



Exhibit 4 – STAFF REPORT

DATE: March 2, 2023
TO: Planning Commission Members
FROM: Heather Richards, Community Development Director
SUBJECT: Gwendolyn Hotel Public Hearing, Appeal of Historic Landmarks Committee Denial for HL 6-22, HL 7-22, HL 8-22, 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

Report in Brief:

This is a public hearing to consider the appeal of the Historic Landmarks Committee’s denial of four land-use applications associated with the Gwendolyn Hotel project.

On January 26, 2023, the Historic Landmarks Committee voted 3- 2 to deny the applicant’s requests for Certificates of Approval for the demolition of a historic resource at 609, 611 and 619 NE Third Street (Dockets HL 6-22, HL 7-22, and HL 8-22), and voted 4-1 to deny the applicant’s Gwendolyn Hotel new construction project as compliant with the City’s Downtown Design Standards and Guidelines (Docket DDR 2-22). (Please see attached Decision Documents for HL 6-22, HL 7-22, HL 8-22, and DDR 2-22).

The applicant, HD McMinnville LLC appealed the Historic Landmarks Committee’s decisions on all four land-use applications to the Planning Commission on February 10, 2023. (Please see the attached applicant’s appeal submittal).

After reviewing the public record associated with all four land-use applications, the Planning Commission needs to decide if they agree with the Historic Landmarks Committee’s findings and decisions, or if they agree with the appellant’s argument that the applicable criteria has been satisfied and the applications need to be approved. That decision needs to be made based on the applicable criteria and the evidence in the record.

The entire public record collected prior to the appeal public hearing with the Planning Commission is located on the project website at: [Gwendolyn Hotel \(HL 6-22, HL 7-22, HL 8-22, and DDR 2-22\) - 609, 611 and 619 NE Third Street | McMinnville Oregon](#). Attached to this staff report is the appellant's notices of appeal and public testimony received for the Planning Commission consideration of the appeal.

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.

The Historic Landmarks Committee is the city-appointed decision-making body for land-use applications relative to alterations and demolitions of local historic resources, and land-use applications for new construction in the downtown design overlay district. 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. Those members of the Historic Landmarks Committee who voted to deny the demolition applications found that the evidence associated with the different factors the regulations told them to consider did not support the demolition of the historic resources.

The criteria for the approval or denial of a new construction project's compliance with the City of McMinnville's Downtown Design Standards and Guidelines is comprised of both clear and objective standards and guidelines. The discussion at the Historic Landmarks Committee public hearing and deliberations centered around how to interpret the code language that was not clear and objective.

Since the three historic resources to be considered for demolition are on the National Register of Historic Places, OAR 660-023-0200 mandated that the Historic Landmarks Committee needed to host a public hearing to consider the requests for demolition. The Historic Landmarks Committee opened a public hearing on September 29, 2022, then continued it to December 8, 2022, and January 5, 2023, when they closed the public hearing, deliberated, and directed staff to write findings denying all four land-use applications, that they voted to approve on January 26, 2023.

The applicant first submitted their applications on August 9, 2022. At the Historic Landmarks Committee meeting on September 29, 2022, it was decided that more information was needed for the Historic Landmarks Committee to balance all of the factors of demolition. The applicant provided a supplemental submittal on November 4, 2022, and additional materials at the request of city staff on December 15 and December 19, 2022. That material plus the public testimony provided both in writing and orally at the public hearings on September 29, 2022 and January 5, 2023, and the associated staff reports constitute the public record and evidence for the Historic Landmarks Committee's decision-making.

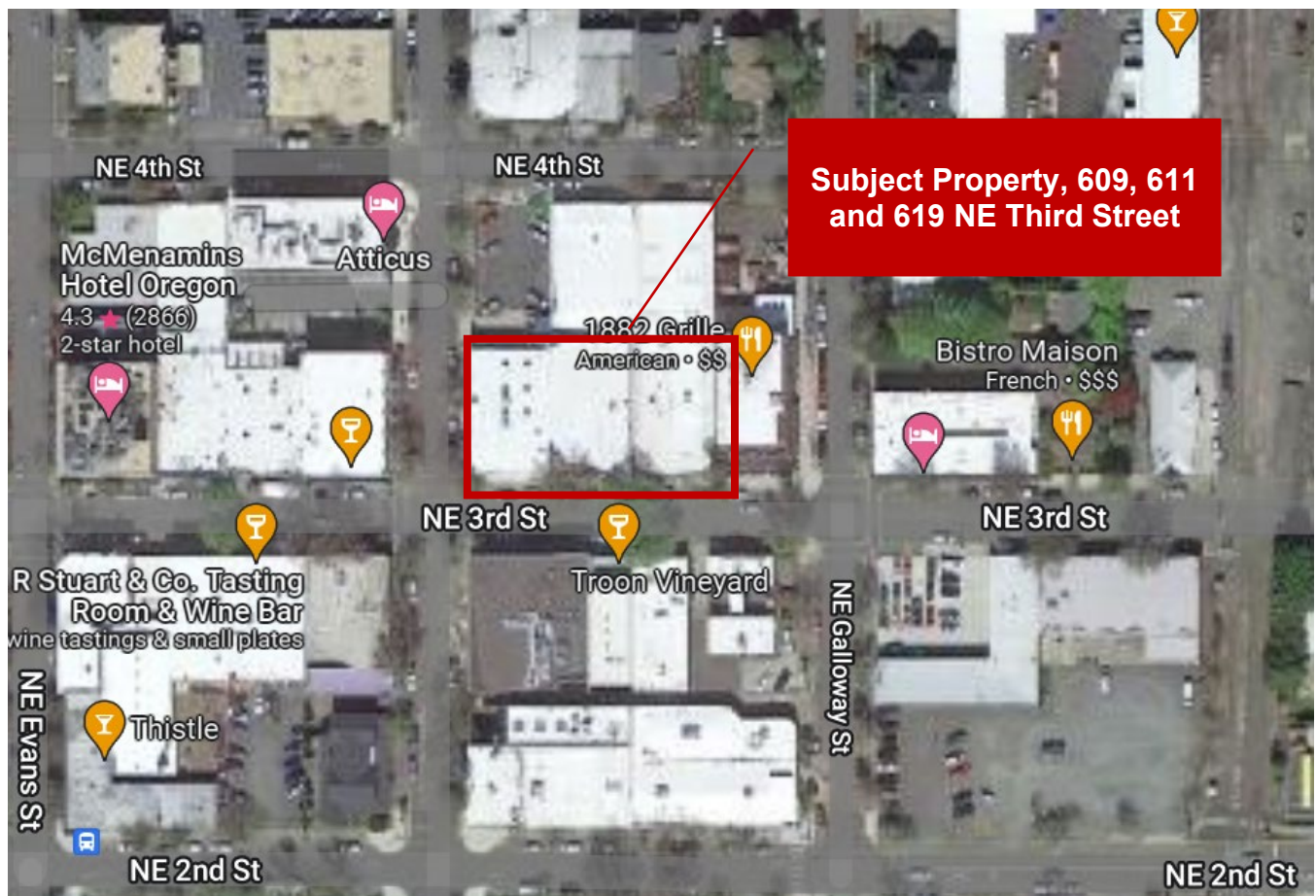
Per the McMinnville Municipal Code, Section 17.65.080, the Historic Landmarks Committee's decisions can be appealed to the Planning Commission. The applicant filed an application to appeal the Historic Landmarks Committee's decisions on February 10, 2023.

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.

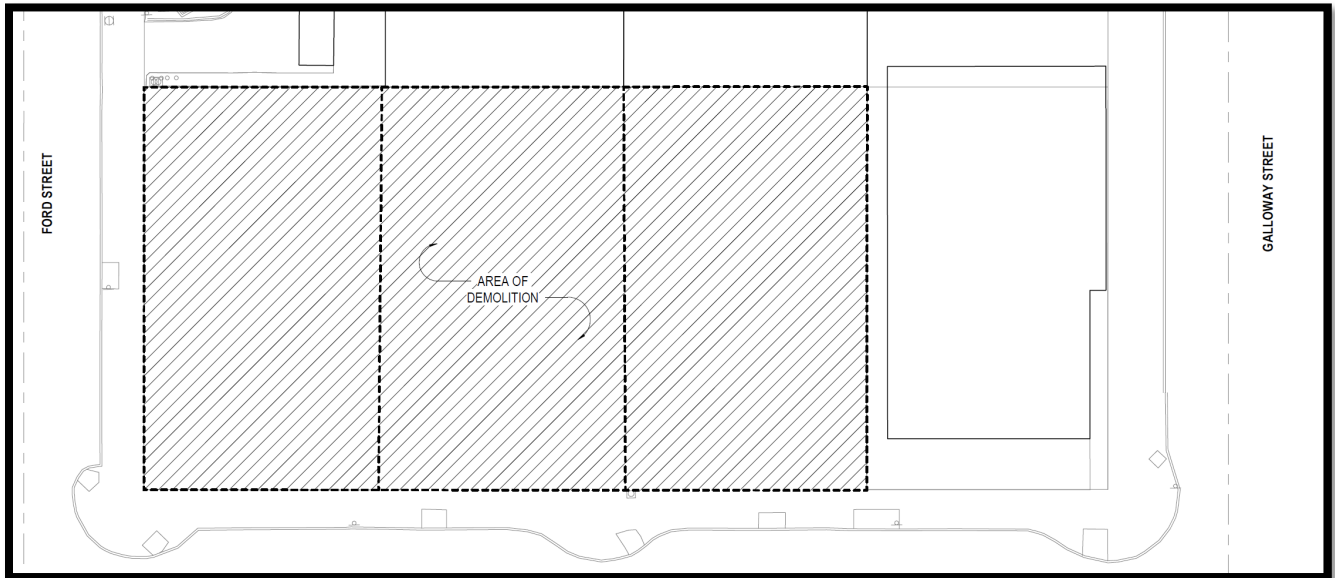
The site is at the northeast corner of NE 3rd Street and NE Ford Street and consists of three buildings: two tax lots addressed as 609 NE 3rd Street and 619 NE 3rd Street, and the southern portion of the tax lot addressed as 611 NE 3rd Street. All three tax lots are currently developed with buildings.

The property to the east of the development site, the KAOS Building at 645 NE 3rd Street, is a new construction project with restaurants and other commercial uses. The sites south of NE 3rd 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 3rd Street and NE Ford Street, and Okta Restaurant to the east of it in a new building. 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:

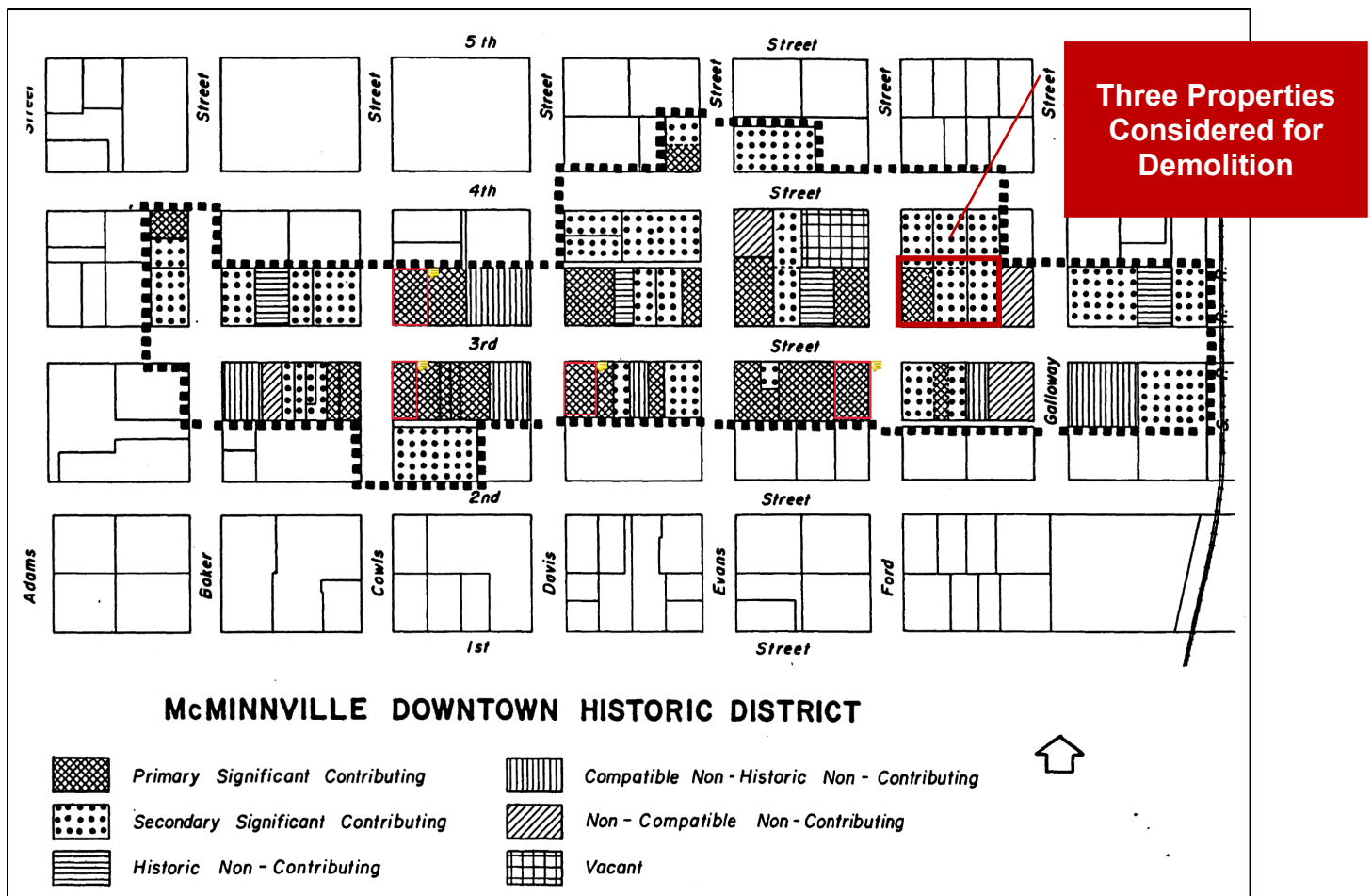


- 609 NE Third Street is considered a “Primary Significant Contributing” structure in the McMinnville Downtown Historic District and is listed as a B (Significant) resource on the McMinnville Historic Resources Inventory (B865).
- 611 NE Third Street is considered a “Secondary Significant Contributing” 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 3rd 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 3rd 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).

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: [Gwendolyn Hotel \(HL 6-22, HL 7-22, HL 8-22, and DDR 2-22\) - 609, 611 and 619 NE Third Street | McMinnville Oregon](#)

Public Testimony: The Historic Landmarks Committee received written and oral testimony both in opposition and in support of the demolition of the historic resources and the new hotel project. However, the majority of the testimony was in opposition to both the demolition requests and the design of the new Gwendolyn Hotel project. Common themes in the 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 compatibility with Third Street.

The applicants tried to mitigate some of those concerns with a revised design that they provided as part of their supplemental materials on November 4, 2022.

Supportive testimony focused on the poor condition of the existing buildings both in terms of historic integrity (all buildings have been considerably modified) and 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 building footprints 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 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 by modifying the exterior elevation to resemble three buildings with a variety of setbacks and offsets, rather than one large building with a setback at the third floor.

Initial Design:

Original Third Street Elevation



Original View of Gwendolyn Hotel from Ford Street and Third Street



Original Mid-Block Street Perspective Along Third Street



Amended Design – Third Street Elevation:



Amended View of Gwendolyn Hotel from Ford Street and Third Street



Amended Mid-Block Street Perspective Along Third Street



Items of discussion during the Historic Landmarks Committee public hearing and deliberations: Given the complexity of the applications and the new construction there were many different items discussed during the Historic Landmarks Committee public hearing and deliberation. For clarity, below is a summary of some of the discussion points that were foundational to the deliberation and are sometimes misrepresented in the public record.

What are the historic periods of significance in the National Register of Historic Places McMinnville Historic District Nomination?

There was considerable discussion about whether or not the three historic resources retained their historic integrity and historic significance in their current forms. All three structures had been modified over time, especially on the ground floors and the Historic Landmarks Committee deliberated on the integrity of the historic structures in their current state as well as the historic significance of the structures to McMinnville.

The majority of the members of the Historic Landmarks Committee decided that based on the historic periods of significance identified in the National Register of Historic Places McMinnville Historic District Nomination and the subsequent classification of the resources within that nomination as primary contributing or secondary contributing structures, even with their modifications, that the three structures retained their historic significance and historic integrity. (Noting that the structure at 609 NE Third Street had been modified since the nomination was compiled and submitted). This decision was based on the fact that the nomination classified the buildings in the following way:

- Primary Significant Contributing: Built-in or before 1912, representing initial settlement and the arrival of the railroad.
- Secondary Significant Contributing: Built-in or between 1913 and 1937, representing the secondary period of construction with the advent of auto traffic.
- Historic Non-Contributing: Structures built in the primary or secondary periods of significance but have been so altered over time that their contributing elements had been lost or concealed.

Can the City consider the collective historic significance of the three structures – both in terms of preservation and demolition?

The majority of the Historic Landmarks Committee decided that the collective loss of all three historic resources would be a significant loss to the downtown historic district and for that reason their preservation outweighed the value of the new hotel project.

Will the demolition of three significant contributing structures in the McMinnville Downtown Historic District affect the National Register of Historic Places’ historic district designation?

The City asked the National Park Service representative for Oregon this question, and the answer was that the demolition of the three structures would not affect the historic district designation. The email thread with the National Park Service is part of the public record.

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.

Is the criteria in Chapter 17.59 that states “should” and not “shall”, a mandated criterion or a guideline?

In their supplemental materials submitted after the initial public hearing on September 29, 2023, when there were concerns expressed by staff that the project as designed did not meet the criteria of 17.59.050(B)(1) that discussed the need for the new design to have the massing and configuration similar to adjacent or nearby historic buildings on the same block, the applicant argued that since the guideline stated “should” and not “shall” that it was a guideline and not a mandated criterion.

The majority of the Historic Landmarks Committee members determined that the should statements were mandated criteria and not guidelines, therefore requiring compliance or waivers.

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 Constitutes a Block?

A couple of the criteria in Chapter 17.59 describe performance metrics relative to the same block. The majority of the Historic Landmarks Committee determined that the same block referenced a full city block surrounded by street public right-of-way.

Discussion:

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 uses those factors to render a decision and provides some discretion.

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

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 Oregon Administrative Rules, the City's code does not provide a basis on how to consider the different elements of the code. The City has in the past rendered a decision for approval of demolition for projects that do not meet each principle and standard.

Below is a table identifying the combined factors the City should consider when balancing a decision of approval or denial of the demolition of a historic resource on the National Register of Historic Places (OAR 660-023-0200) and the local historic resources inventory (MMC 17.65.050):

State OAR 660 -023-0200	McMinnville Municipal Code, 17.65.050
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

Per the Historic Landmarks Committee’s deliberation on January 5, 2023, findings documents were prepared denying the land-use applications for Certificate of Approvals for Demolition for 609, 611, and 619 NE Third Street, and the Gwendolyn Hotel as a new construction project in the Downtown Design Overlay District and voted on by the Historic Landmarks Committee at their meeting on January 26, 2023. The Historic Landmarks Committee voted 3 – 2 to deny all three requests for the demolition of the historic resources, and voted 4 – 1 to deny compliance of the new construction with the City’s Downtown Design Standards and Guidelines.

Reasons to deny the Certificates of Approval for Demolition of 609, 611 and 619 NE Third Street:

- The City’s comprehensive plan historic preservation policies.
- The buildings should be preserved based on their historic integrity and significance to McMinnville as historic resources both individually and collectively within the downtown historic district.
- Preserving the historic resources is of more value to the community than the new hotel.
- The potential financial hardship is not outweighed by the public interest in the resources’ preservation.

Reasons to deny the Gwendolyn Hotel for the Downtown Design Overlay District:

- The project is not compliant with 17.59.050(B)(1) due to the size and massing of the project relative to adjacent and nearby historic buildings on the same block and that the building appears to be taller than two-stories in height at the street corner and intersection.
- The project is not compliant with 17.59.050(B)(2) since the façade is not visually subdivided into proportional bays similar in scale to adjacent historic buildings.
- The project did not apply for waivers for Section 17.59.050(B)(1) and (2).

In their notice of appeal (see attached), the appellant identified approximately 17 (seventeen) alleged issues with the Historic Landmarks Committee's denial of HL 6-22, HL 7-22, and HL 8-22, asserting that the 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 was not substantially supported by the evidence in the record; and approximately 4 (four) alleged issues with the Historic Landmarks Committee's denial of DDR 2-22. The notices of appeal also set forth that these are a non-exclusive list of alleged errors in the Historic Landmarks Committee's decisions. Ultimately, the Appellants believe that the applicable criteria are satisfied and the applications should be approved. The question for the Planning Commission is to review the Historic Landmarks Committee's decisions, the established public record, including the application and supplemental materials, the public testimony, and staff reports, and determine whether the Historic Landmarks Committee correctly applied the applicable criteria, based on the evidence provided.

The Planning Commission may find that some or all of the appellant's arguments have merit and that the findings, and potentially the decisions, need to be changed to reflect that determination. Or the Planning Commission may identify issues or criteria that are of particular concern that they want to discuss and explore further. Or the Planning Commission may determine that the Historic Landmarks Committee's decisions were appropriate but the findings need to be revised.

Attachments:

- Appeal Submittal by HD McMinnville LLC
- Historic Landmarks Committee Decision Documents
 - HL 6-22 (Demolition of Historic Resource at 609 NE Third Street)
 - HL 7-22 (Demolition of Historic Resource at 611 NE Third Street)
 - HL 8-22 (Demolition of Historic Resource at 619 NE Third Street)
 - DDR 2-22 (Downtown Design Review of New Construction – Gwendolyn Hotel)
- Testimony Received for Planning Commission Appeal Public Hearing
 - 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