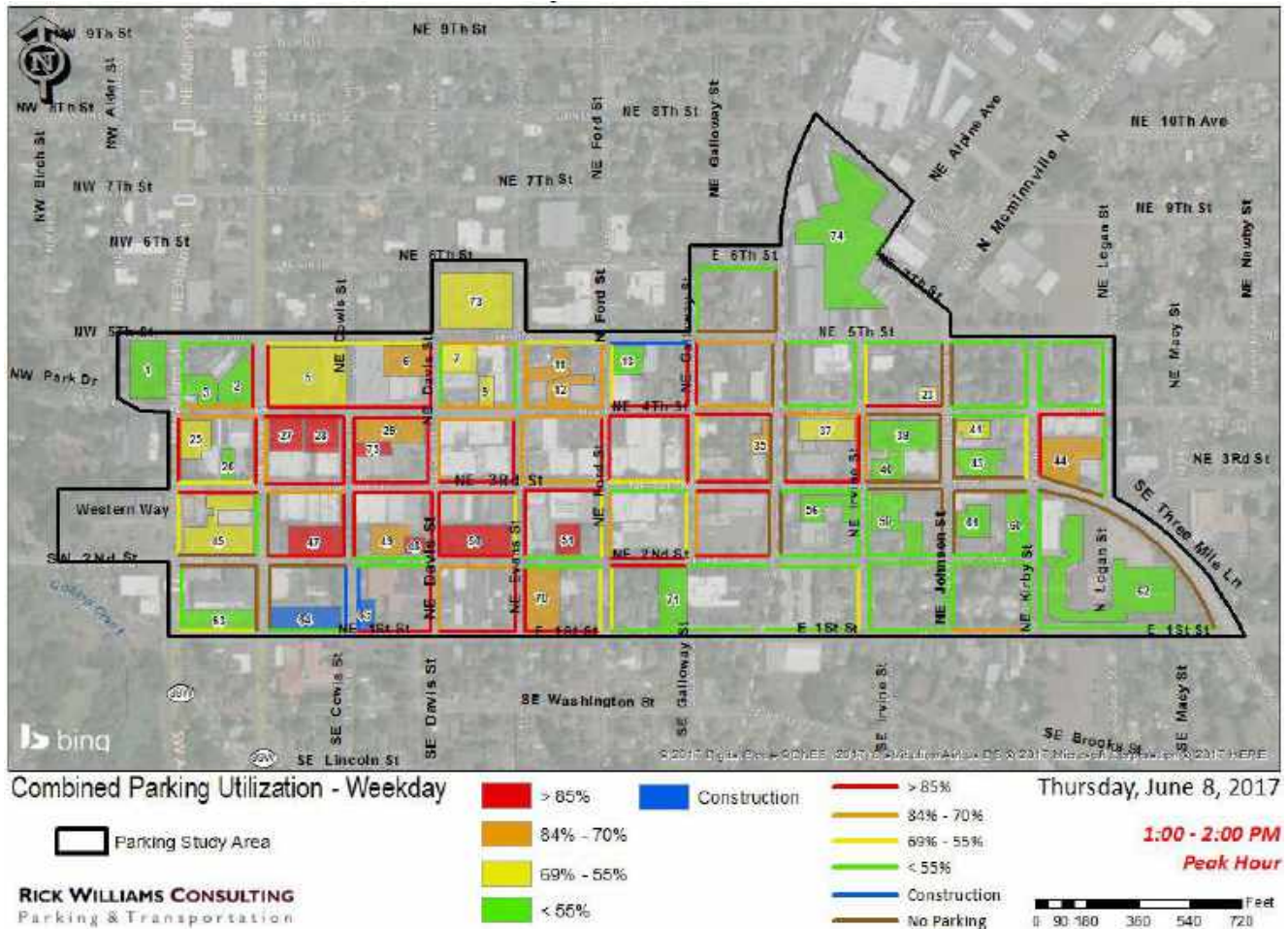
**CONDITION OF APPROVAL #4:** The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rain water into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance.

**CONDITION OF APPROVAL #5:** The applicant shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be borne by the developer. The developer will be responsible for any necessary improvements identified by the capacity analysis.

26.00 *The size of, scale of, and market for commercial uses shall guide their locations. Large-scale, regional shopping facilities, and heavy traffic-generating uses shall be located on arterials or in the central business district and shall be located where sufficient land for internal traffic circulation systems is available (if warranted) and where adequate parking and service areas can be constructed.*

**FINDING: SATISFIED.** The replacement plan project will be located in the Central Business District. The Transportation Impact Analysis provided as part of the application indicates that all intersections studied perform within mobility standards with the project as developed. No mitigation measures were identified.

Parking in the core downtown area is limited. However, a utilization study conducted in 2017 identified that parking on Ford Street between 3<sup>rd</sup> and 4<sup>th</sup> Streets was maximized at the peak hour of a weekday. Although the McMinnville Municipal Code does not require the provision of off-street parking for new developments on this site, the replacement project is providing 67 off-street parking stalls in an underground parking structure.



(City of McMinnville, Oregon, Downtown Strategic Parking Management Plan, March 27, 2018, page 17)

33.00 *Encourage efficient use of land for parking; small parking lots and/or parking lots that are broken up with landscaping and pervious surfaces for water quality filtration areas. Large parking lots shall be minimized where possible. All parking lots shall be interspersed with landscaping islands to provide a visual break and to provide energy savings by lowering the air temperature outside commercial structures on hot days, thereby lessening the need for inside cooling. (Ord.4796, October 14, 2003)*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #6 AND #7.** Although the McMinnville Municipal Code does not require the provision of off-street parking for new developments on this site, the replacement project is providing 67 off-street parking stalls in an underground parking structure.

**CONDITION OF APPROVAL #6:** Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance.

**CONDITION OF APPROVAL #7:** Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance.

**GOAL IV 4: TO PROMOTE THE DOWNTOWN AS A CULTURAL, ADMINISTRATIVE, SERVICE, AND RETAIL CENTER OF McMINNVILLE.**

*Downtown Development Policies:*

36.00 *The City of McMinnville shall encourage a land use pattern that:*

1. *Integrates residential, commercial, and governmental activities in and around the core of the city.*
2. *Provides expansion room for commercial establishments and allows dense residential development.*
3. *Provides efficient use of land for adequate parking areas.*
4. *Encourages vertical mixed commercial and residential uses; and,*
5. *Provides for a safe and convenient auto-pedestrian traffic circulation pattern. (Ord.4796, October 14, 2003)*

**FINDING: SATISFIED.**

- 37.00 *The City of McMinnville shall strongly support, through technical and financial assistance, the efforts of the McMinnville Downtown Steering Committee to implement those elements of Phase II of the “Downtown Improvement Plan” that are found proper, necessary, and feasible by the City. (Ord.4796, October 14, 2003)*

**FINDING: NOT APPLICABLE.** Phase II of the Downtown Improvement Plan is a list of public improvement projects that are not associated with this application.

- 38.00 *The City of McMinnville shall encourage the renovation and rehabilitation of buildings in the downtown area, especially those of historical significance or unique design.*

**FINDING: SATISFIED.** The City provides grants and loans to encourage the renovation and rehabilitation of buildings in the downtown area.

The extant structure at 609 NE Third Street is not of historical significance or unique design.

- 44.00 *The City of McMinnville shall encourage, but not require, private businesses downtown to provide off-street parking and on-site traffic circulation for their employees and customers.*

**FINDING: SATISFIED.** The replacement plan project is providing an off-street underground parking structure with 67 parking stalls.

**GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.**

- 127.00 *The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.*

**FINDING: SATISFIED.** The replacement plan project is providing an off-street underground parking structure with 67 parking stalls.

- 132.40.05 *Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:*

1. *Improvement of on-site transportation facilities,*

2. *Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility's operations beyond the City's mobility standards; and*
3. *Transportation Demand Management strategies. (Ord. 4922, February 23, 2010)*

**FINDING: SATISFIED.** Due to the size of the replacement plan project, the City required the applicant to provide a Transportation Impact Analysis that identified no need for mitigating measures with the development of the project.

- 132.46.00 *Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010)*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #8:**

**CONDITION OF APPROVAL #8:** The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.

- 142.00 *The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #9:**

**CONDITION OF APPROVAL #9:** The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.

- 151.00 *The City of McMinnville shall evaluate major land use decisions, including but not limited to urban growth boundary, comprehensive plan amendment, zone changes, and subdivisions using the criteria outlined below:*

1. *Sufficient municipal water system supply, storage and distribution facilities, as determined by McMinnville Water and Light, are available or can be made available, to fulfill peak demands and ensure fire flow requirements and to meet emergency situation needs.*
2. *Sufficient municipal sewage system facilities, as determined by the City Public Works Department, are available, or can be made available, to collect, treat, and dispose of maximum flows of effluents.*
3. *Sufficient water and sewer system personnel and resources, as determined by McMinnville Water and Light and the City, respectively, are available, or can be made available, for the maintenance and operation of the water and sewer systems.*
4. *Federal, state, and local water and wastewater quality standards can be adhered to.*
5. *Applicable policies of McMinnville Water and Light and the City relating to water and sewer systems, respectively, are adhered to.*

**FINDING: SATISFIED WITH CONDITION OF APPROVAL #10:**

**CONDITION OF APPROVAL #10:** The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.



**GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMinnville.**

**GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.**

*Policy 188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The process for a Certificate of Approval for Demolition provides an opportunity for citizen involvement throughout the process through the public notice and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public meeting(s). All members of the public have access to provide testimony and ask questions during the public review and meeting process.

### **McMinnville Zoning Ordinance**

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) provide criteria applicable to the request:

#### **Chapter 17.03. General Provisions**

**17.03.020 Purpose.** *The purpose of this ordinance is to encourage appropriate and orderly physical development in the City through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The purpose of the Zoning Ordinance is met by the proposal as described in the Conclusionary Findings contained in this Decision Document.

#### **Chapter 17.33. C 3, General Commercial**

##### **17.33.010 Permitted uses.**

**APPLICANT’S RESPONSE:** The proposed mixed-use building includes Lodging (hotels and motels), Restaurant, Parking Structure or Lot, and Retail uses. Lodging uses are permitted in the C-2 zone and the remaining uses are listed as permitted in the C-3 zone.

**FINDING: SATISFIED.**

**17.33.030 Yard requirements.**

*Except as provided in Section 17.54.050, and “A” and “B” below, there shall be no required yards in a C-3 zone:*

- A. Side yard shall not be less than twenty feet when adjacent to a residential zone;*
- B. Rear yard shall not be less than twenty feet when adjacent to a residential zone. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

**APPLICANT’S RESPONSE:** The site is adjacent to properties zoned C-3, and these setback requirements are not applicable.

**FINDING: SATISFIED.**

**17.33.040 Building height.**

*In a C-3 zone, buildings shall not exceed a height of eighty feet. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

**APPLICANT’S RESPONSE:** The proposed building height is 75 ft. 4 in., less than the maximum height of 80 ft. This standard is met.

**FINDING: SATISFIED.** Note that Sheet A3.01 in the amended architectural plans provided on November 4, 2022, indicates that the height of the elevator tower is 79 feet. However, per Section 17.54.040, elevator towers are not subject to the building height limitations.

**17.33.050 Use limitations.**

*In a C-3 zone, outside storage abutting or facing a residential zone shall be enclosed by a sight obscuring fence. The fence shall obstruct the storage from view on the sides of the property abutting or facing a residential zone. The fence shall be of such material and design as will not detract from adjacent residences, shall be free of advertising, and shall be constructed according to plans submitted by the owner or authorized agent and approved by the Planning Director. Outside storage in a required yard shall not exceed ten feet in height. (Ord. 4477 §3, 1990).*

**APPLICANT’S RESPONSE:** No outside storage is proposed. These standards are not applicable.

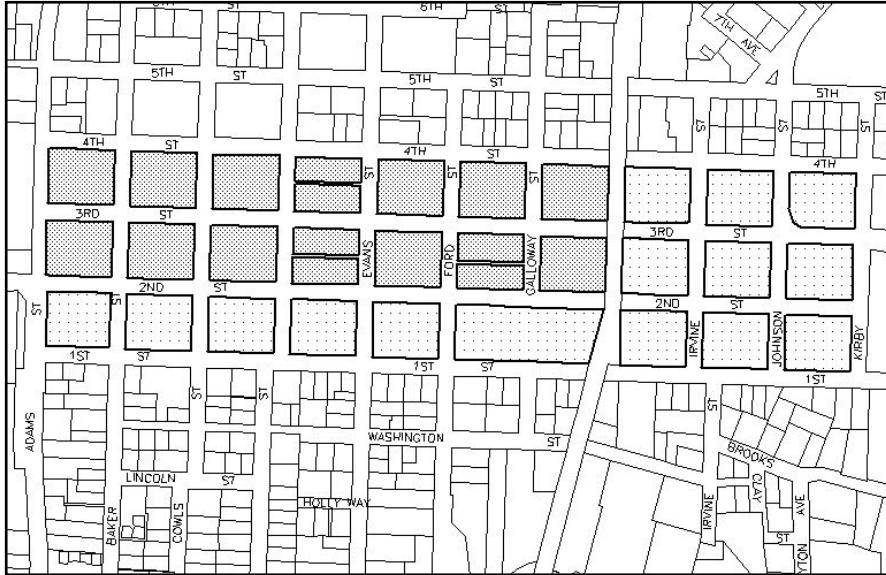
**FINDING: NOT APPLICABLE**

**Chapter 17.57, Landscaping**

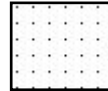
**17.57.080 Central business district.** *The central business district shall be divided into two areas as defined in this section:*

- A. Area I is that area between Adams Street and the railroad tracks and between Second and Fourth Streets. The landscaping requirements set forth herein shall not apply to this portion of the central business district, except for the provision of street trees according to the city's master plan;*
- B. Area II is defined as being that area between Adams and Kirby Streets from First to Fourth Streets, excluding the area in subsection A above. One-half of the landscaping requirements set forth in Section 15.57.050 above shall apply to this area. (Ord. 5027 §2, 2017; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

**REDUCED LANDSCAPING REQUIREMENTS**



Area I - No Required Landscaping



Area II – One Half Required Landscaping

**APPLICANT’S RESPONSE:** No response.

**FINDING: SATISFIED.** Project site is in Area 1 and no landscaping is required. The applicant will not need to submit a landscape plan for review.

**Chapter 17.59, Downtown Design Guidelines**

**17.59.020. Applicability.**

- A. *The provisions of this Chapter shall apply to all lands located within the area bounded to the west by Adams Street, to the north by 4<sup>th</sup> Street, to the east by Kirby Street, and to the south by 1<sup>st</sup> Street. Lands immediately adjacent to the west of Adams Street, from 1<sup>st</sup> Street to 4<sup>th</sup> Street, are also subject to the provisions of this Chapter.*
- B. *The provisions of this ordinance shall apply to the following activities conducted within the above described area:*
  - 1. *All new building construction;*
  - 2. *Any exterior building or site alteration; and,*
  - 3. *All new signage.*
- C. *This ordinance shall not apply to the following activities or uses:*
  - 1. *Maintenance of the exterior of an existing structure, such as re-roofing, re-siding, or repainting where similar materials and colors are used that comply with this ordinance;*
  - 2. *Interior remodeling; and,*
  - 3. *Single-family detached housing.*
- D. *The Planning Director shall determine whether any proposed maintenance activity complies with this ordinance and whether the proposed activity is subject to the review procedures contained in this chapter.*
- E. *This ordinance shall apply only to those portions of a building or sign that are proposed for construction or modification and shall not extend to other elements of the building or sign that may be out of compliance with the requirements of this ordinance (i.e., a permit to replace a single window shall not require that all other windows on the building that may be out of compliance with this ordinance to be replaced, unless such action is initiated by the property owner). However, if a building should be destroyed due to fire, accident, or an act of God, the new or replacement*

structure shall be rebuilt to conform to the requirements of this ordinance. (Ord. 5034 §2, 2017; Ord. 4797 §1, 2003).

**APPLICANT’S RESPONSE:** The site is located at the northeast corner of NE 3<sup>rd</sup> and Ford streets. The provisions of this chapter are applicable. The proposed development is new building construction, and the provisions of this ordinance are applicable.

**FINDING: SATISFIED.** The project is new construction located in the Downtown Design Overlay.

**17.59.030 Review Process.**

- A. *An application for any activity subject to the provisions of this ordinance shall be submitted to the Planning Department and shall be subject to the procedures listed in (B) through (E) below.*
- B. *Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040. The application shall include the following information:*
  1. *The applicant shall submit two (2) copies of the following information:*
    - a. *A site plan (for new construction or for structural modifications).*
    - b. *Building and construction drawings.*
    - c. *Building elevations of all visible sides.*
  2. *The site plan shall include the following information:*
    - a. *Existing conditions on the site including topography, streetscape, curbcuts, and building condition.*
    - b. *Details of proposed construction or modification to the existing structure.*
    - c. *Exterior building elevations for the proposed structure, and also for the adjacent structures.*
  3. *A narrative describing the architectural features that will be constructed and how they fit into the context of the Downtown Historic District.*
  4. *Photographs of the subject site and adjacent property.*
  5. *Other information deemed necessary by the Planning Director, or his/her designee, to allow review of the applicant’s proposal. The Planning Director, or his/her designee, may also waive the submittal of certain information based upon the character and complexity (or simplicity) of the proposal.*
- C. *Review Process*
  1. *Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040. The Planning Director shall review the application and determine whether the proposed activity is in compliance with the requirements of this ordinance.*
  2. *The Planning Director may review applications for minor alterations subject to the review criteria stated in Section 17.59.040. The Historic Landmarks Committee shall review applications for major alterations and new construction, subject to the review criteria stated in Section 17.59.040. It shall be the Planning Director’s decision as to whether an alteration is minor or major.*
  3. *Notification shall be provided for the review of applications for major alterations and new construction, subject to the provisions of Section 17.72.110.*
    - a. *The Historic Landmarks Committee shall meet within 30 (thirty) days of the date the application was deemed complete by the Planning Department. The applicant shall be notified of the time and place of the review and is encouraged to be present, although their presence shall not be necessary for action on the plans. A failure by the Planning Director or Historic Landmarks Committee, as applicable, to review within 30 (thirty) days shall be considered an approval of the application.*
    - b. *If the Planning Director or Historic Landmarks Committee, as applicable, finds the proposed activity to be in compliance with the provisions of this ordinance, they shall approve the application.*
    - c. *If the Planning Director or Historic Landmarks Committee, as applicable, finds the proposed activity in noncompliance with the provisions of this ordinance, they may deny the application, or approve it with conditions as may be necessary to bring the activity into compliance with this ordinance.*

**APPLICANT’S RESPONSE:** This application has been submitted as described. A site plan is included as Sheet A1.01; building and construction drawings are included as Sheets A2.01-A2.02; and building elevations are included as Sheets A3.01-A3.02 and A 6.01-A6.03. An existing conditions plan is included as Sheet 1; details of proposed construction are included in the architectural plans; exterior building elevations are included in Sheets A1.01-A7.04; and adjacent structure elevations are shown on Sheet A3.01-A3.02. This document is the narrative. A discussion of the proposed building as it relates to the context of the Downtown Historic District is addressed throughout this document. Photographs of the subject site and adjacent property are included in Sheets 2 and A0.01. While not required by the zoning regulations, the Planning Director has indicated that a traffic impact analysis (TIA) is required. The TIA is included as Appendix B. No other information was identified as required for the submittal. The proposed application is for new construction and a waiver, both of which are subject to review and approval by the Historic Landmarks Committee at a public hearing. A waiver is requested to the provisions of 17.59.050.B.1 to allow the building to appear as three stories rather than two stories at the corner.

**FINDING: SATISFIED.** The applicant submitted an application as required, and the application was reviewed by the Historic Landmarks Committee as it consists of new construction. Notification was provided to property owners within 300 feet of the subject site, which exceeds the distance required by Section 17.72.110. However, the application was submitted concurrently with three other land use applications, so all four applications are reviewed under the hearing procedure that affords the most opportunity for public hearing and notice, per Section 17.72.070 of the Zoning Ordinance. The other three land use applications required a 300 foot notification distance, which was used for the Downtown Design Review application as well.

#### **17.59.030 Review Process.**

##### *D. Waiver Process*

*A guideline or standard contained in this ordinance may be waived as part of the design review process when it can be demonstrated that the proposed design satisfies or exceeds the downtown design goals and objectives of this ordinance. If a waiver is requested, the applicant must explain in their application how the proposed design satisfies or exceeds these goals and objectives. A request for a waiver to the standards of this ordinance shall be reviewed by the McMinnville Historic Landmarks Committee, as described in Section 17.59.030(C)(2).*

**APPLICANT’S RESPONSE:** Per their supplemental submittal on November 4, 2022, the applicant revised their design so that they no longer needed a waiver from the Downtown Design Review criteria.

**FINDING:** The City finds that this criterion is not applicable since the project is compliant with all of the standards of Chapter 17.59. Standards being defined as the “shall” criteria that are considered mandates and not the “should” criteria that are considered guidelines.

#### **17.59.040 Review Criteria**

- A. In addition to the guidelines and standards contained in this ordinance, the review body shall base their decision to approve, approve with conditions, or deny the application, on the following criteria:*
- 1. The City’s historic preservation policies set forth in the Comprehensive Plan;*
  - 2. If a structure is designated as a historic landmark on the City’s Historic Resources Inventory or is listed on the National Register for Historic Places, the City’s historic preservation regulations in Chapter 17.65, and in particular, the standards and guidelines contained in Section 17.65.060(2); and*

**APPLICANT’S RESPONSE:** The City’s historic preservation policies of the Comprehensive Plan are addressed in Section 5 of this narrative (original application).

The building at 609 NE 3<sup>rd</sup> Street is designated as a historic landmark and the buildings at 611 and 619 NE 3<sup>rd</sup> Street are located within a National Historic District. The requirements of Chapter 17.65 are addressed in Section 4.H of this narrative (original application).

**FINDING: SATISFIED.** This is not a review of a modification to a historic resource; it is new construction.

#### **17.59.040 Review Criteria**

3. *If applicable (waiver request), that all of the following circumstances are found to exist:*
  - a. *There is a demonstrable difficulty in meeting the specific requirements of this Chapter due to a unique or unusual aspect of the site, an existing structure, or proposed use of the site;*
  - b. *There is demonstrable evidence that the alternative design accomplishes the purpose of this Chapter in a manner that is equal or superior to a project designed consistent with the standards contained herein; and*
  - c. *The waiver requested is the minimum necessary to alleviate the difficulty of meeting the requirements of this Chapter. (Ord. 5034 §2, 2017; Ord. 4797 §1, 2003).*

**APPLICANT’S RESPONSE:** *(Per the applicant’s November 4, 2022, supplemental submittal), the building design has been revised to meet the height provisions of 17.59.050.B.1. Therefore, the requested waiver is no longer required.*

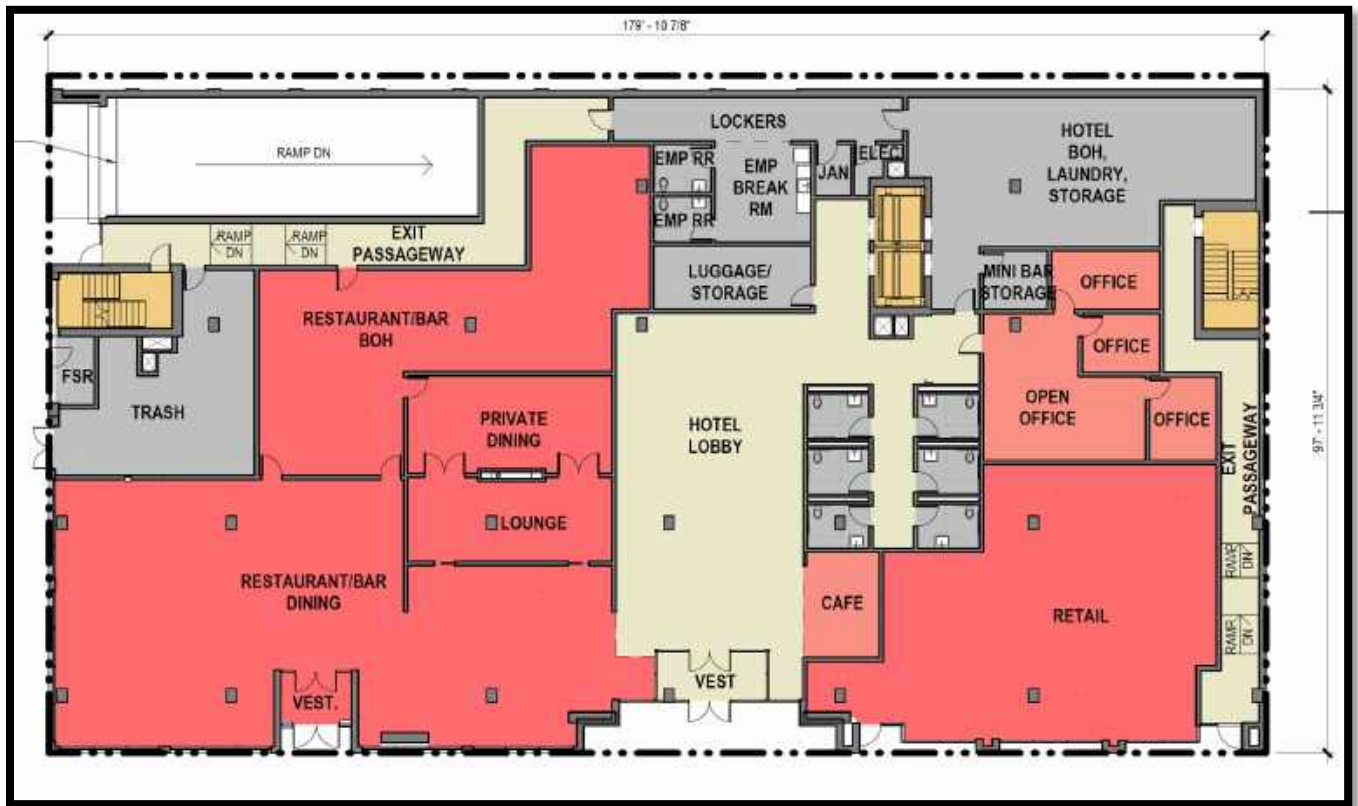
**FINDING:** The City finds that this criterion is not applicable since the project is compliant with all of the standards of Chapter 17.59. Standards being defined as the “shall” criteria that are considered mandates and not the “should” criteria that are considered guidelines.

#### **17.59.050 Building and Site Design.**

- A. *Building Setback.*
  1. *Except as allowed by this ordinance, buildings shall maintain a zero setback from the sidewalk or property line.*
  2. *Exceptions to the setback requirements may be granted to allow plazas, courtyards, dining space, or rear access for public pedestrian walkways.*

**APPLICANT’S RESPONSE:** As shown in the Level 01 – Floor Plan on Sheet A2.01, the proposed development maintains a 0 ft. setback from the sidewalk to the west and south, except for a 6 ft. recess in front of the main entrance that provides a vestibule to the hotel lobby. The building at grade is set back 2 ft. from the northern property line to avoid compromising the foundations of the adjacent structures to the north.

**FINDING: SATISFIED.** The City concurs with the applicant’s findings. The proposed site plan for the building and development show construction of the new building with zero setbacks from the property lines:



### **17.59.050 Building and Site Design**

#### **B. Building Design.**

1. Buildings should have massing and configuration similar to adjacent or nearby historic buildings on the same block. Buildings situated at street corners or intersections should be, or appear to be, two-story in height.

**APPLICANT'S RESPONSE:** (Per the applicant's November 4, 2022, supplemental submittal). Though described as a design standard, given the use of the word "should," this criterion can be applied as a guideline that can be met in more than one way.

In response to the first component of this criterion, the 3rd Street façades have been refined to appear as three separate buildings. The westernmost section of the building is clad in white brick; the center portion of the building is clad in buff brick; and the eastern portion of the building is clad in red brick. In addition to the differences in material and color, each of the three building expressions have distinct massing and varied window detailing, cornice elements, and Juliet balconies. The westernmost section has a 2-story base and 3 levels above that step back 10 feet on both 3rd Street and Ford Street. The center portion has a 2-story base with a 3-foot setback on levels three and four, and the fifth level stepping back an additional 8 feet. The eastern portion has a 3-story base and two levels above that setback 5 feet.

The overall building height and ground-floor dimensions of the proposed building are unchanged, but has been broken into three distinct expressions. As viewed from the corner of 3rd and Ford streets, the apparent height of the building is two stories. As a viewer moves to the north and the east, the height of the building becomes more apparent, but the full six-story height is visible only from the north. See Sheet A7.03.

In Chapter 17.33, C-3, General Commercial, the language reads in section 17.33.040, building height, that "Buildings shall not exceed a height of eighty feet." The City's staff report and findings stated that the building satisfies this finding. The need for a requested waiver for a 3-story expression at the corner is no longer necessary, as the building façade at the corner has been reduced to 2 stories.



But this isn't the whole story as it relates to "height" within the zoning code. There is code criteria that states buildings should have the same massing and configuration (interpreted by staff to include height) similar to adjacent or nearby historic buildings on the same block. The applicant team has submitted considerable information on the nature of 3rd Street at its easterly end, showing that the remaining historical buildings were built as one- and two-story structures, and therefore if future development were to match the bulk and height of these buildings, most likely no new development would occur. And, therefore, the potential for these properties to contribute to the growth and density potential of downtown McMinnville would not be realized.

By definition, "adjacent" means "Contiguous to a property boundary at a property line or property corner. Two properties separated by street or right-of-way are considered adjacent." In applying this approval criterion, perhaps "adjacent" can be thought of more broadly, in a cohesive way, to include all of downtown McMinnville. In that case, doesn't that mean in a way that all buildings downtown are adjacent? Adjacent to each other and adjacent to the whole?

The proposed building is a bit taller than other buildings in downtown McMinnville, but not in any exaggerated way. The Gwendolyn Hotel is two stories taller than the 4-story Atticus hotel, though the sixth floor consists largely of a roof top amenity, and one floor taller than the Hotel Oregon, including the hotel's rooftop amenity. And again, the building is below the allowable height of 80'.

Regarding the second component of the criterion, as noted previously, the building design has been revised to meet the height provisions of this section and is now two stories in height at the street corner/intersection as shown on Sheets A3.01, A6.01, and A6.04. The ground floor is a generous 15' in height to allow for a variety of commercial uses, including restaurants and retail.

**FINDING: SATISFIED.** As the applicant points out this criterion is a "should" and not a "shall" criterion, meaning that it is considered a guideline and not a requirement, which provides the City some discretion that is defined by past precedence.

The City has established a precedent previously where this criterion was not considered a requirement for new construction, (the KAOS building, the First Federal building and the Atticus Hotel). In those circumstances, either the guideline for a building with similar massing and height to other historic buildings on the same block and the appearance of two stories on the corners at intersections were not required.

In regards to the first guideline, the language is specific about massing and configuration similar to adjacent or nearby historic buildings *on the same block*. For the Third Street side of this project, if the three Certificate of Approvals for Demolition for 609, 611 and 619 NE Third Street are allowed, which would be necessary for this project to move forward, there would be no historic buildings left on the Third Street side of this block. This same precedent for decision-making was applied to the First Federal new construction project.

The question then is whether or not the massing and configuration are similar to the rest of Third Street. In their original application, the applicant provided a height study of the downtown historic buildings to demonstrate that many buildings in downtown McMinnville were three and four-story buildings with rooftop amenities, and several that were in the immediate vicinity of this project were 40' in height as a vertical plane from the property line, and some such as the Atticus Hotel and McMenamin's Hotel were taller. Per the amended submittal provided by the applicant on November 4, 2022, the design of the project is still five-stories with an active roof-top program, however, the original design was modified so that the façade appears to be three separate buildings in order to reduce the massing and configuration of the original design and the three faux buildings all incorporate stepbacks of varying degrees in the upper floors in order to offset the massing and configuration as well.

The City has also established a precedent of allowing new construction buildings greater than two-stories at the intersection with the First Federal Building (three stories), the KAOS building (three stories) and the Atticus Hotel (four stories). In some cases, a stepback was incorporated (the KAOS building) and in other cases, the taller height was allowed

Per the amended submittal provided by the applicant on November 4, 2022, the design of the project was modified so that the height of the vertical plane from the property line reduced to a two-story height at the corner by the intersection.



### **17.59.050 Building and Site Design**

#### **B. Building Design. [...]**

2. *Where buildings will exceed the historical sixty feet in width, the façade should be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings, and as appropriate to reflect the underlying historic property lines. This can be done by varying roof heights, or applying vertical divisions, materials and detailing to the front façade.*

**APPLICANT’S RESPONSE:** *(Per the applicant’s November 4, 2022, supplemental submittal).* Though described as a design standard, given the use of the word “should,” this criterion can be applied as a guideline that can be met in more than one way.

The proposed building exceeds sixty feet in width (it measures approximately 180 ft. along the 3rd Street frontage and approximately 98 ft. along the Ford Street frontage) and this provision is applicable.

As indicated on the Town of McMinnville and Rowland’s Addition plats, traditional north/south lot dimensions in downtown McMinnville are 100 ft., and the proposed building reflects traditional depths.

As described in this approval criterion, the traditional east/west lot dimensions in downtown McMinnville are 60 ft., and the building exceeds that width. In order to construct the proposed building, the underlying lots will need to be combined and will be 180 ft. in length.

Though the historic lots in downtown McMinnville were 60 ft. wide, there have been a number of adjustments and revisions over the years, as indicated on Yamhill County Assessor Map 4 4 21 BC. The lots directly to the south have been revised to widths of 90 ft., 30 ft., 40 ft., and 80 ft. The lot directly to the north is 120 ft. in width. The lots between Evans and Ford Streets range from 29.5 ft. to 100 ft. in width. See Sheet A0.01 for illustration. As a result, the current lotting pattern is more organic than rigid and the traditional 60-ft. lot width has become more eclectic.

The building façade is divided into three distinct areas by the use of vertical divisions, materials, detailing, and stepbacks. As shown on Sheet A3.01, the façade bay widths are 90 ft., 30 ft., and 60 ft., and reference several existing historic structures:

- The three buildings directly to the south (TL 10400, 10401, and 10300, the Tributary Hotel and two adjacent buildings on 3rd Street) have similarly-scaled bays at 90 ft., 30 ft., and 40 ft. respectively.
- The site directly east of Galloway Street is 120 ft. wide and presents as a single building with multiple retail entrances.

Given that the proposed façade modulation and widths reflect existing historic context, the Committee can find that the design meets the intent of this criterion.

**FINDING: SATISFIED.** The criteria requires buildings that exceed sixty feet in width to be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings. With their revised design submitted on November 4, 2022, the applicant has argued that the new design is divided into similar proportional bays as other adjacent buildings, specifically based on a study of the building configurations across Third Street that have a 90 feet, 30 feet and 40 feet, whereas the Gwendolyn Hotel is divided into proportional bays of 90 feet, 30 feet and 60 feet with a longer block length to design. Additionally the amended design is much more distinctive than the original design. Please see below.



**Original Design**



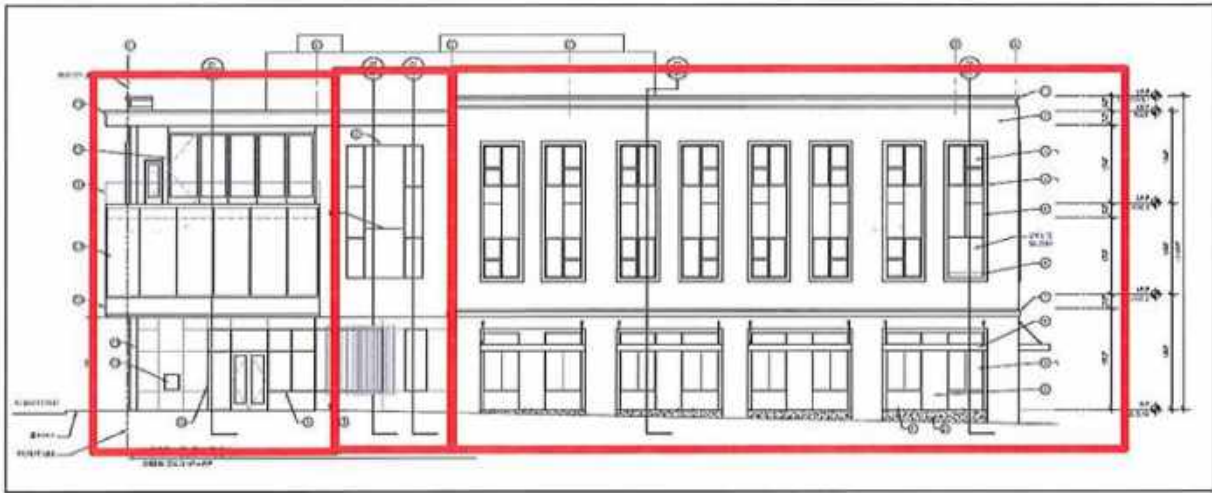
**Amended Design, November 4, 2022**

The City has previous precedence of approving new construction projects that have much less definitive bay designs (Atticus Hotel) to satisfy this requirement, or bays that are not presumably proportional (First Federal, 91 feet and 52 feet) to satisfy this requirement. Please see below.



**Atticus Hotel, New Construction**





**First Federal Bank, New Construction**

**17.59.050 Building and Site Design**

**B. Building Design. [...]**

3. Storefronts (that portion of the building that faces a public street) should include the basic features of a historic storefront, to include:
  - a. A belt course separating the upper stories from the first floor;

**APPLICANT’S RESPONSE:** The storefronts that face both the NE Ford Street frontage and the NE 3<sup>rd</sup> Street frontage occur at the southwest corner restaurant space, the hotel lobby, and the retail spaces along the east end of the 3<sup>rd</sup> Street frontage. A belt course separates the upper stories from the first floor, and the 4<sup>th</sup> to 6<sup>th</sup> stories from the 2<sup>nd</sup> and 3<sup>rd</sup> stories of the respective bays.

**FINDING: SATISFIED.** The City concurs with the applicant’s findings.

**17.59.050 Building and Site Design**

**B. Building Design. [...]**

3. Storefronts (that portion of the building that faces a public street) should include the basic features of a historic storefront, to include: [...]
  - b. A bulkhead at the street level

**APPLICANT’S RESPONSE:** All storefronts have a 2 ft. composite panel bulkhead at the street level.

**FINDING: SATISFIED.** The City concurs with the applicant’s findings.

**17.59.050 Building and Site Design**

**B. Building Design. [...]**

3. Storefronts (that portion of the building that faces a public street) should include the basic features of a historic storefront, to include: [...]
  - c. A minimum of seventy (70) percent glazing below the transom line of at least eight feet above the sidewalk, and forty (40) percent glazing below the horizontal trim band between the first and second stories. For the purposes of this section, glazing shall include both glass and openings for doorways, staircases and gates;

**APPLICANT’S RESPONSE:** As shown on Sheet A3.01, 70.1 percent of the storefront below the transom line and 41.7 percent of the storefront between the first and second stories consists of glazing.

**FINDING: SATISFIED.** The City concurs with the applicant’s findings.

**17.59.050 Building and Site Design****B. Building Design. [...]**

3. Storefronts (that portion of the building that faces a public street) should include the basic features of a historic storefront, to include: [...]
- d. A recessed entry and transom with transparent door; and

**APPLICANT'S RESPONSE:** Each storefront is accessed by a recessed entry with a transparent door and a transom above. See Sheet A3.01

**FINDING: SATISFIED.** The City concurs with the applicant's findings. The floor plan and rendering provided with the application materials depicts the recessed entry proposed within the storefront window system.

**17.59.050 Building and Site Design****B. Building Design. [...]**

3. Storefronts (that portion of the building that faces a public street) should include the basic features of a historic storefront, to include: [...]
- e. Decorative cornice or cap at the roofline.

**APPLICANT'S RESPONSE:** A decorative cornice cap is proposed along the entire roofline. See Sheets A3.01 and A3.02.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

**17.59.050 Building and Site Design****B. Building Design. [...]**

4. Orientation of rooflines of new construction shall be similar to those of adjacent buildings. Gable roof shapes, or other residential roof forms, are discouraged unless visually screened from the right-of-way by a false front or parapet.

**APPLICANT'S RESPONSE:** As shown in Sheet A0.01, the rooflines of adjacent buildings are flat. The proposed rooflines are also flat and are adorned with contextually appropriate cornice details and profiles.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

**17.59.050 Building and Site Design****B. Building Design. [...]**

5. The primary entrance to a building shall open on to the public right-of-way and should be recessed.

**APPLICANT'S RESPONSE:** All entrances into the restaurant and retail spaces have recessed entries that open to the public right-of-way. The primary entrance of the hotel opens to the NE 3<sup>rd</sup> Street right-of-way.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

**17.59.050 Building and Site Design****B. Building Design. [...]**

6. Windows shall be recessed and not flush or project from the surface of the outer wall. In addition, upper floor window orientation primarily shall be vertical.

**APPLICANT'S RESPONSE:** All windows are recessed in the exterior stucco and brick walls. Most of the upper windows have a vertical proportion of 8 ft. tall x 6 ft. wide.

**FINDING: SATISFIED. WITH CONDITION #11.** The City concurs with the applicant's findings, but adds that no detail for the windows was provided and the applicant's finding is incomplete in that it does not reference what windows the new windows will match. Therefore, a condition of approval is included to require that the construction plans submitted for the new building include window details depicting that all of the windows on the building will be recessed.

**CONDITION OF APPROVAL #11:** That the applicant shall include window details in the construction plans submitted for building permit review that depict how all of the windows on the building will be recessed. (McMinnville Municipal Code, 17.59.050(B)(6))

**17.59.050 Building and Site Design**

*B. Building Design. [...]*

7. *The scale and proportion of altered or added building elements, such as new windows or doors, shall be visually compatible with the original architectural character of the building.*

**APPLICANT'S RESPONSE:** The proposed building will be new construction and will not include alteration or addition of building elements. This standard is not applicable.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

**17.59.050 Building and Site Design**

*B. Building Design. [...]*

8. *Buildings shall provide a foundation or base, typically from ground floor to the lower windowsills.*

**APPLICANT'S RESPONSE:** The exterior brick walls facing 3rd Street and Ford Street have a 3 ft. 6 in. pre-cast concrete base that extends to the lower windowsills of the ground floor windows.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

**17.59.050 Building and Site Design**

*C. Building Materials.*

1. *Exterior building materials shall consist of building materials found on registered historic buildings in the downtown area including block, brick, painted wood, smooth stucco, or natural stone.*

**APPLICANT'S RESPONSE:** As shown on Sheet A6.05, the proposed building materials include face brick, pre-cast concrete base course, glass fiber reinforced cement cornices, painted composite paneling, and smooth textured stucco.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

**17.59.050 Building and Site Design**

*C. Building Materials. [...]*

2. *The following materials are prohibited for use on visible surfaces (not applicable to residential structure):*
  - a. *Wood, vinyl, or aluminum siding;*
  - b. *Wood, asphalt, or fiberglass shingles;*
  - c. *Structural ribbed metal panels;*
  - d. *Corrugated metal panels;*
  - e. *Plywood sheathing, to include wood paneling such as T-111;*
  - f. *Plastic sheathing; and*



- g. Reflective or moderate to high grade tinted glass.*

**APPLICANT'S RESPONSE:** None of these prohibited materials are proposed.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

**17.59.050 Building and Site Design**

**C. Building Materials. [...]**

- 3. Exterior building colors shall be of low reflective, subtle, neutral or earth tone color. The use of high intensity colors such as black, neon, metallic or florescent colors for the façade of the building are prohibited except as may be approved for building trim.**

**APPLICANT'S RESPONSE:** The proposed color palette is subtle and consists of neutral and earth tone colors including white, grey, red, and tan. See Sheet A6.05 for details.

**FINDING: SATISFIED WITH CONDITION #12.** A condition of approval is included to require that samples or examples of the exterior building colors be provided to the Planning Department for review and approval by the Planning Director prior to application on the building.

**CONDITION OF APPROVAL #12:** That the applicant shall provide samples or examples of the exterior building colors to the Planning Department for review and approval by the Planning Director prior to application on the building. (McMinnville Municipal Code, 17.59.050(C)(3))

**17.59.060 Surface Parking Lots.**

- A. Surface parking lots shall be prohibited from locating on Third Street. In addition, vehicular access to parking lots from Third Street is prohibited.**
- B. All parking lots shall be designed consistent with the requirements of Section 17.60.080 of the McMinnville Zoning Ordinance.**
- C. A hedge or wall, thirty (30) inches in height, or dense landscaping within a buffer strip a minimum of five feet in width shall be placed along the street-side edge of all surface parking lots. Landscaping within the buffer strip shall include street trees selected as appropriate to the situation and spaced according to its type, shrubs spaced a minimum of three feet on center, and groundcover. A landscaping plan for this buffer shall be subject to review and approval by the McMinnville Landscape Review Committee. (Ord. 4797 §1, 2003).**

**APPLICANT'S RESPONSE:** No surface parking lots are proposed. Parking will be provided below grade.

**FINDING: NOT APPLICABLE.**

**17.59.070 Awnings.**

- A. Awnings or similar pedestrian shelters shall be proportionate to the building and shall not obscure the building's architectural details. If transom windows exist, awning placement shall be above or over the transom windows where feasible.**
- B. Awnings shall be placed between pilasters.**
- C. Where feasible, awnings shall be placed at the same height as those on adjacent buildings in order to maintain a consistent horizontal rhythm along the street front.**
- D. Awnings should be constructed of soft canvas, fabric, or matte finished vinyl. The use of wood, metal or plastic awnings is prohibited.**
- E. Awnings may be indirectly illuminated; internal illumination of awnings is prohibited.**
- F. Awning colors shall be of a low reflective, subtle, neutral or earth tone color. The use of high intensity colors such as black, neon, metallic or florescent colors for the awning are prohibited.**

**APPLICANT’S RESPONSE:** As shown on Sheets A6.01 to A6.03, awnings are provided over the storefronts at the ground level. They are located above the transom windows and are a generous depth to shelter pedestrians from rain or sun.

The ground-level awnings are placed between pilasters as shown in Sheet A3.01.

The KAOS building to the east has red fabric awnings above the transom windows. The proposed awnings are placed at the same height as shown on Sheet A3.01.

The awnings will be constructed of soft canvas or fabric.

No internal illumination of the awnings is proposed.

The proposed awnings are made of red fabric as a nod to the KAOS building to the east. No prohibited colors are proposed.

**FINDING: SATISFIED.** This criterion is met.

### **17.59.080 Signs.**

- A. *The use of flush-mounted signs, flag-mounted signs, window signs, and icon signs are encouraged. Sign materials shall be compatible with materials used in the building.*
- B. *Where two or more businesses occupy the same building, identifying signs should be grouped together to form a single panel.*
- C. *Wall signs shall be placed in traditional locations in order to fit within architectural features, such as: above transoms; on cornice fascia boards; or, below cornices. Wall signs shall not exceed the height of the building cornice.*
- D. *For every lineal foot of building frontage, 1.5 square feet of signage may be allowed, to a maximum of 200 square feet.*
- E. *The use of the following are prohibited in the downtown area:*
  1. *Internally-lit signs;*
  2. *Flashing signs*
  3. *Pedestal signs and pole-mounted signs;*
  4. *Portable trailer signs;*
  5. *Cabinet-type plastic signs;*
  6. *Billboards of all types and sizes;*
  7. *Historically incompatible canopies, awnings, and signs;*
  8. *Signs that move by mechanical, electrical, kinetic or other means; and,*
  9. *Inflatable signs, including balloons and blimps. (Ord. 4797 §1, 2003).*

**APPLICANT’S RESPONSE:** Signage will be submitted for review and approval under a separate permit. However, signage is anticipated to be a flush-mounted sign above the entry, with traditional blade signage for individual retailers.

**FINDING: SATISFIED WITH CONDITION #13.**

**CONDITION OF APPROVAL #13:** The applicant will need to submit a sign permit for review and approval prior to the application of any signs to the project.

### **17.60 Off-Street Parking.**

#### **17.60.050 Spaces—Location.**

- A. *Except as provided below, required off-street parking spaces for dwellings shall be located on the same lot with the dwelling. For the following residential uses, off-street parking shall be located not*

*farther than five hundred feet from the building or use they are required to serve, measured in a straight line from the building.*

1. *Off-street parking for one or two upper story residential dwelling units above a non-residential use*
  2. *Off-street parking for residential uses in the City Center Housing Overlay Zone designated in Chapter 17.66*
- B. *All other required parking spaces shall be located not farther than two hundred feet from the building or use they are required to serve, measured in a straight line from the building.*
- C. *When parking is provided on a different lot than the use it is required to serve, the applicant shall provide evidence of a binding parking agreement for use of the property for off-street parking consistent with the provisions of this Chapter for as long as the parking is required to serve the property. If the property is in different ownership or subsequently conveyed to a different owner, the parking agreement shall be recorded. (Ord 5105 §2, 2021; Ord 5060 §2, 2018; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

**APPLICANT'S RESPONSE:** No residential uses are proposed. These provisions are not applicable.

There are no required parking spaces, and this standard is not applicable. The proposed parking spaces are located on site.

**FINDING: NOT APPLICABLE.**

**17.60.060 Spaces. Number required.**

*Except for the southerly 100 feet of Block 10 and the northerly 100 feet of Block 11, Rowland's Addition and the area bounded by Second Street, Adams Street, Fourth Street, and Galloway Street, at the time of erection of a new structure or at the time of enlargement or change of use of an existing structure, off-street parking spaces shall be provided as follows unless greater requirements are otherwise established. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property but shall exclude space devoted to off-street parking or unloading.*

**APPLICANT'S RESPONSE:** The development site is located within the area described above, and no off-street parking spaces are required. However, 67 off-street parking spaces are provided in the lower level of the building for use by customers and guests. According to the Client's hospitality expert, the ideal number of parking spaces to serve the proposed development is 67

**FINDING: SATISFIED.**

**17.72.020 Application Submittal Requirements.**

*Applications shall be filed on forms provided by the Planning Department and shall be accompanied by the following;*

- A. *A scalable site plan of the property for which action is requested. The site plan shall show existing and proposed features, such as access, lot and street lines with dimensions in feet, distances from property lines, existing and proposed buildings and significant features (slope, vegetation, adjacent development, drainage etc.)*
- B. *An explanation of intent, nature and proposed use of the development, and any pertinent background information.*
- C. *Property description and assessor map parcel numbers(s).*
- D. *A legal description of the property when necessary.*
- E. *Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.*
- F. *Materials required by other sections of the McMinnville Zoning Ordinance specific to the land use application.*
- G. *Other materials deemed necessary by the Planning Director to illustrate compliance with applicable review criteria, or to explain the details of the requested land use action.*

**APPLICANT'S RESPONSE:** This submittal includes the required materials.

**FINDING: SATISFIED.**

**17.72.095 Neighborhood Meetings.**

- A. *A neighborhood meeting shall be required for:*
1. *All applications that require a public hearing as described in Section 17.72.120, except that neighborhood meetings are not required for the following applications:*
    - a. *Comprehensive plan text amendment; or*
    - b. *Zoning ordinance text amendment; or*
    - c. *Appeal of a Planning Director's decision; or*
    - d. *Application with Director's decision for which a public hearing is requested.*
  2. *Tentative Subdivisions (up to 10 lots)*
  3. *Short Term Rental*
- B. *Schedule of Meeting.*
1. *The applicant is required to hold one neighborhood meeting prior to submitting a land use application for a specific site. Additional meetings may be held at the applicant's discretion.*
  2. *Land use applications shall be submitted to the City within 180 calendar days of the neighborhood meeting. If an application is not submitted in this time frame, the applicant shall be required to hold a new neighborhood meeting.*
- C. *Meeting Location and Time.*
1. *Neighborhood meetings shall be held at a location within the city limits of the City of McMinnville.*
  2. *The meeting shall be held at a location that is open to the public and must be ADA accessible.*
  3. *An 8 ½ x 11" sign shall be posted at the entry of the building before the meeting. The sign will announce the meeting, state that the meeting is open to the public and that interested persons are invited to attend.*
  4. *The starting time for the meeting shall be limited to weekday evenings between the hours of 6 pm and 8 pm or Saturdays between the hours of 10 am and 4 pm. Neighborhood meetings shall not be held on national holidays. If no one arrives within 30 minutes after the scheduled starting time for the neighborhood meeting, the applicant may leave.*
- D. *Mailed Notice.*
1. *The applicant shall mail written notice of the neighborhood meeting to surrounding property owners. The notices shall be mailed to property owners within certain distances of the exterior boundary of the subject property. The notification distances shall be the same as the distances used for the property owner notices for the specific land use application that will eventually be applied for, as described in Section 17.72.110 and Section 17.72.120.*
  2. *Notice shall be mailed not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.*
  3. *An official list for the mailed notice may be obtained from the City of McMinnville for an applicable fee and within 5 business days. A mailing list may also be obtained from other sources such as a title company, provided that the list shall be based on the most recent tax assessment rolls of the Yamhill County Department of Assessment and Taxation. A mailing list is valid for use up to 45 calendar days from the date the mailing list was generated.*
  4. *The mailed notice shall:*
    - a. *State the date, time and location of the neighborhood meeting and invite people for a conversation on the proposal.*
    - b. *Briefly describe the nature of the proposal (i.e., approximate number of lots or units, housing types, approximate building dimensions and heights, and proposed land use request).*
    - c. *Include a copy of the tax map or a GIS map that clearly identifies the location of the proposed development.*
    - d. *Include a conceptual site plan.*
  5. *The City of McMinnville Planning Department shall be included as a recipient of the mailed notice of the neighborhood meeting.*

6. *Failure of a property owner to receive mailed notice shall not invalidate the neighborhood meeting proceedings.*
- E. Posted Notice.**
1. *The applicant shall also provide notice of the meeting by posting one 18 x 24" waterproof sign on each frontage of the subject property not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.*
  2. *The sign(s) shall be posted within 20 feet of the adjacent right-of-way and must be easily viewable and readable from the right-of-way.*
  3. *It is the applicant's responsibility to post the sign, to ensure that the sign remains posted until the meeting, and to remove it following the meeting.*
  4. *If the posted sign is inadvertently removed (i.e., by weather, vandals, etc.), that shall not invalidate the neighborhood meeting proceedings.*
- F. Meeting Agenda.**
1. *The overall format of the neighborhood meeting shall be at the discretion of the applicant.*
  2. *At a minimum, the applicant shall include the following components in the neighborhood meeting agenda:*
    - a. *An opportunity for attendees to view the conceptual site plan;*
    - b. *A description of the major elements of the proposal. Depending on the type and scale of the particular application, the applicant should be prepared to discuss proposed land uses and densities, proposed building size and height, proposed access and parking, and proposed landscaping, buffering, and/or protection of natural resources;*
    - c. *An opportunity for attendees to speak at the meeting and ask questions of the applicant. The applicant shall allow attendees to identify any issues that they believe should be addressed.*
- G. Evidence of Compliance.** *In order for a land use application that requires a neighborhood meeting to be deemed complete, the following evidence shall be submitted with the land use application:*
1. *A copy of the meeting notice mailed to surrounding property owners;*
  2. *A copy of the mailing list used to send the meeting notices;*
  3. *One photograph for each waterproof sign posted on the subject site, taken from the adjacent right-of-way;*
  4. *One 8 ½ x 11" copy of the materials presented by the applicant at the neighborhood meeting; and*
  5. *Notes of the meeting, which shall include:*
    - a. *Meeting date;*
    - b. *Meeting time and location;*
    - c. *The names and addresses of those attending;*
    - d. *A summary of oral and written comments received; and*
    - e. *A summary of any revisions made to the proposal based on comments received at the meeting. (Ord. 5047, §2, 2018, Ord. 5045 §2, 2017).*

**APPLICANT'S RESPONSE:** A virtual neighborhood meeting was held on April 25, 2022. The appropriate procedures were followed and the materials detailed in G above are included as Appendix A.

**FINDING: SATISFIED.**



City of McMinnville  
Planning Department  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

# MEMORANDUM

**DATE:** April 11, 2023  
**TO:** Mayor and Councilors  
**FROM:** Heather Richards, Community Development Director  
**SUBJECT:** Public Testimony for AP 5-23 (HL 6-22), AP 6-23 (HL 7-22), AP 7-23 (HL 8-22), and AP 8-23 (DDR 2-22), Appeal of the Gwendolyn Hotel Land-Use Applications (Received April 9 – April 10, 2023)

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Mayor and Councilors,

Following is the public testimony that has been received since it was announced that the Planning Commission approvals of the land-use applications for the Gwendolyn Hotel has been appealed and that the City Council would conduct a public hearing on April 18 to consider the appeal. The testimony below was received on April 9 and April 10.

**Public Testimony:**

- Dean P. Grisvold, 04.09.23
- Carol Paddock, 04.10.23
- Jeb Bladine, 04.10.23
- Jennifer Morrow, 04.10.23
- Nathan Coopriider, 04.10.23
- Ernie Munch, 04.10.23

**From:** [Dean P. Gisvold](#)  
**To:** [Heather Richards](#)  
**Subject:** Gwendolyn Hotel (HL 6-22, HL 7-22, HL 8-22, and DDR 2-22) - 609, 611 and 619 NE Third Street  
**Date:** Sunday, April 9, 2023 1:32:00 PM

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**This message originated outside of the City of McMinnville.**

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I'm writing to the City Council to register my strong objection to a Portland developer that wants to demolish 3 historic buildings in an historic district, and replace it with the Gwendolyn, a 6-story luxury hotel with 92 rooms and a rooftop pool.

As a long time resident of the Portland Irvington neighborhood, I served as the unpaid administrator of the Irvington Historic District, the largest historic district in Oregon and Washington, one of the largest in the country, from October, 2010 to June 2023, that dealt with over 700 applications for exterior alterations and new development (mostly alterations). The criteria for such alterations and new development centered on massing, scale, and architectural compatibility. My wife and I and two other Portland couples are twice a year (sometimes more) visitors to your town drawn of course by our love of wine, but also by the charm and scale of Third Avenue.

## **Demolition**

Demolition of structures in an historic district, whether contributing or non-contributing, should be a last resort action by the City. The fact that a proposed reuse or rehabilitation does not “pencil” out for the developer’s project are not grounds for demolition. Because once the buildings are demolished, they are gone forever. I am sure there are other uses that do pencil out and would preserve these historic structures on Third Ave, one of the most charming, architecturally compatible main streets in Oregon.

## **New Development**

I note here that the McMinnville Historic Landmarks Committee voted 3-2 to deny demolition of the buildings and 4-1 to deny the Gwendolyn Hotel's design. If the McMinnville Historic Landmarks Committee is anything like the Portland Historic Landmarks Commission, its membership is composed of experts, citizens who know about mass, scale, and compatibility. You should take these votes as a strong rejection of the project.

I have reviewed the elevations and design elements for the Gwendolyn and find that the massing and scale overwhelm the nearby buildings. The Gwendolyn is not



architecturally compatible with its neighboring buildings on Third Avenue-too big and out of scale. It appears to me that this new development does not meet downtown's design codes that new "buildings should have massing and configuration similar to adjacent or nearby historic buildings on the same block."

Please reject this project in its entirety.

Dean Gisvold  
2225 NE 15<sup>th</sup> Ave  
Portland, OR 97212

PS Please confirm receipt and that my testimony has been timely received and will be part of the public record. Thanks.

Sent from [Mail](#) for Windows

Re: Appeal of the McMinnville Planning Commission’s Decisions, Conditions, Findings of Facts and Conclusionary Findings documents of March 18, 2023: AP 1-23, AP 2-23, AP 3-23, & AP 4-23 (HL 6-22, HL 7-22, HL 8-22 and DDR 2-22)

Mayor and City Councilors:

These are my comments on the Planning Commission’s findings for the proposed Gwendolyn Hotel (AP 4-23/ DDR 2-22). I’ve also included comments from my previous letter of March 14 about operational issues and the reasons why I think they are appropriate for your consideration. Comments are related to the proposed hotel’s design, and its location and impact on Third Street.

Very few of the public submissions objected to the proposed Gwendolyn Hotel in downtown McMinnville, rather it is the specific location on Third Street—America’s downtown—and the elimination of three historic resources to build it. The proposed hotel is a huge change of course. The Historic Landmarks Committee and the Planning Commission provided split decisions, but tilting to opposite sides. You can see there is no clear mandate in the votes, and with a proposal so important that it could chart a new course for downtown, we should be closer to a common understanding—not just at a tipping of the scale.

	Demolition		Hotel		
	Y	N	Y	N	
Historic Landmarks Committee	2	3	1	4	Five members
Planning Commission	5	3	5	3	Eight members
Combined PC and HLC	7	6	6	7	Thirteen members

I feel that everyone has the best interests of McMinnville at heart, but that there are genuine disagreements about how to proceed into the future. I think development in the district should follow the rules set in place to protect it, and we should seek to change those the city disagrees with.

I am very concerned with the interpretations of the downtown design code, as you’ll see in this letter. I suggest the Council adopt the Historic Landmarks Committee’s findings of January 26, 2023 and strengthen and clarify them as appropriate.

I respectfully request that the City Council consider this testimony in your deliberations and, based upon these findings, support the appeals and rescind approval for the proposed hotel.

Carol Paddock   
 McMinnville, Oregon

In this letter:

- In all cases of emphasis in references, it has been added.
- Unless otherwise indicated, page numbers refer to the March, 2023 Planning Commission Decision, Conditions, Findings of Fact and Conclusionary Findings (AP 4-23/ DDR 2-22).
- MZO = McMinnville Zoning Ordinance
- HLC = Historic Landmarks Committee
- DIP = Downtown Improvement Plan

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## Downtown Design Standards and Guidelines Purpose

MZO 17.59.010 Purpose. *To provide for the protection, enhancement and preservation of buildings, structures, and other elements in the downtown core which contribute to its special historic and cultural value. Further, it is not the purpose of this ordinance to create a “themed” or artificial downtown environment. Rather, its purpose is to build on the “main street” qualities that currently exist within the downtown and to foster an organized, coordinated, and cohesive historic district that reflects the “sense of place,” economic base, and history unique to McMinnville and the downtown core. (Ord. 4797 §1, 2003).*

The Planning Commission’s findings do not address this section of the ordinance. Such findings are necessary to demonstrate how the project 1) contributes to the downtown’s special history and culture; 2) how it builds on the “main street” qualities that currently exist; and 3) reflects the “sense of place” and history unique to McMinnville and the downtown core.

*...it is not the purpose of this ordinance to create a “themed” or artificial downtown environment.*

The findings fail to specifically address “a ‘themed’ or artificial downtown environment.” Further, the findings do not address the instruction from the National Park Service given in the staff presentation as the March 16, 2023 meeting.

New Construction in a Historic District – *New construction should be distinct from the old and must not attempt to replicate historic buildings elsewhere on site and to avoid creating a false sense of historic development. (National Park Service)*

The proposed Gwendolyn Hotel has:

- three faux buildings representations on the facade. (More details on this in the Proportional Bays paragraphs.)
- *“...separate building expressions, and historical detailing.” (OTAK Dec. 19, 2022 letter)*  
The OTAK letter goes on to say, *“...west of Ford Street on 3rd has always been different, with the blocks of large, Italianate, heavily detailed buildings. The utilitarian buildings of necessity for the auto that were the predominate building type of the eastern stretch of 3rd, have for 100 years had a split personality for 3rd Street. A street out of balance.”*

This shows an intention to remove the variety of historical resources on Third Street and replace them with the “preferred” theme to the west.

## Overlay

McMinnville’s Chapter 17.59 DOWNTOWN DESIGN STANDARDS AND GUIDELINES is an overlay to the C-3 zoning. From page 1 of the findings: **ZONING: C-3 General Commercial (Downtown Overlay District).**

An overlay’s requirements are typically more restrictive than the underlying zone. There should be no expectation of developing to an 80’ maximum height in much of the downtown area, and specifically at 3<sup>rd</sup> & Ford Streets given the massing requirements of this chapter. A practicing architect in this region,

testified on the record that architects are trained to look at design overlay requirements as more restrictive than the underlying zone. This is supported in MZO’s section 17.03.040.B: Most Restrictive Requirements Apply. Several decisions in the findings deviate from the chapter’s design standards and guidelines, as explained below.

## Setback vs. Step Back

Section 17.050 (A)(1), *Building Setback* Except as allowed by this ordinance, buildings shall maintain a zero setback from the sidewalk or property line.

This standard requires that the building façade(s) is to be “maintained” or situated at the property line for the entirety of the building’s vertical exposure, thus reinforcing the downtown’s strong vertical presence and sense of enclosure along the streetscape. This also recognizes and builds upon one of the “main street” qualities prevalent in McMinnville’s downtown and many other historic commercial districts. This pattern forms a relationship with the street that is essential to the pedestrian orientation of the district.

But this project design includes building setbacks, or “step backs,” on both the Third Street and Ford Street facades, for which no waiver has been submitted or approved. “Step backs” are not a term defined by the MZO. It was presented as a point of clarification by staff during the March 16, 2023 Planning Commission meeting. Step backs are only mentioned in the MZO in relation to residential use—to create a human scale along the street façade (MZO 17.11.100.F.4.d). It’s clear that if the city had wanted to use this device in the downtown design guidelines, Section 17.59.050.A.1 would have been similarly specific. There is no precedent to justify approving these large areas of setback building facades which create a visually dominant feature *dissimilar* to anything that exists in the historic district. See also the paragraph under Configuration of Massing, below, for more discussion.

## Adjacent Definition, Adjacent Buildings (Massing and Configuration)

MZO-17.59.050.B.1, first sentence: *Buildings should have massing and configuration similar to adjacent or nearby historic buildings on the same block...*

MZO-17.06.015 General Definitions.

*Adjacent – Contiguous to a property boundary at a property line or property corner. Two properties separated by street or right-of-way are considered adjacent (Figure 2).*

As shown in the appeal document:

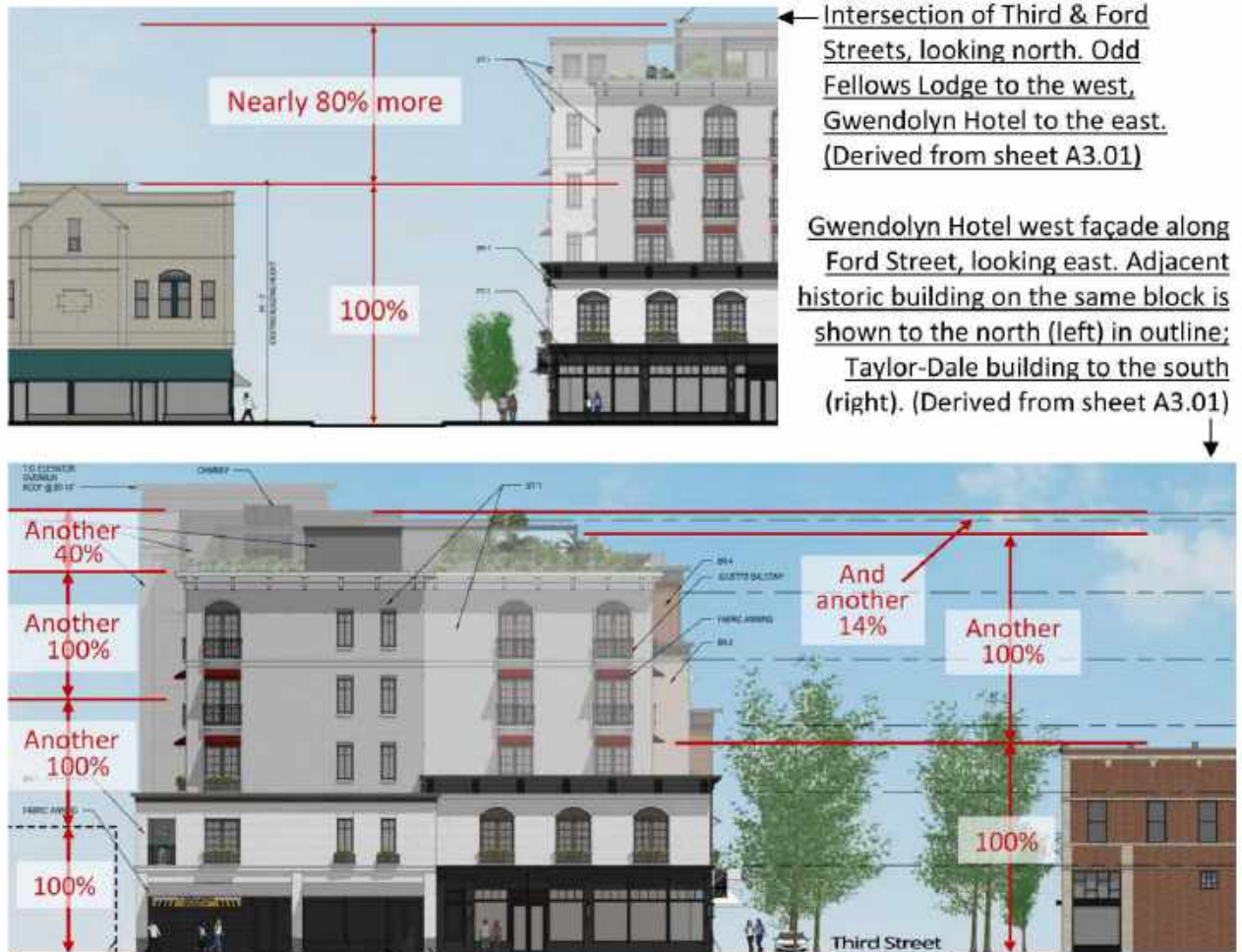


Adjacent buildings

Historic buildings on the same block



These surrounding buildings are one, two, and three stories. The Proposed Gwendolyn Hotel is six! It is not clear how the Planning Commission came to view the term “similar” to mean nearly an 80% deviation from the tallest adjacent building’s height and nearly three-and-a-half times the height of historic buildings on the same block.



← Intersection of Third & Ford Streets, looking north. Odd Fellows Lodge to the west, Gwendolyn Hotel to the east. (Derived from sheet A3.01)

Gwendolyn Hotel west façade along Ford Street, looking east. Adjacent historic building on the same block is shown to the north (left) in outline; Taylor-Dale building to the south (right). (Derived from sheet A3.01)

The applicant tries to claim the entire downtown to make a comparison to taller buildings which are not adjacent to its proposed project:

*...perhaps “adjacent” can be thought of more broadly, in a cohesive way, to include all of downtown McMinnville. In that case, doesn't that mean in a way that all buildings downtown are adjacent? Adjacent to each other and adjacent to the whole? (Page 40 of the findings, 2<sup>nd</sup> paragraph.)*

*“The proposed building is a bit taller than other buildings in downtown McMinnville, but not in any exaggerated way.” (Page 40 of the findings, 3<sup>rd</sup> paragraph.)*

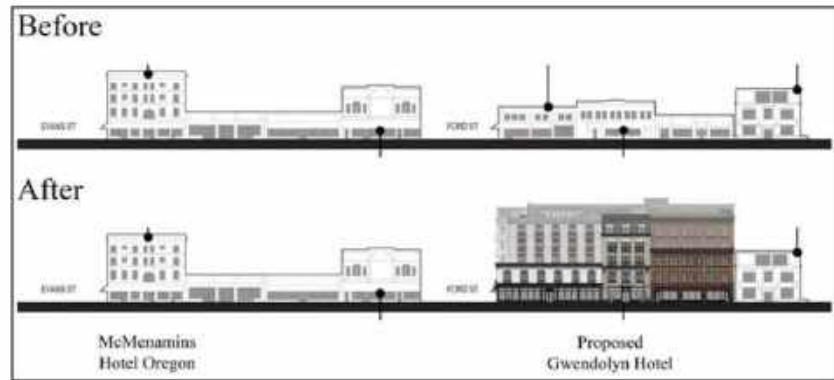
This is an outright misrepresentation of the definition of “adjacent” in the MZO. This massing issue was correctly understood in the January 26, 2023 Historic Landmarks Committee (HLC) DDR 2-22 findings document:

...the area of consideration includes not only the extant historic buildings across Ford and Third Streets but also those located on the same block including the buildings on Fourth Street as well. The historic buildings facing Fourth Street, which are also “adjacent,” are one story. (Page 41 of the January 26, 2023 DDR 2-22 findings document.)

The Planning Commission findings reference several precedents in satisfying the criterion, however, none are adjacent, and each project must stand alone and be judged independently.

## Massing

In addition to height, massing includes width and depth. This illustration shows how overpowering the proposed hotel will be amongst the existing historic buildings. Numerous submissions in the record have argued this point.



## Configuration of Massing

Continuing with the discussion of MZO-17.59.050.B.1, the first sentence (quoted above): Nowhere in downtown do we have the jumble of “step backs” or setbacks, of the upper floors. The vertical street facades of the district’s historic buildings, continuously maintained along the length of 3<sup>rd</sup> Street, are not similarly represented in the proposed hotel. The findings do not explain what adjacent historic buildings are similar to this massing and configuration.

## “Similar” Building Massing References

The section (17.59.050.B.1) means that downtown areas will grow organically; new buildings will be only a little taller (or shorter, or narrower, or wider) than the buildings around them. Where no buildings are close enough to influence the massing (per the section), *then* the 80’ height restriction applies. The MZO and other city documents have numerous references displaying a commitment to similarity of scale and consistency in its downtown buildings.

MZO-17.59.050.B.1: *Buildings should have massing and configuration similar to adjacent or nearby historic buildings on the same block...*

From  
Drawing  
A6.02





MZO-17.59.050.B.2: *Where buildings will exceed the historical sixty feet in width, the façade should be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings...* (More on this below.)

MZO-17.59.050.B.4: *Orientation of rooflines of new construction shall be similar to those of adjacent buildings...*

McMinnville Urban Renewal Plan

*DOWNTOWN COMMERCIAL CORE ...Its identity should enhance and preserve the qualities of the downtown, including its historic heritage...* (Page 9 or page 6 of the PDF)

Downtown Improvement Plan (DIP) (I encountered several versions of the DIP, so page numbers may be transposed.):

*Buildings, Goal: Retain, adaptively reuse, and redevelop existing downtown buildings. Construct new buildings in a manner that respects the downtown's existing architectural context and patterns.* (Page 8 of the DIP PDF)

*Third Street has the highest quality streetscape downtown. The buildings provide a consistent edge to the street and add activity and vitality. The buildings' historic quality and two-story height further add to the character of the street.* (Page 14 of the DIP PDF)

*Utilize the character and scale of the existing structures downtown as a model for future buildings and development guidelines.* (Page 23 or page 27 of the DIP PDF)

*Establish specific design guidelines to ensure a consistent, quality downtown experience.* (Page 27 or page 31 of the DIP PDF)

MZO-17.50.040.E.8.a.2: *The continuity of the building sizes;*

MZO-17.50.040.E.8.a.2 (just above) is a "Shall" criterion for Activity Centers. The findings fail to address how it is met, even as the applicants claim inclusion in the downtown activity center (last paragraph, page 28 of the findings).

## Appearance at Intersections

MZO-17.59.050.B.1, second sentence: *...Buildings situated at street corners or intersections should be, or appear to be, two-story in height.*

In the applicant's response, they say "the apparent height of the building is two stories" (at the corner) and "a 3-story expression at the corner" (now a 2-story expression) to describe the building's height at the corner. (Findings, page 39, last two paragraphs.) But the criterion is not the apparent height nor the "expression" from the corner, but whether or not the building appears to be a two-story building at that location. It's fairly simple; the building is what it looks like. The applicants are going through some wording gymnastics to change that. Nothing in the chapter provides for step backs or any other device to relieve the obligation to appear to be two stories. Nor would this method of attempting a "2-story expression" relieve the applicant from meeting the first portion of this criterion: *"Buildings should have*

*a massing and configuration similar to adjacent or nearby historic buildings on the same block.”*

Numerous submissions in the record have argued this point.



VIEW OF GWENDOLYN HOTEL FROM FORD ST AND 3RD STREET

Drawing A7.01 View from the corner of 3<sup>rd</sup> and Ford Streets, looking NE

The Planning Commission claims (2nd paragraph, page 41 of the findings) that the vertical plane at the property line is reduced to two-stories at the corner. This is swapping two massing infractions (configuration & setback) to serve another (the 2-story “expression”). Regardless, it doesn’t work; as the rendering shows, the building appears to be a 5-plus-story structure at the corner.

The Planning Commission has again relied on precedents to address this section. (First paragraph of the findings, page 41.) As noted above, precedents should not be used—projects should be judged on their own. Regardless, this is why the precedents are not comparable to the proposed hotel:

**KAOS building (three stories—not six stories)**

The KAOS building was found to have massing and configuration similar to adjacent or nearby historic buildings on the same block. Two waivers for the setbacks from Galloway Street and from 3<sup>rd</sup> Street were reviewed and granted approval. In both cases, the waivers were approved to accommodate outdoor dining spaces, as allowed in the ordinance.

**Atticus Hotel (four stories—not six stories)**

This project had a conflict in meeting both the similar massing of adjacent historic structures and the 2-story corner appearance. It was resolved in favor of the similar massing and configuration of the historic Elberton Hotel (Hotel Oregon) on the same block. This conflict is not present in the proposed Gwendolyn Hotel project, which does not achieve similar massing to adjacent buildings, nor does it appear to be 2 stories in height at the intersection.

**First Federal Building (three stories—not six stories)**

My opinion is that this decision was an error. The findings for this project relied on two 3-story historic buildings as precedents which were one and three blocks away. These



were not adjacent buildings, and it is the adjacent or nearby historic buildings on the same block which the criterion requires similarity to. Errors made in past applications should not be repeated in the future. If the city wishes this change, it should address its code.

For a detailed examination of nine past projects in the District showing consistent enforcement of criterion MZO-17.59.050.B.1, see the Cooperider letter of Jan. 3, 2023, starting on the 2<sup>nd</sup> page of this link: [public testimony received - after 12.28.22.pdf \(mcminnvilleoregon.gov\)](#).

I am concerned that the Planning Commission decision has gutted the massing criteria. Can any new building now be 80' tall in the historic district regardless of adjacency? Can they be any height at corners as long as they employ a jog in the vertical plane? Staff was correct in its earlier assessment (in the 9-29-23 Draft Decision Document) that *"the applicant...has not shown how the proposed project with a 180 feet length and 98 foot depth, six stories tall, is similar [in] massing and configuration to adjacent or nearby historic buildings on the same block."* No subsequent design changes have altered any of these facts.

Based on the above assessment, the proposed Gwendolyn massing and configuration is not related to its surroundings, and it is not reflective of the "main street qualities which exist", nor does it appear to be two stories at the intersection. This significant violation of the massing criterion has been brought up as soon as public testimony was allowed and many, many times thereafter. Subsequent design modifications of differing façade materials, and a setback of a portion of the third floor façade have not brought this design into compliance with the massing criterion.

## Proportional Bays

MZO-17.59.050.B.2:

*Where buildings will exceed the historical sixty feet in width, the façade should be visually subdivided into proportional bays, similar in scale to other adjacent historic buildings, and as appropriate to reflect the underlying historic property lines. This can be done by varying roof heights, or applying vertical divisions, materials and detailing to the front façade.*

This section expects that the building façade be visually subdivided into proportional bays and that they be 1) similar in scale to other adjacent historic buildings; and 2) as appropriate, reflect the underlying historic property lines. The primary purpose of this provision of the ordinance is to maintain a pattern or rhythm along the street, an element common to "main street" design and development.

The proposed hotel is so big that this criterion has a difficult time addressing it. The 180' structure is divided into three building representations. However, *these are not bays*; they are faux building facades. The easternmost is divided into 3 bays, and the center is singular. But the west has weakly defined bays, if any. Since it's 79' long, it should be subdivided. The findings, in comparing the 90' faux building (actually 79', according to the drawings) to the 90' lot across Third Street mixes apples and oranges. (Page 42, 2<sup>nd</sup> and last paragraphs.) The criterion applies to buildings, not lots. The findings do not explain

how the bays/faux buildings reflect the underlying historic property lines, despite the construction occurring on a vacant site absent any obvious constraints to meeting this expectation.

The findings erred in comparing the applicant's original design with its amended design. What the criterion requires is comparison with adjacent historic buildings. The findings also erred in comparing the proposed design to what was approved at the Atticus and First Federal Buildings, which are neither historic buildings nor adjacent to this property.

If the Council feels the intent of this section is met, it is nonetheless important to correct the findings so they make clear that lot lengths are not the same as building lengths and faux building representations are not the same as bays within building facades.

## Belt Course

### 17.59.050 Building and Site Design

- B. *Building Design. [...]*
  - 3. *Storefronts (that portion of the building that faces a public street) should include the basic features of a historic storefront, to include:*
    - a. *A belt course separating the upper stories from the first floor;*

The applicant's narrative, and the findings offered in support of demonstrating compliance offer that only the westernmost building representation on Third Street has its upper floors separated from the first floor by a belt course. The central and easternmost are separated by a belt course located at the second floor and third floor, respectively. Further, these "belt courses" are labeled as cornices in the submitted architectural drawings for the proposed building and should therefore not be considered as an element that satisfies the belt course requirement.



A belt course is important in creating a demarcation between the first floor and the upper stories. This demarcation runs the length of 3<sup>rd</sup> Street, providing a unifying element in the district. This significant historic pattern along 3<sup>rd</sup> Street is clearly described in The National Historic Register nomination:

*"Buildings along Third Street represent several phases of development but have a marked cohesion by virtue of their density, common scale, materials and overall design elements. While ground story storefronts have been altered over the years, distinguishing features of the upper stories are intact and provide visual continuity."*



Although the proposed design contains ground floor storefront, what is entirely lacking is visually coherent upper stories above the belt course level, that relate to the existing historic buildings along 3<sup>rd</sup> Street and provide “visual continuity.” This is a significant divergence from “the main street qualities which currently exist” (MZO 17.59.010 Purpose).

## Discretionary

### Waivers

Throughout the precedents referenced, the city has shown a willingness to grant relief from criteria where waivers are appropriate. There are several instances where a waiver to a specific requirement would have served the proposed hotel—belt courses, proportional bays, etc.

The Council should not accept the Planning Commission’s findings in response to MZO 17.59.030.D and 17.59.040.A.3. (pages 37 and 38), the waiver portions of the Review Criteria for the Downtown Design Standards and Guidelines:

*FINDING: The City finds that this criterion is not applicable since the project is compliant with all of the standards of Chapter 17.59. Standards being defined as the “shall” criteria that are considered mandates and not the “should” criteria that are considered guidelines. (pages 37 and 38)*

By declaring the proposed hotel “compliant with all of the standards of Chapter 17.59” (the Downtown Design Standards and Guidelines), the Planning Commission effectively dismissing any need for waivers for the “should” design guidelines. But in fact, 17.59.030.D. says explicitly that waivers are to be used for both guidelines and standards:

*A guideline or standard contained in this ordinance may be waived as part of the design review process when it can be demonstrated that the proposed design satisfies or exceeds the downtown design goals and objectives of this ordinance.*

It has been shown above that much of the massing and configuration criteria from the Building Design section of 17.59.050 is not met in the proposed hotel. Accepting the Planning Commission’s findings of dismissing the need for waivers will set a precedent of overlooking criteria rather than seeking the code-sanctioned waivers.

### “Shall” vs. “Should”

Irrespective of the use of the words “shall” and “should” in MZO Chapter 17.59 (Downtown Design Standards and Guidelines), Section 17.59.040, Review Criteria still requires that both guidelines and standards **shall** form the basis of the City’s decision to approve, approve with conditions, or deny an application. This suggests that the use of the word “should” in Section 17.59.050.B.1 (massing and configuration) is not so freewheeling as to allow a nearly 80% height deviation from the tallest adjacent building and three-and-a-half times the height of historic buildings on the same block.

### Downtown Location

In response to Goal IV 3, the "Finding: Satisfied" (paragraph at the top of page 29) is factually inaccurate as the subject site is erroneously described as being located within the "east side of Third Street," which is actually an area described in the Downtown Improvement Plan (DIP) as being situated between Galloway Street and Johnson Street and identified for redevelopment. In fact, the subject property is located in the "Central Area," an area described in this same plan as follows:

*With the majority of downtown's commercial businesses concentrated on Third Street, it is the focus retail core for downtown McMinnville. It is the identifiable center of the City and is important to the health of the entire downtown. This area currently has high quality buildings and streetscape and is the most vital downtown area. (Page 12 of the DIP; see page 9 for more descriptions of downtown areas.)*

This inaccuracy, and misunderstanding of the importance of the subject site location, has been present throughout this review process.

## Conditions of Approval

At the March 16, 2023 Planning Commission meeting, commissioners were told to disregard my letter of March 14 (starting on page 18 of this link: [public testimony received after 3-2-23 for website.pdf \(mcminnvilleoregon.gov\)](#)) regarding operational issues at the street level of the Proposed Gwendolyn Hotel, saying that the issues I raised would be caught by conditions of approval.

However, when it is questionable whether a condition of approval can meet its intended purpose, then the City Council has the right and the responsibility to weigh in and judge it and change it or request a design change such that the condition of approval might apply.

As an example: We can have confidence that stormwater will be addressed appropriately since the roof area is unlikely to change significantly (condition # 9). But can we be confident that a 100,000-square-foot hotel can be adequately served on Third Street when the closest-sized comparable is the Atticus at 24,000 square feet?

The criterion which says massing is to be "similar to adjacent and nearby historic buildings on the block" is not just to maintain the historic scale and qualities of 3<sup>rd</sup> Street for appearance's sake, or for daylight into the street, or the other intangibles that make downtown so vital (all so eloquently in the record), it is so that new buildings function and operate on similar levels to existing buildings, and do not place inordinate pressure on existing systems and infrastructure. Issues are apparent from the applicant's drawings which show impacts to street life, safety, and congestion which are the result of an inadequate demonstration that code requirements can be met.

Many operational items are not specifically listed as part of the downtown design review, but are nonetheless included for review at the beginning of Section 17.59.040:



*“Review Criteria. A. In addition to the guidelines and standards contained in this ordinance, the review body shall base their decision to approve, approve with conditions, or deny the application, on the following criteria:”*

So, the whole of the McMinnville’s zoning ordinance is included in the review.

From the beginning of the MZO:

*MZO 17.03.020 Purpose. The purpose of the ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title is to...provide...workable relationships between land uses and the transportation system...and to promote in other ways public health, safety, convenience, and general welfare. (Page 33 of the findings)*

The operational issues which were dismissed are those occurring at the lines of public/private, parking/pedestrianism/street, and affecting the life, character, and vitality of downtown.

## Operational

### Traffic / Valet

*Condition of Approval #7: Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance. (Comprehensive Plan Policy #33.00)*

*GOAL IV 3: 25.00 Commercial uses will be located in areas where conflicts with adjacent land uses can be minimized and where city services commensurate with the scale of development are or can be made available prior to development. (Page 29 of the findings.)*

The findings only mention sewer service in relation to this locational policy. But street infrastructure is important here with as many as 67 departing vehicles concentrated on Third Street in the late morning at checkout time. Though a passenger loading zone must be provided, we don’t know if valet space will be adequate in front of the hotel. Valets must double park on Third Street or circle the block if waiting for a space to open up. The same condition, though probably less concentrated, will occur with guest arrivals. How will valet parking be handled during the city’s downtown festivals? The applicant’s traffic study did not address any of this. The extra traffic can be a safety issue. Since the applicant’s drawing omitted the accessible passenger loading zone, we have good reason to question them further. The applicant should give some explanation to assure Council and the public that Third Street can handle this specific increase in traffic. This issue is covered further in the record.

## Passenger Loading Zone

McMinnville Engineering Department TRANSPORTATION

*Comments and/or conditions of approval related to transportation include:*

- 1. ADA Sidewalk and Driveway Standards are now being applied to all new construction and remodels... (Page 19 of the findings.)*



PROWAG Advisory R204.2 Pedestrian Circulation Paths. *The accessible elements, spaces, and facilities located in the public right-of-way that pedestrian access routes must connect to include...accessible passenger loading zones (see R215 and R310).*

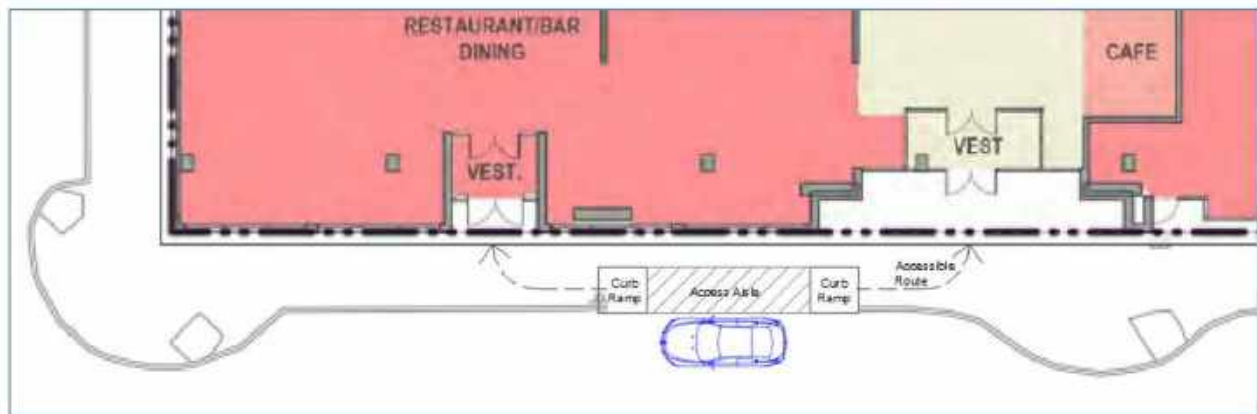
R215 Passenger Loading Zones. *Where passenger loading zones...are provided, at least one accessible passenger loading zone complying with R310 shall be provided...*

#### MZO 17.53.101 COMPLETE STREET DESIGN STANDARDS Table

General Design Notes;

4. Sidewalks 10-12 feet in width are required in commercial areas to accommodate the Pedestrian zone.

Details in the record describe the ADA passenger loading zone which will be inscribed into at least half the width of the sidewalk near the hotel entry, thus minimizing the “pedestrian environment” at the sidewalk which the applicant expects to provide (page 28, 2<sup>nd</sup>-to-bottom paragraph in the findings). This transportation facility (the passenger loading zone) is not shown in the applicant’s drawings. It is not clear whether it will be a shared or dedicated ADA space necessitating an additional passenger loading zone. It’s also unclear how the conflict with the city’s requirement for a 10’ sidewalk in commercial zones will be resolved (MZO table, end of Chapter 17.53, page 218, General Design Note #4). The applicant should give some explanation to assure the Council that logistics, safety, and street life can be addressed.



## Service Areas

GOAL IV 3: 26.00 *The size of, scale of, and market for commercial uses shall guide their locations. ... heavy traffic-generating uses shall be located...where adequate...service areas can be constructed.* (Page 29 of the findings.)

The NW corner of the site will have receiving, trash handling, parking garage access, and utility meters and vaults—all a safety issue for McMinnville’s downtown pedestrians who have never navigated an underground parking garage access. The applicant should give some explanation to assure the Council that logistics and safety can be addressed at this intense location.

## Loading

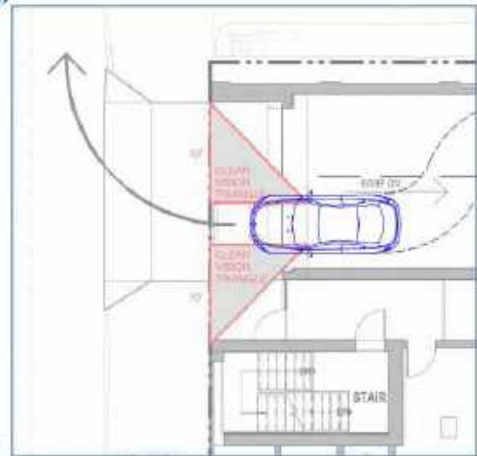
The findings do not address 17.60.070 Off-street loading requirements.

## Parking Garage

Condition of Approval #6. *Provide detailed plans for the parking structure[. E]mail correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance. (Comprehensive Plan Policy #33.00)*

GOAL IV 3: 33.00 *Encourage efficient use of land for parking;*

Details in the record show that the parking garage design, as submitted, is so limiting in maneuverability at the access point that it will be unsuitable for public use in the event of future change-of-use of the building. An exiting vehicle must swerve into the oncoming lane in order to access the clear vision triangles. The applicant should give some explanation to assure the Council that logistics and safety can be addressed.



### 17.60 Off-Street Parking and Loading

17.60.080.C. *Safe access shall be provided as follows:*

- 1. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.*
- 3. Driveways to off-street parking areas shall be designed and constructed to facilitate the flow of traffic and to provide for maximum safety of pedestrian and vehicular safety on the site.*
- 4. Clear vision areas shall be provided at driveway exits...*

The findings neglected to address these criteria. If it had, it would have caught the access issue at the parking garage entry described above. Though parking is not required for this project, if it is provided it must follow the code. In the City Council's design review, it doesn't matter that the parking will be all valet. The code shows that it must be designed in such a way that it functions normally and safely; this is important for future change of use.

## ADA Parking Spaces

### 17.60 Off-Street Parking and Loading

17.60.080.E. *Space size minimum shall be as follows:*

- 1. Handicap parking spaces shall be a minimum of twelve feet wide and 19 feet in length.*

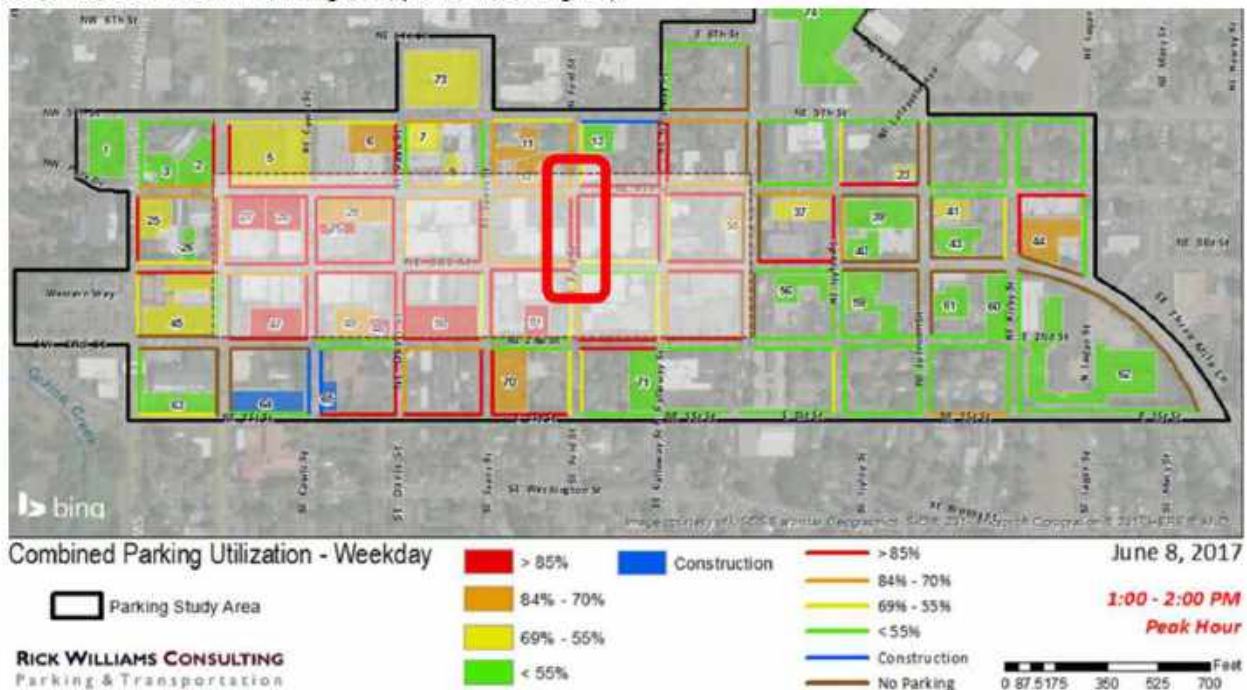


- 17.60.080.F. *The type of space shall be set as follows:*
1. *Handicap spaces shall be required and designated as per current federal, state, and local regulations.*

The findings neglected to address this criterion. Issues with accessible passenger loading at the building entrance and accessible parking spaces in the parking garage are detailed in the record. The three accessible parking spaces in the parking garage do not appear to meet MZO size requirements. One of the accessible parking access aisles is obstructed by a structural column. Six of the parking spaces which occupy the access aisle block entrance into the accessible parking spaces. It has not been shown how MZO 17.60.080.E & F have been met or can be met.

## On-Street Parking

What will be the effect of the loss of on-street parking due to the valet passenger loading zone on Third Street, and the parking garage entry and the likelihood of a loading zone on Ford Street? Ford Street between Third and Fourth Streets is already listed in the highest parking utilization for weekdays (page 18 of the Downtown Parking Study SAC Meeting #2).



Just to restate, the Council should feel confident that these operational issues can be addressed satisfactorily and not be a detriment to the safety, vitality, and infrastructure of downtown. And again, for more details on operational issues, see my letter of March 14 (starting on page 18 of this link: [public testimony received after 3-2-23 for website.pdf \(mcminnvilleoregon.gov\)](#)).

April 10, 2023

Testimony To: McMinnville City Council

Presented By: Jeb Bladine, Representing:  
Oregon Lithoprint, Inc., owner of 609 NE Third Street  
Bladine Family Limited Partnership, owner of 611 NE Third Street

Related To: Support for Gwendolyn Hotel Project / Opposition to Appeals  
(HL 6-22, HL 7-22, HL 8-22, and DDR 2-22)

On behalf of these two property owners, I urge support for the 4 demolition/redevelopment proposals. Applications were recommended for approval (with Conditions) by city staff, and approved by your Planning Commission. Neither property owner, nor any related party, has a financial interest in the development project beyond closure of a proposed property sale.

### **1. Approval based on Compliance with Land Use Code:**

This development meets specifications, requirements and limitations of stringent city land use regulations. Professional city staff recommended "Approval With Conditions," and McMinnville Planning Commission validated the development's legal qualifications.

McMinnville City Council, considering all information available, should uphold those recommendations and decisions made by its professional and citizen planners.

### **2. Approval based on Historic Resource Criteria:**

Municipal Code requires consideration of additional factors when a project involves demolition of a "historic resource" building. Decision-makers can prioritize and weigh those factors, and this testimony urges particular weight to these particular criteria:

"The value and significance of the historic resource."

"The physical condition of the historic resource."

"Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation."

"Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation."

"Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City."

Architectural significance of these buildings is greatly diminished by decades of exterior retrofits, and it is not financially feasible to recreate that history. Until this proposal

surfaced, McMinnville showed no interest in the fact that East 3<sup>rd</sup> Street – like any city in America – once housed a string of garages, auto-related dealerships and service stations.

With their 100-plus-year-old unreinforced masonry, these buildings are at high risk of collapse or major destruction from levels of earthquakes that McMinnville historically has suffered. The physical condition of these buildings, taken together with the high cost of renovation-to-code, is a major deterrent to any significant improvement projects.

Over the past six years, other prospective buyers reached these same conclusions, then looked elsewhere to make investments. Such situations have led to replacement of other historic-resource buildings in McMinnville, and similar concerns have been widely discussed in relation to aging buildings owned by the city.

### **3. Approval based on Economic Benefits to Community:**

This proposed project can greatly enhance the east end of McMinnville’s primary downtown core. Community benefits that outweigh other considerations include:

Architectural quality and design compatible with the city’s historic downtown.

A \$60 million project creating many local jobs in construction and operations.

A 1% construction excise tax going to Affordable Housing.

Annual property taxes estimated between \$500,000 and \$600,000 going first to Urban Renewal, then directly into the city’s General Fund – a financial boost to important Urban Renewal projects that will benefit the UR district and the McMinnville community.

Annual transient room taxes estimated at \$1 million, going 30 percent to the city general fund and 70 percent in support of visitor services.

A high-quality, high-service downtown anchor with retail, dining and lodging amenities that would draw more visitors and greatly increase revenues to local businesses.

Underground parking that would be a major benefit for customers, visitors and local people who progressively are being squeezed out of downtown parking availability.

### **4. Approval based on Environmental Issues:**

This project includes an environmental remediation program with far-reaching benefits for future downtown development. For many decades, gasoline leaked from underground tanks has flowed westerly from a lineup of automobile-related businesses to the east of this proposed development. More abandoned tanks have been found under city right-of-way.

For nearly 40 years, at great expense, owners of these buildings have managed their connection to those broader environmental issues. The city needs to recognize its own potential liabilities and become a partner in finding the best possible solutions.

McMinnville City Council itself should be engaged in multi-party efforts responding to that challenge. This development’s major excavation project creates essential opportunities for city, state and building owner collaborations.

**5. Approval based on Owner Financial Hardship in Retaining the Property:**

“Owner financial hardship” is one criterion required for consideration related to these proposed demolitions. Unfortunately, some people believe no cost is too high to restore old buildings to original condition so long as building owners are required to pay that cost.

In the past 25 years, these owners engaged architectural and engineering services multiple times, each time yielding information about high costs of renovation-to-code. The city building inspector once told owners that major renovation of 611 NE 3<sup>rd</sup> would require a near-total demolition and rebuild. In that time, owners spent well over \$1 million on new roofs, HVAC systems, building improvements, maintenance and taxes in order to continue using the buildings for a business that has steadily declined in value.

Multiple potential buyers – including two who made purchase offers – walked away after full analysis showed excessive costs to renovate the buildings for desired uses. The two buildings continue to produce revenue at rates far below market, and no other parties have approached owners with market-rate proposals to lease or buy.

One prominent architect-opponent of this project acknowledged that 609 NE 3<sup>rd</sup> could not be restored to original condition without major demolition. Yet, he suggests requiring owners to pay that cost of rebuilding without any possibility of investment return:

**From this, lacking historic integrity:**



**To this original, at excessive cost:**



Major renovation in place of old buildings has become excessively expensive. Required seismic and other structural work, plus return to original look, puts such projects beyond



financial means for people with needs of investment return. Various claims of cost-effective restoration possibilities for these two buildings are undocumented, and do not represent the requirements that would be applied by city fire, building and planning divisions.

City deliberations have begun on Municipal Code amendments that would make renovation of historic resources even more complex and expensive, including possibility of fines for owners who cannot afford major structural repairs and related restoration-to-code.

McMinnville may continue to develop and expand its recent zoning ordinance definition of “demolition by neglect” – a new concept that, if improperly applied, could cause financial devastation for owners of these and other old buildings.

**In Conclusion .... Approval based on “Conditions:”**

This development merits approval based on Land Use Code, Historic Resource Criteria, Benefits to Community, Environmental Issues and Owner Financial Hardship.

Owners of these buildings recognize the passion many people have for the historic appeal of McMinnville’s downtown. They have been among leaders in overall downtown development efforts for the past 65 years, including key roles in creation of McMinnville Downtown Association and the Urban Renewal District.

This is a time and situation to approve this development – just one story taller than the nearby hotel that was allowed 113 years ago. Conditions of approval can serve the downtown and the community; can dictate historic compatibility and observances of city history; can help limit construction intrusion on surrounding businesses, and require collaboration with planned city downtown development projects.

For all of these reasons, these building owners urge McMinnville City Council to deny appeals of Planning Commission decisions, and approve the proposed development project.

Thank you for this opportunity to testify – I would welcome any questions prior to or during in-person testimony to the council.

# The Gwendolyn Hotel | Not for downtown Mac

To: Heather Richards, Planning Division, and City Council of McMinnville, Oregon

RE: Certificate of Approval for Historic Resource Demolition and Downtown Design Review for New Construction of the Gwendolyn Hotel

This project will damage the integrity, attractiveness and universal appeal of our carefully preserved, award-winning downtown. I am adamantly against approval of the demolition and the Gwendolyn Hotel plan.

***Background:***

I am Jennifer Larsen Morrow, business owner and property owner in downtown Mac.

Creative Company, a marketing and branding firm, was founded in Salem in 1978. After I was married in 1986 and my husband and I built a home in the Sheridan hills, McMinnville became our primary destination—to shop, dine out, stroll Third Street and admire the decades of work which built the unique character and beauty of historic Third Street. I knew this place was special.

In 2001, when my lease was up at my South Salem office, I chose to move my business to Mac. How could I resist? We bought the beautiful Historic Wortman House at the end of Fourth Street, next to the railroad tracks, for my office. I loved being part of downtown—and immediately joined the McMinnville Downtown Association.

For 21 years we worked with many local clients including: creating recruitment suites for Linfield College; branding the newly named Western Oregon Waste as WOW; and developing messaging, brand identity and the website for MEDP. I led the marketing committee of the Downtown Association and supported marketing for the Chamber. I was thrilled when my company was chosen to create the first “Taste Mac” campaign before Visit McMinnville was established.

McMinnville’s appeal was often a selling point when I recruited new employees. My team and I frequented the many choices offered just a block or two away ... great shopping, wine tasting, lunch spots, charming streetscape and friendly, welcoming people.

In 2017 as I slimmed down the business, I converted the Wortman House from an office to a vacation rental. The home’s history, décor, and location just one block from Third Street provides guests with a wonderful wine country and downtown McMinnville experience, earning 5-star reviews regularly.

My daughter moved back from Arizona in 2020 and now lives downtown, next to the Wortman House, in a house she and her partner built. She constantly raves about her wonderful downtown lifestyle—walking



to the Farmers Market in summer, shopping, meeting new people, and discovering new wines at the many tasting rooms.

Thus I have been intimately connected with McMinnville's downtown, our beloved Third Street, for more than 20 years. Downtown is a thriving community and enticing destination for everyone near and far.

### I can't say it enough—I love downtown McMinnville.

We are a rare jewel of a downtown, sustained and loved by people committed to preserving its character, historic charm, intimacy, and small-town feel. It has earned McMinnville numerous national awards.

It's relaxing to stroll down Third Street, or to the Farmers Market, and discover new entrepreneurs adding their skills to our mix of businesses. We know each other and wave. If you step into the street to cross, people will stop. We're fortunate Third Street is not the main route through town, unlike many other downtowns which live with constant traffic.

The McMinnville vibe was and is infectious, as shown by the many new businesses moving in over the years, and those which have thrived for decades with local and visitor support. People want to visit. People want to be part of the downtown community. People recognize our unique ambiance and want to be part of it.

Those who've added new businesses or remodeled old buildings on Third Street have maintained the scale of what's already here, thus preserving the established "brand persona", the character which has earned downtown McMinnville's well-deserved recognition. It's possible to keep what we have and repurpose existing buildings, as the Tributary has, or build something of an appropriate scale and style such as the Atticus Hotel.

The Gwendolyn Hotel project, as presented, **will permanently destroy downtown's brand character**—that intimate, cozy feeling and historic, tree-lined view which has been nurtured over decades. **IT'S TOO BIG.**

It's out of scale for Third Street. The project does not integrate with or enhance the tone, style and appeal of Third Street, it detracts. It will overwhelm what we have cared for, the character we all love, and the ambiance we want to keep alive for Third Street and the next generations of downtown businesses and visitors. The Gwendolyn project design could work somewhere else in McMinnville, **just NOT on Third Street.**

I beg the Council and the Planning Division to follow the previous decision to deny the Demolition and New Construction of the Gwendolyn Hotel. It is a mistake for the future of McMinnville, and most importantly, for the future of our nationally-recognized, remarkable jewel of our beloved Third Street.

Thank you for your attention,

Jennifer Larsen Morrow, Creative Company Inc. and 726 Fourth/Historic Wortman House

**Memo:** Public Testimony  
Gwendolyn Hotel – Appeal of Planning Commission decision, applications HL- 6-22, HL-7-22,  
HL 8-22, and DDR 2-22  
**Date:** Monday, April 10th, 2023  
**By:** Nathan Coopridner

Dear Honorable Mayor and City Councilors:

My name is Nathan Coopridner, I live in Portland with my wife Christine and our two children. I moved to McMinnville with my family in around 1974. My mother Beth still lives in McMinnville and we visit her often. I graduate Mac High in 1990, and I graduated from the University of Oregon with an architecture degree in 1997. I am grateful to have had the chance to serve as the architect on McMinnville projects such as the KAOS Building and the Atticus Hotel. I am grateful to have served as architect in the rebuilding of the historic “Quarterback Princess / Roswell-Connor Home” from the ground up after a devastating fire. I also provided assistance to a small team of residents dedicated to bringing one of the oldest historic homes in McMinnville back from the brink of demolition. This was no easy feat, it having been severely neglected for many years and having had a primary interior load bearing wall removed for who knows how long. This small yellow home is known today as The Brooks Street House, and it is the first historic building you see crossing the Yamhill River on the winding road toward McMinnville’s historic downtown. I am currently not working on any projects in McMinnville, and I come to testify as a private citizen with relevant experience, training and expertise. My motivation is to be of service to all, by providing information and facts that are relevant to this evidentiary hearing.

One very important fact about your historic main street is that it is a nearly totally intact and contiguous historic main street building fabric. This is rare and significant. It is what makes Historic 3<sup>rd</sup> Street unique, of value, and important to locals and visitors alike. McMinnville has many admirers. Who knows what other communities would give to have a historic main street like this. The fact is, there is nothing you can give for such a blessing – it impossible to replicate history.

Of course a vibrant downtown is constantly changing, and in flux, with historic buildings being improved, and additions being made in compliance with your preservation codes (which includes your Downtown Design Standards and Guidelines). In fact, the protections that you have put in place exist so that this precious historic landmark district and main street will not just be protected but will be strengthened by encouraging investment in building improvements and restoration. As anyone with a background in historic preservation will tell you, demolition and replacing a full main street block-frontage of authentic historic buildings in a Nationally Registered District should be seen as a very last resort, and this has been adhered to very strictly by the City of McMinnville, especially on historic 3<sup>rd</sup> Street. I recommend a very careful review of the detailed public testimony provided by architect Ernie Munch which describes the **one-and-only** previous 3<sup>rd</sup> Street historic district contributing building demo: which involved identifying that 1.) there were errors in the classification of the exiting building, 2.) the reclassification of the property as a historic site, and 3.) the rebuilding of something similar to the original historic building which had existing on the site and which was lost for unknown reasons very long ago.

Your Historic Landmark Committee are selected for their qualification to serve in a very intentional, important and specific role in your code enforcement and public outreach and education about matters involving historic preservation. In their duties is a commitment to their own education, which certainly involves study of National Preservation Standards.

One of these National Standards was cited in the recent Planning Staff presentation, and quoted from by Planning Commissioners in their deliberations. I ‘googled’ this standard (highlighted in the attached page). I would like to draw your attention to the highlighted portion, AND to the rest of the bullet points on this page. Reading these points provides important insights into the meaning found within your specific code criteria wording, and why it is so important to evaluate any proposed District and building

modification's compatibility with the immediate historic context and compare to specific adjacent buildings of each specific site. And to follow your criteria very carefully, word by word.

It is possible to add new construction within the boundaries of historic properties if site conditions allow and if the design, density, and placement of the new construction respect the overall character of the site. According to the [Secretary of the Interior's Standards for Rehabilitation](#) – Standard 9 in particular – and the [Guidelines for Rehabilitating Historic Buildings](#), new construction needs to be built in a manner that protects the integrity of the historic building(s) and the property's setting.

In addition, the following must be considered:

- Related new construction – including buildings, driveways, parking lots, landscape improvements and other new features – must not alter the historic character of a property. A property's historic function must be evident even if there is a change of use.
- The location of new construction should be considered carefully in order to follow the setbacks of historic buildings and to avoid blocking their primary elevations. New construction should be placed away from or at the side or rear of historic buildings and must avoid obscuring, damaging, or destroying character-defining features of these buildings or the site.
- Protecting the historic setting and context of a property, including the degree of open space and building density, must always be considered when planning new construction on an historic site. This entails identifying the formal or informal arrangements of buildings on the site, and whether they have a distinctive urban, suburban, or rural character. For example, a historic building traditionally surrounded by open space must not be crowded with dense development.
- In properties with multiple historic buildings, the historic relationship between buildings must also be protected. Contributing buildings must not be isolated from one another by the insertion of new construction.
- As with new additions, the massing, size, scale, and architectural features of new construction on the site of a historic building must be compatible with those of the historic building. When visible and in close proximity to historic buildings, the new construction must be subordinate to these buildings. New construction should also be distinct from the old and must not attempt to replicate historic buildings elsewhere on site and to avoid creating a false sense of historic development.
- The limitations on the size, scale, and design of new construction may be less critical the farther it is located from historic buildings.
- As with additions, maximizing the advantage of existing site conditions, such as wooded areas or drops in grade, that limit visibility is highly recommended.
- Historic landscapes and significant viewsheds must be preserved. Also, significant archeological resources should be taken into account when evaluating the placement of new construction, and, as appropriate, mitigation measures should be implemented if the archeological resources will be disturbed.

2007

Last updated: October 25, 2022

I have provided much testimony starting on September 28, 2022, and although there were some minor changes made to the proposed design, I believe that ALL of the past testimony I have provided is still relevant, specific, and available for you to consider as potential fact based evidence in your evidentiary process. I hope you have the chance to read those testimonies which I very carefully prepared, and watch the video of those hearings where I provided verbal testimony at every occasion allowed. And I am eager to welcome any questions you may have for me around this testimony. None of us are perfect, and we are all striving as hard as we can in this important public process and evidence based hearing. I am grateful for being allowed the opportunity to provide testimony as a member of the public.

I agree with the understanding that a building 'setback' applies not to just a ground floor, but to all floors of a building. The upper floor 'step backs' are also by definition building 'setbacks'. Based on this clear fact, it can be found that the proposed design is not in compliance with the mandatory and very specific code criteria by which you are reviewing this proposed design.

Sincerely,  
Nathan Coopridier

# MAP Architecture

Ernie Munch Architecture Urban Planning LLC  
111 SW Oak Street, Suite 300. Portland, OR 97204

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Mayor Drabkin  
Members of the McMinnville City Council

10 April 2023

I write in support of the appeal of the Planning Commission decision allow the demolition of 609, 611 and 619 NE 3<sup>rd</sup> Street and the construction of the Proposed Gwendolyn Hotel.

Much has been said about the scale of the proposed hotel, how it fits into the Historic District, the building's height and mass, its character, and site design. These points are discussed below.

## **The Height and Mass of the Proposal do not Comply with Title 17 the Zoning Code.**

**Section 17.33.040** states: "In a C-3 zone, buildings shall not exceed a height of 80 feet." but,

**Section 17.59.050. B .1** states: "Buildings should have massing and configuration similar to adjacent or nearby historic buildings on the same block. Buildings situated at street corners or intersections should be, or appear to be, two stories in height." (Emphasis added.)

On first reading it may appear that these two sections are in conflict. They are not.

**General provision Section 17.03.040,B** provides: "*Most Restrictive Requirements Apply*: Where the conditions and requirements imposed by any provisions of this title are less restrictive, vary from or conflict with other provisions of this title or of any other ordinance, resolution or regulation, the provisions which are most restrictive or the highest standard shall govern. When requirements of this title vary from or conflict with other provisions of the McMinnville Municipal Code, the more specific provision shall prevail over a more general provision." (Emphasis added.)

Section 17.59.050. B .1 prevails over the 80 maximum height limit of Section 17.33.040 because it is both more restrictive and more specific. The two provisions are in concert and do not conflict. Although the differential is approximately 58 feet in height, the prevailing, more restrictive, and more detailed height and mass standard fits within the 80 foot height limit.

**Under the code, massing and configuration comparisons of the proposal with the Oregon and Atticus hotels, The Jameson Hardware store, and the Odd Fellows Lodge are not relevant.** There is no restricting comma between "adjacent" and "or". All comparable buildings must be both historical and on the same block. Section 17.33.040 refers to the possibility that a proposed project could have nearby historical buildings on the block which are not adjacent to the proposed project. This section of the code restricts "Adjacent" to the first sentence in Section 17.06.015, General Definitions:

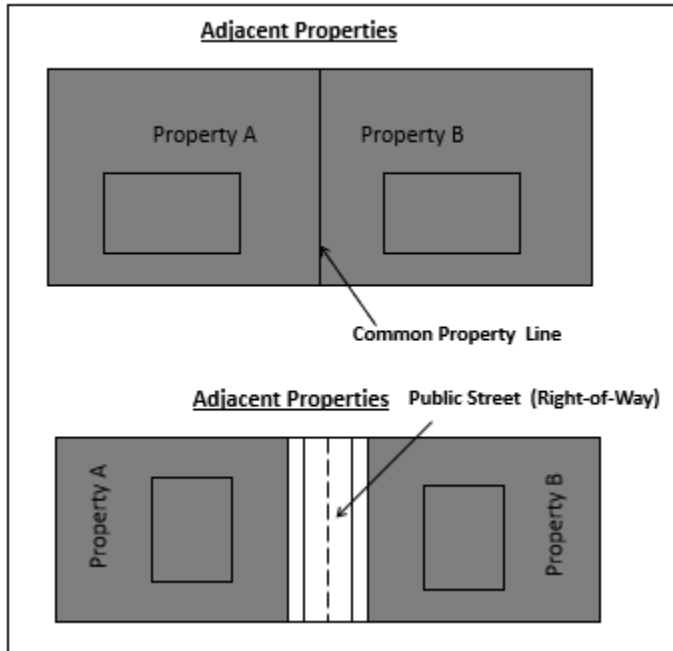
Ernie Munch  
(503) 936.1062  
Ernie@MAP-archplan.com



**Section 17.06.015 General Definitions:**

*Adjacent* – Contiguous to a property boundary at a property line or property corner. Two properties separated by street or right-of-way are considered adjacent (Figure 2). (Emphasis added.)

**Figure 2**



A waiver to the guideline or standard for massing and configuration would not be possible under Section 17.59.030. D. *Waiver Process*, or under Section 17.59.040. A. 3.b, because the Applicant is required to demonstrate “that the proposed design satisfies or exceeds the downtown design goals and objectives of this ordinance.” Clearly historic preservation is the underpinning of the district and the applicant is proposing demolition of three of the five historic resources on the block.

**Section 17.59.030**

D. *Waiver Process*. A guideline or standard contained in this ordinance may be waived as part of the design review process when it can be demonstrated that the proposed design satisfies or exceeds the downtown design goals and objectives of this ordinance. If a waiver is requested, the applicant must explain in their application how the proposed design satisfies or exceeds these goals and objectives. A request for a waiver to the standards of this ordinance shall be reviewed by the McMinnville Historic Landmarks Committee, as described in subsection (C)(2) of this section.

**Section 17.59.040. A. 3**

b. There is demonstrable evidence that the alternative design accomplishes the purpose of this Chapter in a manner that is equal or superior to a project designed consistent with the standards contained herein;

## **Downtown Design Standards and Guidelines**

### **Section 17.59.010 Purpose**

To provide for the protection, enhancement and preservation of buildings, structures, and other elements in the downtown core which contribute to its special historic and cultural value. Further, it is not the purpose of this ordinance to create a “themed” or artificial downtown environment. Rather, its purpose is to build on the “main street” qualities that currently exist within the downtown and to foster an organized, coordinated, and cohesive historic district that reflects the “sense of place,” economic base, and history unique to McMinnville and the downtown core.

## **Historic Preservation**

### **Section 17.65.010 Purpose**

Districts, buildings, objects, structures, and sites in the city having special historical, architectural, or cultural significance should be preserved as a part of the city’s heritage. To this end, regulatory controls and administrative procedures are necessary for the following reasons:

- A. Stabilize and improve property values through restoration efforts;
- B. Promote the education of local citizens on the benefits associated with an active historic preservation program
- C. Foster civic pride in the beauty and noble accomplishments of the past;
- D. Protect and enhance the city’s attractions for tourists and visitors; and
- E. Strengthen the economy of the city

## **McMINNVILLE COMPREHENSIVE PLAN GOALS**

### **Chapter III CULTURAL, HISTORICAL, AND EDUCATIONAL RESOURCES**

#### **CHAPTER III GOAL 2**

**TO PRESERVE AND PROTECT SITES, STRUCTURES, AREAS, AND OBJECTS OF HISTORICAL, CULTURAL, ARCHITECTURAL, OR ARCHAEOLOGICAL SIGNIFICANCE TO THE CITY OF MCMINNVILLE.**

#### **CHAPTER III GOAL 3**

**INCREASE PUBLIC AWARENESS AND UNDERSTANDING OF MCMINNVILLE’S HISTORY AND ITS HISTORIC PRESERVATION PROGRAM.**

#### **CHAPTER III GOAL 4**

**ENCOURAGE THE PRESERVATION AND REHABILITATION OF HISTORIC RESOURCES**

#### **CHAPTER III GOAL 5**

**DOCUMENT AND PROTECT HISTORIC RESOURCES**

#### **CHAPTER III GOAL 6**

## DOCUMENT AND PROTECT HISTORIC RESOURCES

### CHAPTER III GOAL 7

#### INCREASE HERITAGE TOURISM

##### **THE PROPOSED HOTEL AND THE REQUESTS FOR DEMOLITION SHOULD NOT BE PERMITTED.**

The proposal conforms neither to the purposes of the Downtown Design Guidelines and the Historic Preservation sections of the code, nor the section dictating appropriate massing and configuration.

The proposed demolitions and hotel are diametrically opposed to the statement of purpose in Section 17.59.010. The proposal does not deliver what the purpose statement calls for: the “protection, enhancement and preservation buildings, structures...which contribute to its historical and cultural value,” nor does the proposal, “build on the ‘main street’ qualities that currently exist within the downtown and foster an organized, coordinated, and cohesive historic district that reflects the ‘sense of place,’ economic base, and history unique to McMinnville and the downtown core.”

The proposal delivers historic imitation **not** historic preservation. It will contribute to, “a ‘themed’ or artificial downtown environment.” The proposal would be a new building that would be devoid of any historic significance or meaning. The building itself would hold no authenticity, no substantive educational value. It would lessen the attractiveness and continuity of the district.

**(To be continued)**

Thank you, for this opportunity to testify.



Ernie Munch, Architect

Member

MAP Architecture

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111 SW Oak Street • Suite 300 • Portland OR 97204

[Ernie@MAP-archplan.com](mailto:Ernie@MAP-archplan.com)

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(503) 434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

# MEMORANDUM

**DATE:** April 11, 2023  
**TO:** Mayor and Councilors  
**FROM:** Heather Richards, Community Development Director  
**SUBJECT:** Draft Conditions of Approval for Planning Commission Consideration

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Mayor and Councilors,

Attached is the draft conditions of approval that were provided to the Planning Commission and the applicant representing the conditions of approval as amended to the Historic Landmarks Committee on January 5, 2023.

## GWENDOLYN HOTEL – STAFF RECOMMENDED CONDITIONS OF APPROVAL IF APPROVING DECISIONS

### AP 1, 2, and 3 – 23 (Appeal of HL 6, 7 and 8-22) Demolitions (609, 611 and 619 NE Third Street):

1. The Certificate of Approval for Demolition of 609, 611 and 619 NE Third Street is contingent upon a replacement project that meets all of the city's local regulations, state regulations, and federal regulations, including DEQ requirements, directions and guidance related to any DEQ LUST case contained in a Contaminated Media Management Plan (CMMP) or instrument such as an Easement and Equitable Servitudes and is ready to proceed. Readiness to proceed is defined as issuance of building permits for the replacement project. A demolition permit will not be issued until that has been established. The penalty for demolition without a permit or an approved redevelopment project that is not finished and occupied, will be equal to the real market value of the most recent assessor's statement for both the structure and the land paid to the City's Historic Preservation Fund. This will be assessed annually until the property is successfully redeveloped." (OAR 660-023-0200(8)(a)).
2. 609, 611 and 619 NE Third Street, McMinnville Historic Resource Inventory B865, B872, D876 will be automatically removed from the McMinnville Historic Resource Inventory when the extant structure on the subject property is demolished. (OAR 660-023-0200(9))
3. The applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
4. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 8.00)
5. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)
6. The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)
7. Prior to submittal for a building demolition permit provide Engineering with detailed demolition plans for review and approval. (Comprehensive Plan Policy #25.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)

10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy 151.00)
11. Prior to the issuance of a building permit, the applicant will need to meet with the McMinnville Downtown Association to develop a program that will educate local citizens on the benefits associated with an active historic preservation program, that will then be approved by the Planning Director.
12. Prior to the approval of a demolition permit, the applicant will commission a study on what needs to happen in McMinnville relative to market costs to achieve the community value of historic property rehabilitation/restoration with low lease rates to support local businesses. (McMinnville Municipal Code, 17.65.010(B))
13. The demolition of the historic resource will be delayed for one hundred twenty (120) days in the interest of exploring reasonable alternatives that include preservation of the buildings and a fair market sale for the property owner. The property will be posted with the pending demolition during the delay period to seek community engagement about reasonable alternatives. (McMinnville Municipal Code 17.65.050(B)(7))
14. Prior to demolition the applicant will allow the Yamhill County Historical Society to photo document the building and scavenge any historical artifact associated with the building for preservation as part of their collection. (McMinnville Municipal Code 17.65.050(B)(8))
15. Prior to demolition the applicant will provide the City with an archaeological plan describing how the applicant will undertake demolition and excavation with a sensitivity to the potentiality of archaeological resources and if any archaeological resources are discovered how they will be documented and preserved. (McMinnville Municipal Code 17.65.050(B)(8))

**AP 4 – 23 (Appeal of DDR 2-22) Gwendolyn Hotel – New Construction:**

1. The applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways. (Comprehensive Plan Policy 2.00)
2. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. . (Comprehensive Plan Policy 8.00)
3. The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties. (Comprehensive Plan Policy 10.00)
4. The applicant shall evaluate the existing sanitary sewer system onsite for defects that allow inflow and infiltration (I&I) of rainwater into the sanitary sewer system. The city has an aggressive I&I program that specifically targets aging sewer laterals. Prior to the issuance of a building permit, the applicant shall revise the plans to show that the existing sewer laterals that serve the buildings, will be video inspected and any defects found in the lateral, will be repaired or replaced. Contact the City Engineering Department for further information and assistance. (Comprehensive Plan Policy #25.00)



5. The applicant shall enter into an agreement with the City to perform a sewer capacity analysis. The cost of this analysis shall be borne by the developer. The developer will be responsible for any necessary improvements identified by the capacity analysis. (Comprehensive Plan Policy #25.00)
6. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance. (Comprehensive Plan Policy #33.00)
7. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance. (Comprehensive Plan Policy #33.00)
8. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site. (Comprehensive Plan Policy #132.46.00)
9. The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site. (Comprehensive Plan Policy #142.00)
10. The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record. (Comprehensive Plan Policy #151.00)
11. That the applicant shall include window details in the construction plans submitted for building permit review that depict how all of the windows on the building will be recessed. (McMinnville Municipal Code, 17.59.050(B)(6))
12. That the applicant shall provide samples or examples of the exterior building colors to the Planning Department for review and approval by the Planning Director prior to application on the building. (McMinnville Municipal Code, 17.59.050(C)(3))
13. The applicant will need to submit a sign permit for review and approval prior to the application of any signs to the project. (McMinnville Municipal Code, 17.59.080)
14. Per the applicant's narrative, all three properties will need to be consolidated into one property prior to building permit issuance.
15. Per the applicant's testimony at the March 16, 2023, Planning Commission public hearing, the applicant will need to memorialize the automobile heritage of the this site with appropriate public art, murals, recreation of the Chevrolet mural on the east side, rooms named for historic McMinnville families and business as appropriate, salvaging of the historic brick and interior materials as much as possible to be incorporated into the new project design.



City of McMinnville  
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# MEMORANDUM

**DATE:** April 11, 2023  
**TO:** Mayor and Councilors  
**FROM:** Heather Richards, Community Development Director  
**SUBJECT:** Draft Planning Commission Minutes for Gwendolyn Hotel Appeal

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Mayor and Councilors,

Following are the draft Planning Commission meeting minutes for March 2 and March 16, 2023 when the Planning Commission hosted a public hearing to consider the appeal of the Historic Landmarks Committee's decisions for the four land-use applications associated with the Gwendolyn Hotel and render a decision.



# MINUTES

March 2, 2023  
Planning Commission  
Regular Meeting

6:30 pm  
Hybrid Meeting  
McMinnville, Oregon

**Members Present:** Sidonie Winfield, Beth Rankin, Dan Tucholsky, Matt Deppe, Gary Langenwalter, Lori Schanche, Megan Murray, and Brian Randall

**Members Absent:** Sylla McClellan

**Staff Present:** Heather Richards – Community Development Director, John Swanson – Senior Planner, Adam Tate – Associate Planner, and Carrie Richter – Bateman Seidel Legal Counsel

## 1. Call to Order

Chair Winfield called the meeting to order at 6:30 p.m.

## 2. Citizen Comments

None

## 3. Minutes

- October 20, 2022
- December 15, 2022

## 4. Public Hearings

### A. Quasi-Judicial Hearing: Minor Partition (MP 3 – 22)

**Request:** An application to partition Tax Lot R4524 00904, 2.17 acres, off of Redmond Hill Road: Parcel 1, 47,625 square feet, Parcel 2 – 31,034 square feet, and Parcel 3 – 30,783 square feet. Parcel 3 is a flag lot and Parcels 1 and 2 are accessed via a private driveway access easement.

**Location:** Redmond Hill Road, Tax Lot R4524 00904

**Applicant:** Catherine A. Wright, Tankersley & Wright, LLC representing the property owner Jose and Maria Garcia

**\*\*RECORDING STARTS HERE at 10 minutes, 30 seconds in\*\***

Associate Planner Tate said they had received a letter from Linda Berlin requesting a public hearing, asking a number of questions, and posing drainage concerns. He reviewed the conditions of approval. Staff recommended approval with conditions.

There was discussion clarifying only trees above nine inches in diameter had to be approved before they were removed, how the trees would be protected, and how water from the spring was considered natural water and its drainage was not regulated.

City Engineer Lofton said if the spring was surface flow after exiting, it would be treated like stormwater, but if went back down into the ground, it would be treated as groundwater.

Applicant's Testimony: Katheryn Wright, representing the applicant, said the concerns raised around stormwater drainage were addressed in the conditions and the applicant had talked with the neighbors. The slopes were not steep until the southwestern corner of the property and she provided pictures of the property. She thought with a driveway developed there and a stormwater drainage system, it would start catching some of that water. It would not make the situation worse.

Public Testimony:

Marjorie Clebinger, McMinnville resident, said one of the parcels was not entirely in the City limits and she wondered how that would be addressed, especially for City services.

Associate Planner Tate said services would only be provided to the part of the parcel that was in the City limits. There were no plans to annex the part outside the City limits at this time. There was a condition that when the adjacent property annexed, it would have to annex as well.

Commissioner Tucholsky asked about the neighbors' concerns about the sewer connections.

City Engineer Lofton said the parcels would be close enough to connect to City sewer and it would be recommended that they connect.

Commissioner Tucholsky asked if they could make it a condition that they connect to City sewer. Community Development Director Richards said the code required the connection when they were in a certain distance of City services.

Rebuttal: Ms. Wright said the applicant had always planned to connect to the City sewer. She explained the City utilities would be brought up from Redmond Hill Road. She clarified where the City line was on the property.

Chair Winfield closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

Deliberation: There was discussion regarding how part of the property was outside of the UGB.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant and evidence in the record, Commissioner Rankin MOVED to APPROVE MP 3-22 subject to the conditions of approval. SECONDED by Commissioner Tucholsky. The motion PASSED 8-0.

**B. Quasi-Judicial Hearing: Appeal of Historic Landmarks Committee of Denial for three Certificates of Approval for the demolition of a historic resource at 609, 611 and 619 NE Third Street (HL 6-22, HL 7-22 and HL 8-22), and the compliance of the new construction of the Gwendolyn Hotel with the Downtown Design Guidelines and Standards (Docket DDR 2-22). (Exhibit 4)**

**Request:** Request to demolish three historic resources and build a new five-story hotel with ground floor commercial, programmed roof deck and underground parking structure.

**Docket:** **AP 1-23 (HL 6-22)**, (Certificate of Approval for Demolition, 609 NE Third Street) Property Owner –Oregon Lithoprint Inc, represented by Jon Bladine.

**AP 2-23 (HL 7-22)**, (Certificate of Approval for Demolition, 611 NE Third Street) Property Owner – Bladine Family Limited Partnership, represented by Jon Bladine,

**AP 3-23 (HL 8-22)**, (Certificate of Approval for Demolition, 619 NE Third Street) Property Owner - Wild Haven LLC, represented by Philip Frischmuth,

**AP 4-23 (DDR 2-22)**, (Downtown Design Review – New Construction – Gwendolyn Hotel, 609, 611 and 619 NE Third Street) **Location:** 609 NE Third St. (TL 4500, Sec. 21BC, T.4S., R.4 W., W.M.), 611 NE Third St. (TL 4300, Sec. 21BC, T.4S., R.4 W., W.M.), 619 NE Third St. (TL 4201, Sec. 21BC, T.4S., R.4 W., W.M).

**Applicant:** Mark Vuong, HD McMinnville LLC

Chair Winfield opened the public hearing and read the hearing statement. She asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application.

Commissioner Langenwalter had a client who would be affected positively if this was approved. It would not affect his remuneration and he could be objective in his decision.

Chair Winfield asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing.

Commissioner Langenwalter had received a phone call from a property owner who lived across the street from the subject properties. He told her he could not talk about it.

Staff Report: Community Development Director Richards said the Historic Landmarks Committee had denied all four land use applications and the applicant had appealed that decision to the Planning Commission. She described the subject property, Third Street context, three properties considered for demolition, historic significance, and McMinnville historic resources inventory. She then gave a background on 609 NE Third Street, 611 NE Third Street, and 619 NE Third Street and showed photos of all three buildings. She reviewed quasi-judicial land use decisions relative to appeals, the City's process, supplemental materials, basis of appeal, demolition criteria, criteria to consider including the condition of the buildings, historic integrity, age, value to the community, economic consequences, design or construction rarity, Comprehensive Plan policies, and precedence. She then discussed what the appeal was based on for the new construction and described the Gwendolyn Hotel project. She explained the approval criteria for the underlying C3 zone and downtown design standards, application materials, findings, exterior façade changes,

height perspective, height study, corner perspective, criteria not met, findings, precedence, waivers, public testimony provided to the HLC, and public testimony provided to the PC. She answered Planning Commission questions regarding what triggered a seismic upgrade, why the criteria focused on the exterior of the buildings, and if the stucco application over the exterior brick was permanent. She then gave options for the Commission's decision.

**Applicant's Testimony:** Garrett Stephenson, legal counsel, discussed the criteria and their concerns with the HLC's decision. They thought the balance of the factors supported the decision for issuing demolition permits and allowing the new building to be constructed. The rents these buildings could command based on their condition was so low that the realistic opportunity for their continued maintenance and upgrades was very limited. The HLC said they did not believe demolishing the buildings should be allowed where it was clear that they had not been adequately maintained. That was not reflected in the record. What was reflected in the record was a memo identifying all of the historic rehabilitation programs that they could qualify for. It was not a case of the owners had not been maintaining the buildings, but that no matter how nicely they could be rehabbed, they commanded a certain amount of rent and they were over 100 years old. Maintaining 100 year old buildings with repeated different uses was difficult. All of the buildings had substantially different facades than the originals and the second stories were not occupied and restoring the second floors would trigger required seismic upgrades. The buildings did not evoke the auto garages that they used to be. They looked like office buildings today, and were extremely costly to maintain and did not command the rents that made it easy to maintain in their historic condition. The buildings needed a lot of work in order to get them back to a level where they were well maintained. There were no criteria that required the building to be falling down in order to justify removal. They had worked with staff about the need for a waiver, and the answer was no, they did not need one. The HLC decided to change their position on that, but they were not asking for any treatment on the application criteria that the City had not given to any other applicant. They thought the right decision was the recommendation for approval from staff. He asked that the Planning Commission adopt that decision with the findings in the staff report.

Gary Reddick, architect, explained the design process for the new building, which started with finding out what they were allowed to do, how complicated and difficult it would be to do this building in McMinnville, not doing anything that would require a variance, looking at precedence and studying other buildings on the street, and reviewing the City's vision and goals for downtown. They were encouraged by the staff report that recommended approval, and he read from the staff report how the application met the criteria. They wanted to do the right thing for McMinnville.

The Commission asked questions about the height and massing of the new hotel building and flexibility of the design, adding rain/weather protection, how the design did not reflect the current buildings, number of employees, parking, using local companies for the construction, why they chose this location, plans for retail and dining areas as well as entrance, hotel rates, contamination and building the parking garage, interior design, pre-planning and incorporating historic elements, and how the new building tied into what was already on Third Street.

Andrew Clark, developer, said they would employ about 80 people and there would be six additional businesses within the hotel that would employ additional people as well. There would be parking for employees, and any overflow parking would be on the street. They would have valet parking. They would like to be partners with the City and help with the infrastructure and growth that would occur in the future. A significant part of the ownership group were local to Oregon. He would be open to using local companies to work on the project and would like to partner with local colleges on their hospitality programs. They wanted to develop an experience for people coming to McMinnville which included a pedestrian experience, and this location was attractive for that. If this application was denied, they would not be looking at other options in McMinnville. The retail and dining would be available for lease. These businesses would be available for anyone to come to, not just hotel guests. They had



considered rates similar to the Atticus. They were not required to provide parking but they thought it was a need and they planned to provide it.

Mr. Stephenson said there were contaminants in the soil and they had a plan to remediate it through their Contaminated Media Management Plan.

Mr. Reddick explained the interior design of the ground floor. They had done a historic assessment of the surrounding buildings to know what was there. He described what historic features were incorporated into the design of the new building, such as the window styles, cornice, and brick.

The Commission continued to ask questions about workforce housing, sense of place, employees earning a living wage, meeting Comprehensive Plan goals, creating heritage tourism, hiring locals, salvaging historic elements, how the building could better fit aesthetically, what value was added to downtown business owners, impact on parking, return on investment, restoring these buildings vs. opportunities with the new construction, what it would take to keep the current buildings viable, preserving the historic integrity of the district, managing rotating chefs, and varying hotel room size.

#### Public Testimony:

Proponents: Jeb Bladine, representing the property owners of the buildings at 609 and 611 Third Street, responded to the repeated claims of the HLC that the owners neglected and failed to maintain these buildings. He read from the HLC findings for denial and explained the renovations that had been done to the buildings for the office use. They had tried to apply for a Historic Preservation Grant, but the Downtown Committee did not pursue it, showing a lack of interest in their preservation. Over the past 25 years they had spent over one million dollars on renovations, repairs, taxes, and maintenance on these buildings and had done three to four repair projects. They had engaged architects and engineering services and had been told every time that significant renovation to these buildings would be beyond their ability to afford and pay back. Retention of these buildings was a significant financial hardship to their business. They had tried to sell the buildings since 2017, and all the interest ended with the analysis of the buildings and building code. No reasonable developer would acquire these buildings with the thought of renovating them.

Doug Hurl, McMinnville resident, thought the City should not miss this opportunity. The applicant met all the requirements and many downtown building owners and local residents were in favor of the project. It would bring more vibrancy and parking downtown. It was a quality development.

Casey Kulla, McMinnville resident, was in support of the demolition and new construction. The applicant and staff worked diligently to modify the design, and the current buildings did not have the historic value that the HLC argued that they had. He noted historic integrity was subjective. He listed other demolitions that had been approved in downtown and the new and older buildings around Third Street with a similar scale to the proposed design.

John Linder, McMinnville resident, was in support of the project due to the jobs that would be brought into the community, increased value in the building stock in McMinnville, and increase in property taxes. He supported the demolition as the condition of the buildings was poor and there was no historic integrity. He did not think their retention was in the best interest of the community. The buildings were not architecturally significant in their present state and could

not be restored to their former state in an economically viable way. The HLC based the value to the community on those who testified in opposition, but he thought the value was much broader than that. It was only one story taller than McMenamins and they were willing to help with the parking issues. The project fit with the community visioning plan.

Opponents: Katherine Hewitt, McMinnville resident, noted the historic downtown district was a small portion of the City with very few buildings compared to the overall size of McMinnville. Removing the buildings would not enhance tourism, but would diminish the historic district by eroding the character that had been established in the downtown district. If they wanted the City to grow as a tourism destination, they needed to diversify beyond downtown into other areas.

Daniel Keizer, McMinnville resident, thought an intact historic district was crucial to the City's economic and tourism growth. He discussed the City's code and how the proposed design of the hotel did not meet code in the streetscape and massing, height, setbacks, façade, architecture, and rooftop mechanical equipment. Approval would set a dangerous precedent and would destroy the character of downtown.

Ernie Munch, architect, explained how he had been involved in the demolition and new construction in the historic district. He had done extensive research and found these buildings were important due to the history of the automobile industry in the City and the important families that were involved. He thought they were worth restoring. He discussed how the designation of the historic district had been established and the purpose of the district.

Nathan Coopriider was a Portland resident but had been an architect on projects in McMinnville. He supported the HLC's decision and did not think the application met the design review code. He thought they should have gotten a waiver for the massing and scale. The building was not similar in scale to other adjacent historic buildings and the proportional bays were not similar in scale to other adjacent historic buildings. They did not meet the standards for the preservation of the district. He gave examples of other projects that did meet the criteria for being similar in scale and renovations to historic buildings.

Linda Levitt owned a building across the street. She discussed concerns about the construction noise, mess, no parking on the street, and loss of customers. She thought demolishing the buildings would destroy the atmosphere of downtown.

Marilyn Cozal also owned a building across the street. She agreed with the HLC's decision. She discussed how she had renovated buildings on Third Street and how it was important to preserve their history. The historic district was a small part of the City and needed to be preserved. She was not opposed to the hotel, but was opposed to tearing down the historic buildings in order to build it. The façades could be renovated or rebuilt, and she thought the buildings could still be economically viable. Overturning the HLC's decision was a dangerous precedent.

Rebuttal: Mr. Stephenson suggested instead of rebuttal, to continue the hearing so they could come back with responses to the Commission's questions on March 16. They were willing to extend the 120 day deadline.

Commissioner Schanche MOVED to CONTINUE the hearing for AP 1-23, AP 2-23, AP 3-23, and AP 4-23 to March 16, 2023 at 3 p.m. SECONDED by Commissioner Langanwalter. The motion PASSED 8-0.

**5. Commissioner Comments**

None

**6. Staff Comments**

None

**7. Adjournment**

Chair Winfield adjourned the meeting at 11:15 p.m.

# MINUTES

March 16, 2023  
Planning Commission  
Regular Meeting

3:00 pm  
Hybrid Meeting  
McMinnville, Oregon

**Members Present:** Sidonie Winfield, Beth Rankin, Dan Tucholsky, Matt Deppe, Gary Langenwaller, Lori Schanche, Megan Murray, Sylla McClellan, and Brian Randall

**Members Absent:**

**Staff Present:** Heather Richards – Community Development Director, Tom Schauer – Senior Planner, John Swanson – Senior Planner, Adam Tate – Associate Planner, and Carrie Richter – Bateman Seidel Legal Counsel

## 1. Call to Order

Chair Winfield called the meeting to order at 3:00 p.m.

## 2. Citizen Comments

None

## 3. Minutes

- **January 19, 2023**

Commissioner Langenwaller MOVED to APPROVE the January 19, 2023 minutes. SECONDED by Commissioner Murray. The motion PASSED 9-0.

## 4. Public Hearings

- A. **Judicial Hearing: Appeal of Historic Landmarks Committee of Denial for three Certificates of Approval for the demolition of a historic resource at 609, 611 and 619 NE Third Street (HL 6-22, HL 7-22 and HL 8-22), and the compliance of the new construction of the Gwendolyn Hotel with the Downtown Design Guidelines and Standards (Docket DDR 2-22).**

***Continuation from March 2, 2023***

**Request:** Request to demolish three historic resources and build a new five-story hotel with ground floor commercial, programmed roof deck and underground parking structure.

**Docket:** **AP 1-23 (HL 6-22)**, (Certificate of Approval for Demolition, 609 NE Third Street) Property Owner –Oregon Lithoprint Inc, represented by Jon Bladine.

**AP 2-23 (HL 7-22)**, (Certificate of Approval for Demolition, 611 NE Third Street) Property Owner – Bladine Family Limited Partnership, represented by Jon Bladine,

**AP 3-23 (HL 8-22)**, (Certificate of Approval for Demolition, 619 NE Third Street) Property Owner - Wild Haven LLC, represented by Philip Frischmuth,

**AP 4-23 (DDR 2-22)**, (Downtown Design Review – New Construction – Gwendolyn Hotel, 609, 611 and 619 NE Third Street) **Location:** 609 NE Third St. (TL 4500, Sec. 21BC, T.4S., R.4 W., W.M.), 611 NE Third St. (TL 4300, Sec. 21BC, T.4S., R.4 W., W.M.), 619 NE Third St. (TL 4201, Sec. 21BC, T.4S., R.4 W., W.M).

**Applicant:** Mark Vuong, HD McMinnville LLC

Chair Winfield opened the public hearing and read the hearing statement. She asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application.

Commissioner McClellan recused herself from participating in the hearing as she wrote a letter to the Historic Landmarks Committee about this application.

Chair Winfield asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing. There was none.

Staff Report: Community Development Director Richards said this was a continuation of the hearing from March 2. The Historic Landmarks Committee had denied the applications, and the applicant had appealed their decision to the Planning Commission. She reviewed the subject site, quasi-judicial land use decisions, structures requested to be demolished, McMinnville downtown historic district, McMinnville historic resources inventory, notice of appeal for the demolition, demolition criteria, new hotel project, notice of appeal for the new construction, new design code criteria, downtown design standards and guidelines, clarifications regarding parking, construction details, new construction in the historic district, waivers, building setbacks vs. step backs, public testimony, and the Commission's decision.

Applicant's Testimony: Andrew Clark, developer, discussed what this proposed development would mean to McMinnville. They wanted to create something new in order to serve the community into the future.

Garrett Stephenson, legal counsel, highlighted additional materials they provided to the Planning Commission based on the questions the Commission asked at the last meeting, memorandum explaining how they would honor the history and legacy of the buildings to be demolished and how the architectural features of the district influenced the design, cost estimates for two additional reuse scenarios, and what the wage mix would be for the hotel.

Gary Reddick, architect, said the Commission had asked to show them more clearly and specifically where he had taken inspiration from the older historic buildings on Third Street and to show examples from his design where he referenced and honored the legacy of the buildings to be demolished. He explained the process that was done of studying the historic buildings in downtown, inspiration they took from Third Street, and how they would honor the historic legacy of the early automobile industry in McMinnville. They would be cataloguing and carefully removing and saving every part of the interior that could be reused. They would name places inside the building after historically significant people and add historic photographs. He pointed out the 80 foot height was originally put in place in 1981.

The Commission asked questions about the wages, configuration and function of the parking, hotel operator, and air conditioning.

Public Testimony:

Proponents: Doug Hurl, McMinnville resident, discussed other historic buildings that had been torn down. He thought the hotel was something they wanted in the downtown core. The applicant met all of the requirements. He was in favor of demolishing the old buildings and building something new.

Phil Frischmuth, McMinnville resident, owned the 619 NE Third Street building. He discussed Third Street and how in the area of his building the buildings were not charming and there was no vibrant atmosphere or foot traffic. This proposal would change that. He listed the many benefits to the hotel and discussed how the developer had tried to accommodate every request. The most important aspect was the hotel would bring people downtown and make it vibrant and fun. He explained the renovations he had done to the building, and how there were more issues that needed to be addressed. He did not think it could be preserved.

Jeb Bladine spoke on behalf of the owners of 609 and 611 Third Street. The applications for demolition met the criteria related to local land use code, historic resource criteria, complex environmental issues, economic benefits to the community, appropriate financial hardship to the owners in retaining the properties, and appropriate conditions for redevelopment. He noted for 611, half of the building's life had been in the newspaper industry, not just the auto industry.

There was discussion regarding other offers on these properties, and how investors had walked away after their investigations.

Opponents: Ernie Munch, architect for the Taylor Dale building restoration and addition, reviewed the information he submitted to the Commission including the definition of dangerous building from the Building Code, how the demolition of the building for his project was not a significant resource, and the purposes of the code for demolition. This was a historic district and the buildings should be preserved due to their history with the auto industry and significant families in the area. He discussed options for what else could be done. He thought there should be an agreement of what the City wanted to see there and then an RFP should be put out for developers who could build it.

Community Development Director Richards noted the City could not put an RFP on property it did not own.

Mr. Munch said it was something the owners could look at as an option.

Katherine Hewitt, McMinnville resident, discussed the importance of the historic district, which had already been drawing tourists before the other hotels came in. She gave a history of main street and the auto industry. McMenamins was an example of what historic preservation brought, not only to the downtown historic district, but new life to areas that weren't listed on the national register. It was a template to show how the stories of the community could contribute to the success and preservation of these three buildings.

Daniel Keizer, McMinnville resident, thought the project would be done by outside companies, and the hospitality company they were going to use was not local. He did not think there was enough space in the parking garage for the air conditioning units and any equipment on the roof would be visible. He did not think they were meeting code for the elevation and massing. There were a lot of background buildings on Third Street, including the ones being requested to demolish, and they added to the intangible quality of the cozy, cohesive architectural fabric of Third Street. The buildings had the potential to be restored and no photos in the lobby would make up for the loss if they were demolished.

Margaret Cross, McMinnville resident, said they had to base their decision on the legal criteria relative to historic preservation and restoration. The applicant's argument that the HLC's findings



were unreasonable was an opinion. She suggested the corner building be used as a tourist information center after restored to its original design. McMinnville was a living, organic town, not a fake town for tourists.

Marilyn Cozal, McMinnville resident, discussed and showed pictures of how she and her husband had renovated the old JC Penney building in McMinnville. The project showed that restoration could be done and there were a lot of creative uses for those buildings.

Nathan Coopridge, thought they should renovate the historic buildings. He was opposed to the demolitions because he did not believe alternatives had been closely studied. Consultants investigating the buildings had not been hired until after the designs were presented to the neighborhood and the alternative designs were not submitted until after the design proposal for the hotel were submitted. If historic preservation and this hotel could not co-exist on the site, it was a self-imposed problem which could easily be remedied by an alternative site selection. No reports were provided on the deals that fell through on the properties and there was no evidence as to why those sales did not happen.

Applicant's Rebuttal: Mr. Stephenson said a lot of people had looked at these buildings and walked away because these were difficult and expensive buildings to reuse. In the alternatives analysis that was done, it showed every scenario that involved a purchase price and a construction loan did not result in an economically viable project. The three buildings could not generate enough returns to justify a sale or a substantial renovation. The evidence in the record showed that these buildings did not resemble the purposes for which they were originally built. All the facades had been substantially replaced or modified. The historic integrity had been significantly changed and none of the upper floors were currently in use. They had a plan to adapt some of the interior historic characteristics to the hotel. There was no evidence that these buildings could remain profitable or retained enough of their historic characteristics to warrant preservation. It was not required that these buildings be deemed dangerous to justify their demolition. It was a balancing of different factors. They had demonstrated that the buildings required substantial investment that their continued use and configuration did not support. This hotel would be a great economic driver for the City. The adopted policy in the City was to focus on place based tourism and that was the fundamental basis for why this project complied with the Comprehensive Plan and why on balance was more supportive of the Comprehensive Plan policies than doing nothing. It would add to the tax base, underground parking would be added, more jobs would be added, and the contamination below the existing buildings would be removed. The January 5 staff report explained why the project met all the code requirements. He did not think the HLC's findings were based on the evidence and interpreted the code in a way that had not been done before. The question for the Commission was whether or not they met the criteria, and he believed all the criteria were met. Architects had different opinions on design and what should be done, and these were privately owned buildings that could not go through an RFP process. Regarding the massing, the Atticus and Chaos buildings were substantially taller than the existing single story buildings around them. He did not think the criteria meant no higher than one or two stories was allowed. He thought it meant making the massing consistent with the surrounding buildings. Their proposed building was broken up into three different sections with substantial step backs that deemphasized the height and the building on the corner was similar to a two story building. He encouraged the Commission to reverse the HLC's decision.

Mr. Clark noted the hospitality company they would be using was a local company. The land owners had been trying to sell these properties and looked for ways to have their properties be invested in through Urban Renewal or to be restored, and none of that had come to fruition.

Chair Winfield closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

Chair Winfield took a straw poll for the decision to demolish and decision on the new construction.

Commissioner Deppe was undecided. Commissioner Rankin was no to both demolition and the new construction. Commissioner Randall was also no to both. Commissioner Langenwaller was yes on demolish, but no on new construction. Commissioner Tucholsky was yes to both demolition and new construction. Commissioner Schanche was no on both. Commissioner Murray was yes on both. Chair Winfield was yes on both.

Commissioner Rankin did not think the hotel fit in this location. Alternatives should have been looked at.

Commissioner Randall said these buildings were approved on the national register based on the density, common scale, materials, and overall design elements providing a visual continuity conveying the evolution of the downtown core. These elements worked to reinforce the two story commercial storefront characteristics that signified the district. He thought that they should preserve the two story storefronts. He did not have an issue with the use as a hotel, but he had issues with the design. He thought there were other alternatives.

Chair Winfield agreed the buildings were part of the background. However, they had allowed other demolitions in the past. The condition of the buildings had changed over time to the point where the original design and intent of the buildings had completely changed. She was concerned about how much they allowed the owners to attempt to preserve buildings to the detriment of what they could be used for within the City and how much they had to keep paying out of pocket. There were no grants to preserve these buildings and the current owners had done what they could to preserve the buildings and find buyers. The value to the community had been diminished and it was a very sleepy corner right now. The new construction would bring more vitality to the downtown. She thought it met the criteria. The applicant had made three separate bays. The Atticus had iron balconies as did other buildings around downtown. She thought it tied in together. The new building had to stay within the height guidelines.

Commissioner Langenwaller thought it was time to let the buildings be demolished. However, he did not think the new construction's massing and configuration was similar to adjacent or nearby historic buildings on the same block.

Commissioner Tucholsky said it was the Commission's duty to apply the rules established by the City. He thought the rules had all been met by the applicant. Old buildings were expensive and difficult to maintain. He had walked by these three buildings many times and they were heavily underutilized. It was a dead spot on Third Street and their historic significance did not outweigh the opportunity in front of them. The hotel would provide jobs, tax revenue, and recreational opportunities. They should not miss this opportunity.

Commissioner Schanche thought the three buildings reflected the cultural history of downtown, specifically in regard to the auto industry. The new building did not reflect any historic elements. The removal of the buildings would create a gap in the historic district that would make this block an artificial downtown environment. The design of the new hotel did not reflect the current buildings or any other buildings on Third Street. It was six stories and would stick out as the largest building in downtown. It was not consistent with the current massing of the street, which were primarily two story buildings. It would have a negative effect on the historic Third Street from both directions.

Commissioner Murray valued the community and the historic significance of these buildings. However, that did not outweigh the opportunity they had. Based on staff's recommendation and the conditions of approval, moving forward was in the best interest of the community. They had good community partners at the table.

Commissioner Deppe was struggling with the massing and configuration. He questioned if they were to rule that something taller than two stories could not be built, how would that affect downtown. He appreciated the change in the design to accommodate a two story appearance from the foot of the hotel. He appreciated what the hotel would do for the downtown businesses and noted it was a vacuum at that location.

Chair Winfield said there was a precedent for demolishing older buildings and building something new that was not within the massing of the buildings that were originally around them. The step backs did provide a diminishing feel of the massing.

Commissioner Randall did not agree with replacing the buildings with the height on the street and the design that had been presented. He would be more in favor of the demolition if the design took into consideration what it was designated as in terms of the commercial feel and two story. He was also concerned about setting precedent.

There was discussion regarding the criteria and how not all of the criteria had to be met.

Commissioner Schanche MOVED to DENY AP 1-23 in support of the Historic Landmarks Committee's denial. SECONDED by Commissioner Langenwalter. The motion FAILED 3-5 with Commissioners Deppe, Winfield, Langenwalter, Tucholsky, and Murray opposed.

Commissioner Langenwalter MOVED to APPROVE AP 1-23 in support of the applicant based on the findings in the January 5 staff report with the amended conditions of approval. SECONDED by Commissioner Murray. The motion PASSED 5-3 with Commissioners Rankin, Randall, and Schanche opposed.

Commissioner Murray MOVED to APPROVE AP 2-23 in support of the applicant based on the findings in the January 5 staff report with the amended conditions of approval. SECONDED by Commissioner Tucholsky. The motion PASSED 5-3 with Commissioners Rankin, Randall, and Schanche opposed.

Commissioner Tucholsky MOVED to APPROVE AP 3-23 in support of the applicant based on the findings in the January 5 staff report with the amended conditions of approval. SECONDED by Commissioner Murray. The motion PASSED 5-3 with Commissioners Rankin, Randall, and Schanche opposed.

Commissioner Tucholsky MOVED to APPROVE AP 4-23 in support of the applicant based on the findings in the January 5 staff report with the amended conditions of approval. SECONDED by Commissioner Murray. The motion FAILED 4-4 with Commissioners Rankin, Randall, Langenwalter, and Schanche opposed.

Commissioner Langenwalter was not in favor of the building being over three stories.

Commissioner Tucholsky said this building was bigger than others downtown, however he thought the City would be better for it, especially future generations. They needed to be good ancestors for tomorrow.

Chair Winfield thought the applicant had demonstrated how they would use the historic ideas in the design process.

Commissioner Tucholsky MOVED to APPROVE AP 4-23 in support of the applicant based on the findings in the January 5 staff report with the amended conditions of approval. SECONDED by Commissioner Murray. The motion PASSED 5-3 with Commissioners Rankin, Langenwalter, and Schanche opposed.

The Commission took a break and reconvened at 6:45 p.m. Commissioner McClellan rejoined the meeting.

**B. Quasi-Judicial Hearing (Docket ZC 3-22): Application for an amendment to the Zone Map to apply the Flood Area Zone (FP) to 28.25 acres and the 9000 Minimum Lot Size Residential Zone (R1) to 1.65 acres of tax lots R4421 00900 and R4421 01200 upon annexation into the city limits.**

**Request:** Amend the Zone Map

**Docket:** ZC 3-22

**Location:** Tax Lots, R4421 00900 and 01200

**Applicant:** Steve Kay, Cascadia Planning, on behalf of Anders Johansen, property owner

**\*\*Recording started here, not at the opening of the hearing.**

Staff Report: Community Development Director Richards said this was a request for a zone map amendment for two tax lots that were not currently in the City. She discussed the subject site, Comprehensive Plan designation, flood area zone, R-1 after annexation, review criteria, annexation process, annexation agreement, future Yamhill River multi-purpose trail, conditions, and public testimony. Staff recommended approval with conditions.

There was discussion regarding the floodplain map and septic system.

Applicant's Testimony: Steve Kay, Cascadia Planning and Development Services, was representing the applicant. The applicant was planning to annex a 30 acre site and change the property zoning to R-1 and FP consistent with the Comprehensive Plan Map designations. The property paralleled the Yamhill River and was mostly encumbered by a 100 year flood plain and conservation easement along the waterway. Therefore, less than an acre was available for development. The site that could be developed was located at the end of Nehemiah Lane and the maximum development was three single family homes. They intended to only build one single family home on the site and it could be connected to all public utilities except sewer. They would be putting in a private septic system. The Council had approved the annexation agreement and the findings supported that all criteria have been met.

Public Testimony: None

Chair Winfield closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant and evidence in the record, Commissioner Tucholsky MOVED to RECCOMEND APPROVAL of ZC 3-22 to the City Council with the conditions of approval. SECONDED by Commissioner Langenwalter. The motion PASSED 9-0.

**C. Legislative Hearing (Docket G 1-23): Proposed amendments to the McMinnville Zoning Ordinance, adopting amended standards for Short-Term Rentals**

**Request:** The proposed amendment would amend the standards for Short-Term Rentals in the R-1, R-2, R-3, R-4, R-5, and O-R zones. Short-Term Rentals are listed as a permitted use in these zoning districts, subject to the standards provided in Section 17.12.010(P) of the Zoning Ordinance. The proposed amendment would amend the standards in Section 17.12.010(P). The proposed amendment would also amend the off-street parking provisions for Short-Term Rentals in Chapter 17.60 of the Zoning Ordinance to provide internal consistency with the amended standards.

**Docket: G 1-23**

**Location:** N/A. This is a proposed Zoning Ordinance Text Amendment

**Applicant:** City of McMinnville

Chair Winfield opened the public hearing and read the hearing statement. She asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. She asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Staff Report: Senior Planner Schauer gave a presentation on the amendments to the standards for short term rentals in the R-1, R-2, R-3, R-4, R-5, and O-R zones. He explained the background on this item, written testimony received, applicable criteria, principal changes from the current standards, maps showing existing short term rentals based on a 200 foot spacing standard and 500 foot spacing standard, and questions/comments from the last hearing. Staff recommended approval subject to minor punctuation/scrivener's corrections.

There were questions about City law superseding any HOA rules, registering with the Finance Department, and Alpine Avenue overlay district.

Public Testimony:

Opponent: Blake Lundstrom, McMinnville resident, said the proposed 500 foot spacing standard would take away the option for people to rent out rooms in their homes. These were not corporations but McMinnville residents who needed the source of income and if the standard was changed it would only benefit corporations. He thought the 500 feet was excessive for the less than 1% of available homes which were short term rentals. He did not think this was a problem in McMinnville, and the threshold should be higher before considering this change.

Senior Planner Schauer clarified there were two categories for short term rentals, one when the entire home was rented out and the other where the home was occupied but one room was being rented out. The second scenario was not subject to the spacing standard.

Mr. Lundstrom was speaking about both scenarios.

Proponents: Kenneth Yount, McMinnville resident, was in favor of the proposed changes as he had seen many homes go to short term rentals instead of being used to house families. It affected the younger generation who had to live with family members and were displaced from their homes. More homes available to families to live in made better students and citizens in the future.

Jim ??, McMinnville resident, asked the Commission to consider including the two blocks of housing in the NE Gateway District in the spacing standard.

Community Development Director Richards explained because the district was intended to be a commercial use, short term rentals were required to get a condition use and would not be subject to the spacing standard.

Jim ?? said there was one short term rental in this area currently.

There was discussion regarding the process for including these two blocks in the spacing standard.

Mark Davis, McMinnville resident, thought the 500 feet was reasonable. He thought they should have included the commercial zones as well. Short term rentals had a big impact on residential in the commercial zones. There was a lack of affordable housing in the City and short term rentals impacted the amount of housing stock there was in the community.

Anna Barsotti??, McMinnville resident, spoke about being a teacher and how difficult it was to afford housing in the City. She thought they needed to protect the housing that was hard to come by for the workforce. Neighborhoods changed when people did not live there and were no longer invested.

Pat Russell, McMinnville land owner, was in support of the changes to protect neighborhoods as residential neighborhoods and a sense of community. Short term rentals affected housing affordability and comfort level of neighbors knowing who was next door to them.

Janette Bailey, McMinnville resident, lived in a condo and her HOA did not allow rentals, which contributed to a high quality neighborhood. She also owned rentals in McMinnville and she thought long term rentals were important, especially for those who could not afford a home of their own. There should be homes for people who lived in McMinnville and people coming from out of state to buy vacation rentals degraded quality of life for those who lived here.

Chair Winfield closed the public hearing.

There was discussion regarding concerns in the letters that were received about advertising based on the number of bedrooms and how parking was tied to the number of bedrooms, posting key City ordinances in a prominent spot in the rental, and having more than one emergency contact. There was also discussion regarding the cons of including the Gateway District in the spacing standard.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Tucholsky MOVED to RECOMMEND APPROVAL of G 1-23 to the City Council and to include the underlying residential zone in Zone 3 of the NE Gateway District. SECONDED by Commissioner Langenwalter. The motion PASSED 9-0.

#### **5. Commissioner Comments**

None

#### **6. Staff Comments**

Community Development Director Richards discussed upcoming meeting agenda items.

#### **7. Adjournment**

Chair Winfield adjourned the meeting at 8:18 p.m.

**From:** [Stuart Ramsing](#)  
**To:** [Heather Richards](#)  
**Subject:** RE: Gwendolyn Appeal  
**Date:** Wednesday, March 1, 2023 10:31:20 PM  
**Attachments:** [image001.png](#)  
[image004.png](#)

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Heather,

For context, the building code administered in McMinnville is delegated for local administration by the State. The code is based on the International Building Code and the International Existing Building Code. The State makes amendments and adopts a consolidated code statewide as the Oregon Structural Specialty Code, referred to as the OSSC. The City of McMinnville has no local building code nor is there local authority to administer anything other than the OSSC.

To the question of what may require a seismic upgrade, there are several variables depending on the work that may occur. In any case, work must occur for an upgrade to be required. Without an alteration or addition occurring, there is no "trigger" to require a seismic upgrade of any type for any of the three buildings.

If an alteration or addition is to occur, the OSSC may require a building upgrade\*\*\* for seismic safety in several scenarios:

- When a change of use or occupancy occurs that places the building in an increased seismic risk category (this is unlikely to occur). For example, the occupant load for any of the three buildings increasing to more than 300 total occupants would result in an increased seismic risk categorization.
- Where a change increases the live load (e.g., weight of people and furnishings). For example, changing from office to an performance venue with a higher concentration of people (i.e., weight on the structure). This could occur without increasing the seismic risk category.
- If an addition is physically attached, then the existing structure plus the addition must be evaluated. Upgrading is avoided by separating any adjacent addition by several inches per story height. The building and addition could be "bridged" with seismic joints and exterior weather protection to functionally perform as a connected building without upgrading the existing building..



- If the building is altered in a manner creating structural irregularities (e.g., removing interior floors to create a large atrium).

\*\*\*Upgrade for seismic safety may be to a lesser standard than for new construction, based on a number of variables.

In any scenario, an Oregon licensed engineer would be leading any design effort for any seismic upgrade. There are many options to consider starting with soils, then foundations, and then into bracing and securing the above-grade structure.



Stuart Ramsing  
Building Official  
503.474.7504

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**From:** Brian Randall <[Brian.Randall@mcminnvilleoregon.gov](mailto:Brian.Randall@mcminnvilleoregon.gov)>  
**Sent:** Tuesday, February 28, 2023 8:37 PM  
**To:** Heather Richards <[Heather.Richards@mcminnvilleoregon.gov](mailto:Heather.Richards@mcminnvilleoregon.gov)>  
**Subject:** RE: Gwendolyn Appeal

For the three properties, what would require seismic upgrades?

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**From:** Heather Richards <[Heather.Richards@mcminnvilleoregon.gov](mailto:Heather.Richards@mcminnvilleoregon.gov)>  
**Sent:** Tuesday, February 28, 2023 2:52 PM  
**To:** Brian Randall <[Brian.Randall@mcminnvilleoregon.gov](mailto:Brian.Randall@mcminnvilleoregon.gov)>  
**Subject:** RE: Gwendolyn Appeal

**You might ask them that. I think they looked at the history of decision-making in McMinnville and the HLC has never denied a demo request in the past, including a couple of significant resources (an original dormitory – Mac Hall – on Linfield’s campus, and a primary contributing structure in the**

downtown historic district across the street from this site).

*Have a great day!*

*Heather*



Heather Richards  
Community Development Director  
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**From:** Brian Randall <[Brian.Randall@mcminnvilleoregon.gov](mailto:Brian.Randall@mcminnvilleoregon.gov)>  
**Sent:** Tuesday, February 28, 2023 2:20 PM  
**To:** Heather Richards <[Heather.Richards@mcminnvilleoregon.gov](mailto:Heather.Richards@mcminnvilleoregon.gov)>  
**Subject:** Gwendolyn Appeal

Just curious- why did the applicant not first apply to remove the buildings from the historic district and/or their designation as secondary contributing structures?