



**City of McMinnville**  
**Planning Department**  
 231 NE Fifth Street  
 McMinnville, OR 97128  
 (503) 434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**Historic Landmarks Committee**  
**Hybrid In-Person & ZOOM Online Meeting**  
**Thursday, June 23, 2022 - 3:00 PM**  
**McMinnville Civic Hall: 200 NE 2nd St.**

*Please note that this meeting will take place at McMinnville Civic Hall and simultaneously be conducted via ZOOM meeting software if you are unable or choose not to attend in person*

**Join Zoom Meeting**

<https://mcminnvilleoregon.zoom.us/j/84484861800?pwd=UGs2dG9TZ21hQmJpUUgrajhzTTIzZz09>

**Zoom Meeting ID:** 844 8486 1800  
**Zoom Meeting Passcode:** 482480

**Or join ZOOM Meeting by phone via the following number: 1-253-215-8782**

Committee Members	Agenda Items
John Mead, Chair	<b>1. Call to Order</b>
Mary Beth Branch, Vice Chair	<b>2. Citizen Comments</b>
Mark Cooley	<b>3. Approval of Minutes</b> <ul style="list-style-type: none"> <li>• 9/1/2021 Meeting Minutes (<i>Exhibit 1</i>)</li> </ul>
Eve Dewan	<b>4. Action Items</b> <ul style="list-style-type: none"> <li>• HL 1-22: 436 SE Baker St. (<i>Exhibit 2</i>)</li> </ul>
Christopher Knapp	<b>5. Discussion Items</b> <ul style="list-style-type: none"> <li>• Goal 5 Comprehensive Plan Update (<i>Exhibit 3</i>)</li> <li>• Demolition Code Discussion (<i>Exhibit 4</i>)</li> </ul>
Youth Liaison: Hadleigh Heller	<b>6. Old/New Business</b> <ul style="list-style-type: none"> <li>• HLG Public engagement program update (<i>Exhibit 5</i>)</li> </ul>
City Council Liaison Chris Chenoweth	<b>7. Committee Member Comments</b>
	<b>8. Staff Comments</b>
	<b>9. Adjournment</b>

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 24 hours in advance by contacting the City Manager (503) 434-7405 – 1-800-735-1232 for voice, or TDY 1-800-735-2900.

\*Please note that these documents are also on the City's website, [www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov). You may also request a copy from the Planning Department.



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# EXHIBIT 1 - MINUTES

**September 1, 2021**  
**Historic Landmarks Committee**  
**Regular Meeting**

**3:00 pm**  
**Zoom Meeting**  
**McMinnville, Oregon**

**Members Present:** Mary Beth Branch, Mark Cooley, Christopher Knapp, Joan Drabkin, John Mead, and Hadleigh Heller – Youth Liaison

**Members Absent:**

**Staff Present:** Heather Richards – Planning Director, Chuck Darnell – Senior Planner, and Amy Dixon – Contract Planner

**Others Present:** Dave Rucklos – McMinnville Downtown Association

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## 1. Call to Order

Chair Mead called the meeting to order at 3:00 p.m.

Planning Director Richards announced Senior Planner Darnell's resignation and how they would move forward with the staffing gap.

Senior Planner Darnell explained his future plans to relocate to Colorado.

The Committee thanked him for his work.

Contract Planner Dixon introduced herself.

## 2. Citizen Comments

None

## 3. Approval of Minutes

A. May 14, 2020 Meeting Minutes

B. January 5, 2021 Meeting Minutes

Committee Member Cooley moved to approve the May 14, 2020 and January 5, 2021 meeting minutes. The motion was seconded by Committee Member Drabkin and passed 6-0.

## 4. Action Items

A. HL 4-21: Certificate of Approval for Alterations - 300, 303, 406, and 546 NE 3<sup>rd</sup> Street

Chair Mead asked if any Committee Member wished to make a disclosure or abstain from participating or voting on this application. There was none. He asked if any Committee Member needed to declare any contact prior to the hearing with the applicant or any party involved in the application or any other source of information outside of staff regarding the subject of this application. There was none.

Senior Planner Darnell presented the staff report. He discussed the site location of the four different buildings on NE 3<sup>rd</sup> Street in the Downtown Historic District. Each property was listed on the local historic resources inventory. The proposal was to install exterior lighting along the side/rear building facades. There would be 3-4 lights on the side facades and 2 lights on the rear façade of one building. The applicant thought the light fixture was compatible. The lights were proposed to improve lighting for the pedestrian corridors and in public parking lots. He explained the proposed locations for the light fixtures, review process, and criteria. In general, the proposal would not cause significant alterations or changes to the exterior materials or building architectural features. The impacts were limited to where the light fixtures were mounted to the building walls. The lights were proposed on the side and rear facades, which preserved and avoided impact to the primary front and character defining building facades. The exterior mounted conduit may be the most visually impactful. Methods of concealment were proposed to minimize the visual appearance. The applicant was proposing "rehabilitation" treatment. He explained the Secretary of Interior's recommended guidelines for installing a new mechanical system on historic buildings and preserving masonry features. The proposed mounting, with concealment, could be found to not be causing "extensive loss or damage" or features being "radically changed."

Dave Rucklos, McMinnville Downtown Association, said they were putting together a grant request from Travel Oregon for outside dining. One of the things they discussed was a need for lighting to increase safety and deter graffiti. Alternates to conduit were cost prohibitive and holes would have to be drilled in the façade.

There was discussion regarding the location and size of the conduit, adjusting the spacing of the lights, how the lights would be on a photosensor, design of the lights, possibly choosing lights that better matched the street lights, and timeline for installation.

There was no public testimony. Written comments were received by Jerry Hart, a property owner in support of the project, which were included in the packet.

Committee Member Drabkin was in support of the project.

Committee Member Cooley was also in support. He did not think the lights needed to be similar to the ornate, historic street lights. He thought what was proposed would be less visible, camouflaged and blended in. Since they were being added to historic resources, they should be a feature that contrasted with the historic structures.

Committee Member Branch was concerned about the spacing and thought the priority should be how the lights interacted with the existing architecture. She thought they needed to be spaced equally between windows. She also suggested a round conduit box that matched the shape of the backplate, although that looked like what the applicant was proposing. She did not think the lights should be as ornate as the street lights. She liked that the lights were simple, but was not sure about the caging.

Committee Member Drabkin thought the caging was necessary due to vandalism.

Committee Member Knapp suggested using a black color instead of bronze.

Committee Member Branch thought black would make them more visible.

Chair Mead thought the black would look more historic and appropriate as well as would match the color of the street lights. He thought keeping the conduit on the sides of the building and camouflaged with paint would be acceptable. There would be no vertical conduit.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Committee Member Cooley moved to approve HL 4-21 with the amendments to change the finish to black and adjust the spacing of the lights to be done in consultation with Committee Member Branch. The motion was seconded by Committee Member Branch and passed 6-0.

**5. Committee Comments**

None

**6. Staff Comments**

None

**7. Adjournment**

Chair Mead adjourned the meeting at 4:12 p.m.

## EXHIBIT 2 - STAFF REPORT

**DATE:** June 23, 2022  
**TO:** Historic Landmark Committee Members  
**From:** Adam Tate, Associate Planner  
**SUBJECT:** HL 1-22 (Certificate of Approval for Alteration) – 436 SE Baker Street

### STRATEGIC PRIORITY & GOAL:



### GROWTH & DEVELOPMENT CHARACTER

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

**OBJECTIVE/S:** Define the unique character through a community process that articulates our core principles

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### Report in Brief:

This is a public meeting for a Certificate of Approval for Alteration land-use application for already completed alterations to the building on the property at 436 SE Baker Street (Tax Lot R4421CB-09800). The property is identified as No. A513 a “Distinctive” Historic Landmark on the City of McMinnville’s Historic Resources List, which makes the building subject to the City of McMinnville’s Certificate of Approval and historic preservation review processes, as specified in Section 17.65.060(B) of the McMinnville Municipal Code.

The McMinnville Historic Landmarks Committee serves as the decision-making body for the design review of all remodel/renovation work for historic structures in McMinnville. The applicant, Teresa Drevdahl, is requesting the approval of the exterior alterations already completed, including new windows, and a new staircase in the area where a previous garage was demolished.

The applicant already executed the work in the application. It was reported to the City of McMinnville, and the applicant is participating in a code compliance plan to have the work reviewed by the Historic Landmarks Committee for compliance with the McMinnville Municipal Code (MMC). If the Historic Landmarks Committee finds that the work is not compliance with the MMC it will need to be corrected.

### Background:

#### ***Subject Property & Request***

The proposal is an application for a Certificate of Approval for Alteration requesting approval of the already completed work to the property; including the demolition of a garage as well as the installation of a staircase and two new windows.

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#### *Attachments:*

*Attachment A: Decision, Conditions, Findings of Fact and Conclusionary Findings for the Approval of HL 1-22*

*Attachment B: HL 1-22 Application Materials*

The subject property is located at 436 SE Baker Street. The property is identified as Tax Lot R4421CB-09800 **See Vicinity Map (Figure 1) below.**

**Figure 1. Vicinity Map**

The building is a historic home on the City of McMinnville’s Historic Resources List. It is on the highest category A list, known as Distinctive Resources. “Distinctive resources are defined as outstanding resources for architectural or historic reasons and potentially worthy of nomination to the National



Register of Historic Places.” The building is resource number A513 the Dr. Norhup House. It was first constructed in 1870 and added onto over the years. It has served as the home of several prominent people associated with nearby Linfield University including former Presidents of the University, Deans and Professors.

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**Attachments:**

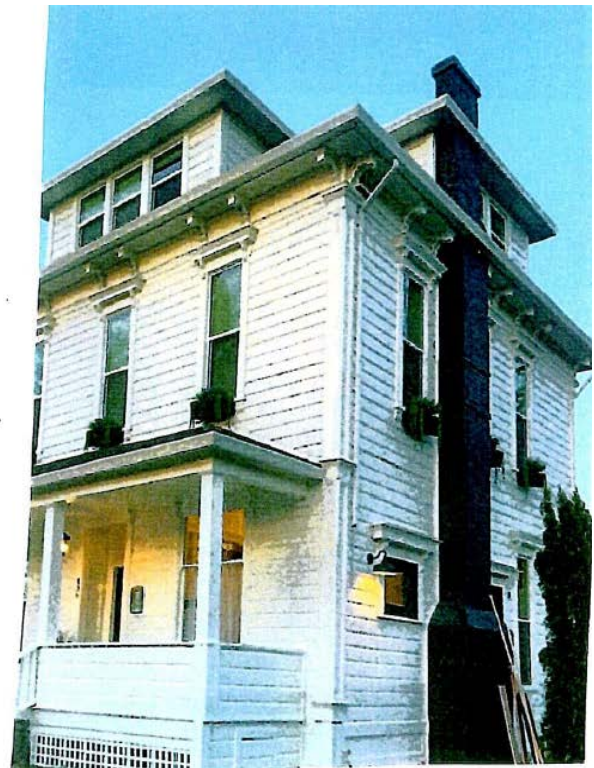
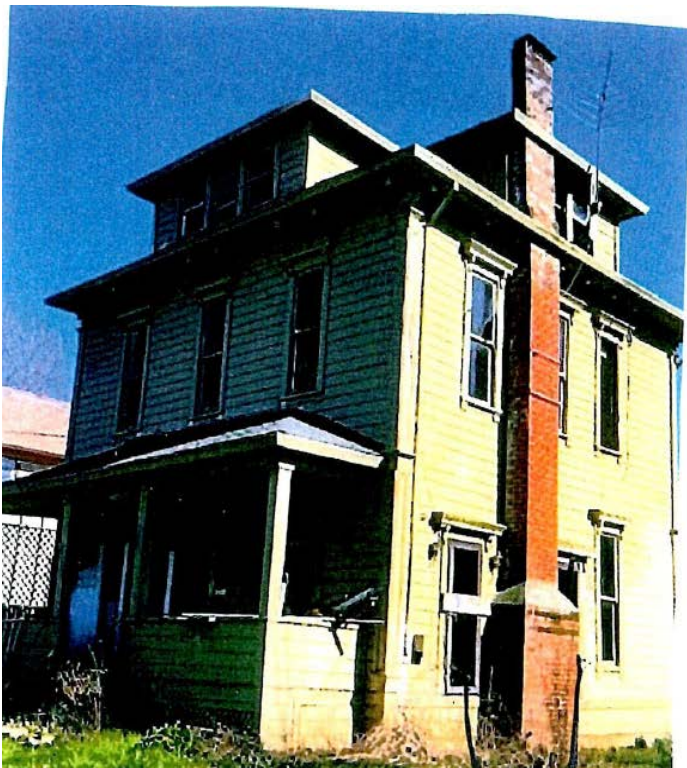
Attachment A: Decision, Conditions, Findings of Fact and Conclusionary Findings for the Approval of HL 1-22

Attachment B: HL 1-22 Application Materials

Figure 2. Entry NO. A513 on the McMinnville Historic Resources List

Historic Resources Survey City of McMinnville Yamhill County, Oregon				
Site Information				
Site Address		Owner at Time of Survey		
436 SE Baker St.		Roy & Marian Mahaffey		
Map/Tax Lot	Current Zoning	Special Tax Assessment	Downtown Historic District	
R4421CB09800	O-R	No	No	
Subdivision Name	Block	Lot	Lot Size	Quadrant
				SE
Site Number	Aerial Number	Resource Classification	Resource Number	Historic Significance
15.24	J-12	A	513	Primary Resource #225.1

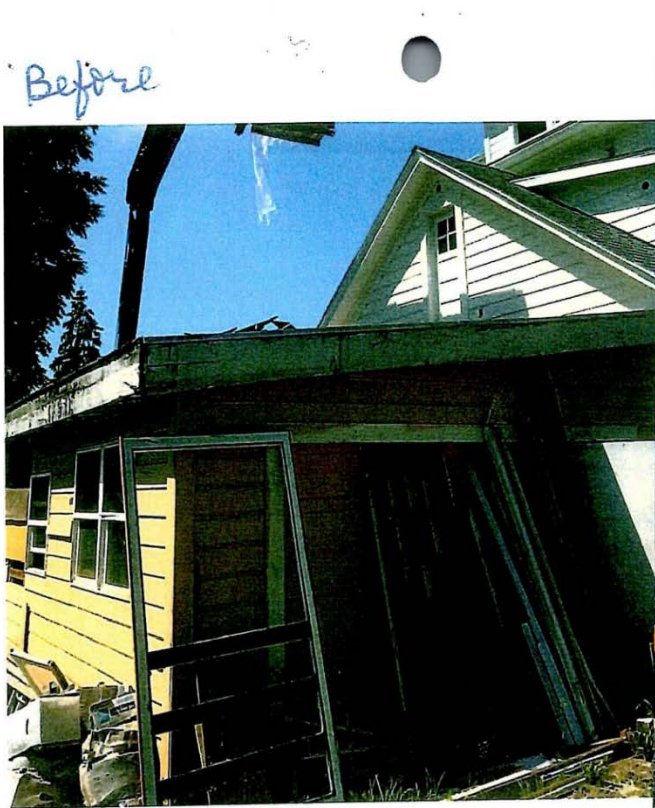
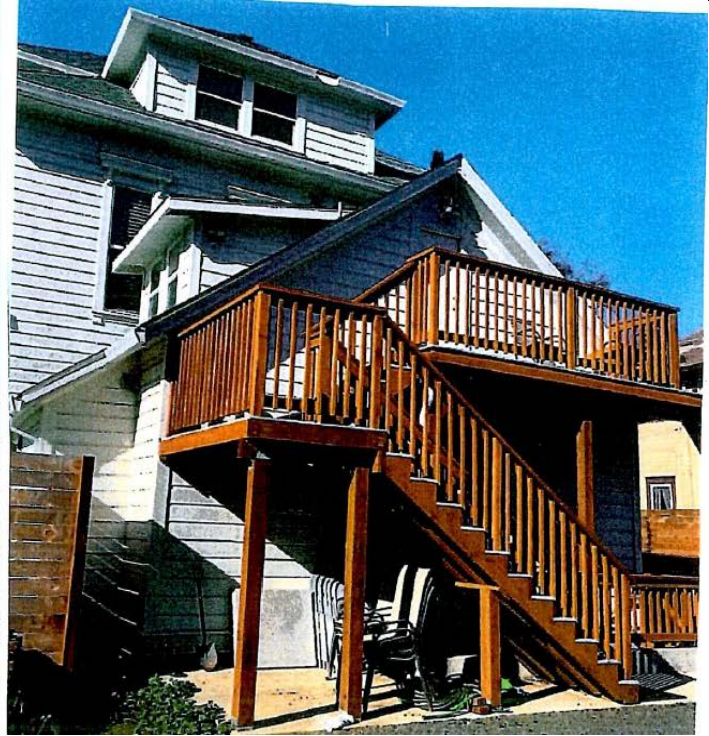
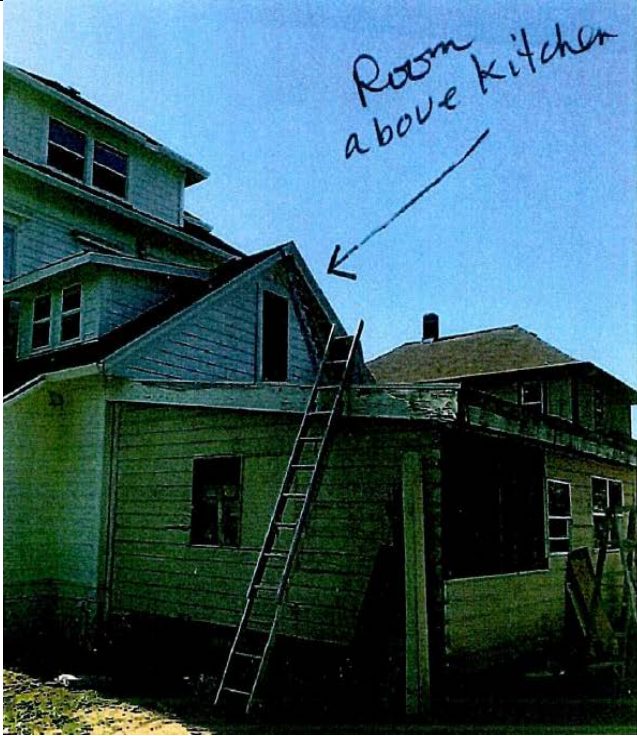
Figure 3: Exterior Conditions Before and After the Alteration



*Attachments:*

*Attachment A: Decision, Conditions, Findings of Fact and Conclusionary Findings for the Approval of HL 1-22*

*Attachment B: HL 1-22 Application Materials*





**Figure 4: Completed Staircase**



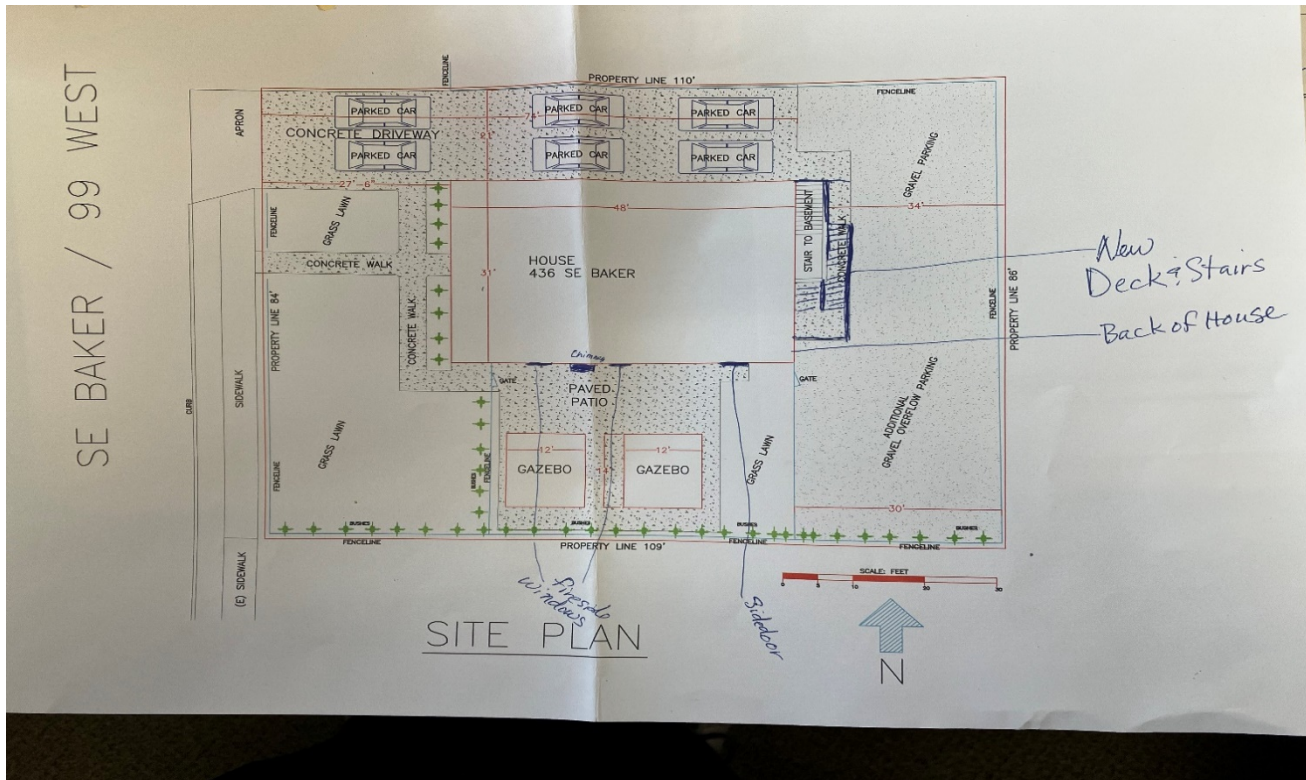
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*Attachments:*

*Attachment A: Decision, Conditions, Findings of Fact and Conclusionary Findings for the Approval of HL 1-22*

*Attachment B: HL 1-22 Application Materials*

Figure 5: Site Plan



**Discussion:**

Decisions and/or recommendations for approval of the land use application is dependent upon whether or not the application meets state regulations, the McMinnville Comprehensive Plan and the McMinnville Municipal Code. The application can either meet these criteria as proposed, or a condition of approval can be provided that either outlines what needs to occur to meet the criteria or when something needs to occur to meet the criteria.

The specific review criteria for HL 1-22 are as follows:

1. The City’s historic preservation policies set forth in the Comprehensive Plan;
2. The City’s historic preservation regulations in Chapter 17.65, and in particular, the standards and guidelines contained in Section 17.65.060(2);

**Summary of Applicant Findings**

The applicant has provided a written narrative to support their requests. The narrative is provided in the application materials, and are also reiterated and expanded upon in the Decision Documents for each land use application. The Decision Documents include the specific findings of fact for each of the applicable review criteria, but an overview of the findings in those Decision Documents is provided below.

The application is for the already completed alteration of the commercial property located at 436 SE Baker St.

Included in the application is a site plan, as well as before and after photos of the building.

*Attachments:*

*Attachment A: Decision, Conditions, Findings of Fact and Conclusionary Findings for the Approval of HL 1-22*

*Attachment B: HL 1-22 Application Materials*

**Suggested Conditions of Approval**

Staff is suggesting some conditions of approval to ensure that all of the applicable standards are being achieved by the proposal.

The first condition of approval is related to the future building permit submittal process and ensuring that the construction plans eventually submitted for building permit review are consistent with both the plans submitted for HL 1-22 as well as any requests by the Historic Landmarks Committee and the City of McMinnville Building Department.

The second and final condition relates to signage and requires the applicant or current owner to provide a sign permits for all new signs on the site going forward.

**Commission Options:**

- 1) Close the public meeting and **APPROVE** the application **WITH CONDITIONS**, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public meeting to a specific date and time.
- 3) Close the public meeting and **DENY** the application, providing findings of fact for the denial in the motion to deny.

**Recommendation:**

Based on the information and plans provided, staff believes that most of the City's Historic Preservation standards, are being achieved by the alterations made but that the suggested conditions of approval are needed to ensure future compliance with city rules and regulations.

Staff is recommending approval of the application, subject to the following suggested conditions of approval:

1. That the applicant and/or current owners shall submit building permit applications prior to completing any future work of their choice or work required by either the Historic Landmarks Committee or City of McMinnville Building Department. Any construction plans submitted with these building permit applications will be reviewed by the Planning Director for consistency with the written narrative, exhibits, drawings, and renderings submitted for review by the Historic Landmarks Committee, along with any revisions to respond to other conditions of approval.
2. The applicant and/or current owners will need to provide a sign permit for any new signs on the property.

**MOTION FOR HL 1-22:**

**BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE HISTORIC LANDMARKS COMMITTEE APPROVES HL 1-22, SUBJECT TO THE CONDITIONS OF APPROVAL PROVIDED IN THE DECISION DOCUMENT.**

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***Attachments:***

*Attachment A: Decision, Conditions, Findings of Fact and Conclusionary Findings for the Approval of HL 1-22*

*Attachment B: HL 1-22 Application Materials*

**DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS OF THE MCMINNVILLE HISTORIC LANDMARKS COMMITTEE FOR THE APPROVAL OF COMPLETED ALTERATIONS TO A HISTORIC LANDMARK LOCATED AT 436 SE BAKER STREET**

- DOCKET:** HL 1-22 (Certificate of Approval for Alteration)
- REQUEST:** Approval of already completed alterations to a building on the McMinnville Historic Resources List. The completed alterations include the demolition of a small garage, and the addition of an exterior staircase in its place, as well as new windows on either side of the chimney/fireplace.
- LOCATION:** 436 SE Baker Street. The property is also identified as Tax Lot R4421CB-09800.
- ZONING:** O-R (Office/Residential Zone)
- APPLICANT:** Teresa Drevdahl, former owner of the property. (Alterations were completed while she owned the property.)
- STAFF:** Adam Tate, Associate Planner
- DATE DEEMED COMPLETE:** June 2, 2022
- REVIEW BODY & ACTION:** McMinnville Historic Landmarks Committee
- MEETING DATE & LOCATION:** June 23, 2022. This will be a hybrid meeting, in person at McMinnville Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 844 8486 1800, Meeting Password: 482480
- PROCEDURE:** An application for a Certificate of Approval for Alteration is processed in accordance with the procedures in Section 17.65.060 of the McMinnville Municipal Code.
- CRITERIA:** The applicable criteria for a Certificate of Approval for Alteration are specified in Section 17.65.060(B) 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 17.65.080 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. The City's

final decision is subject to a 120 day processing timeline, including resolution of any local appeal.

**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.

**RECOMMENDATION**

Based on the findings and conclusionary findings, the Historic Landmarks Committee finds the applicable criteria are satisfied with conditions and **APPROVES** the Certificate of Approval for Alteration (HL 1-22).

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**DECISION: APPROVAL**  
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Historic Landmarks Committee: \_\_\_\_\_  
John Mead, Chair

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

Planning Department: \_\_\_\_\_  
Heather Richards, Planning Director

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

**I. APPLICATION SUMMARY:**

***Subject Property & Request***

The subject property is located at 436 SE Baker Street. The property is also identified as Tax Lot Tax Lot R4421CB-09800 . ***See Vicinity Map (Figure 1) below.***

**Figure 1. Vicinity Map (Property Lines Approximate)**



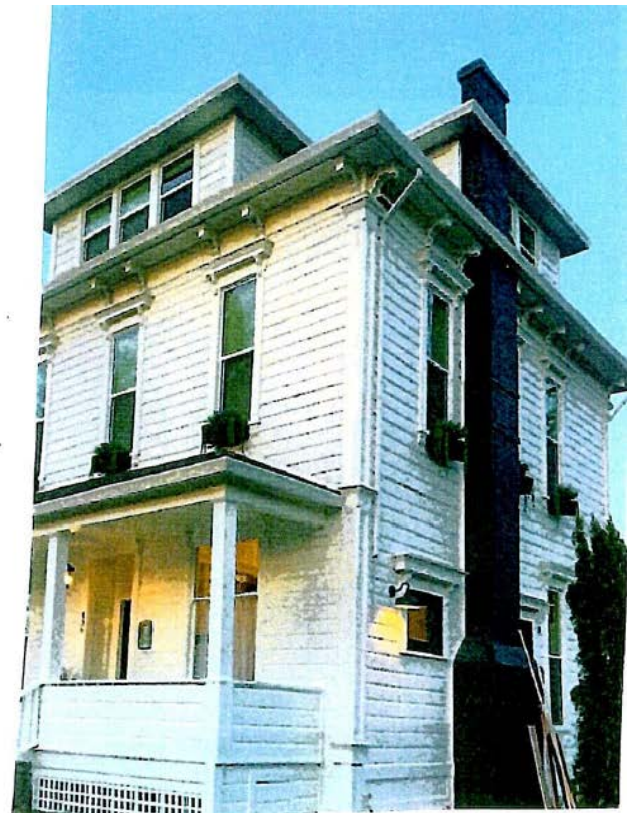
***Attachments:***

Attachment 1 – Application and Attachments

**Figure 2. Entry NO. A513 on the McMinnville Historic Resources List**

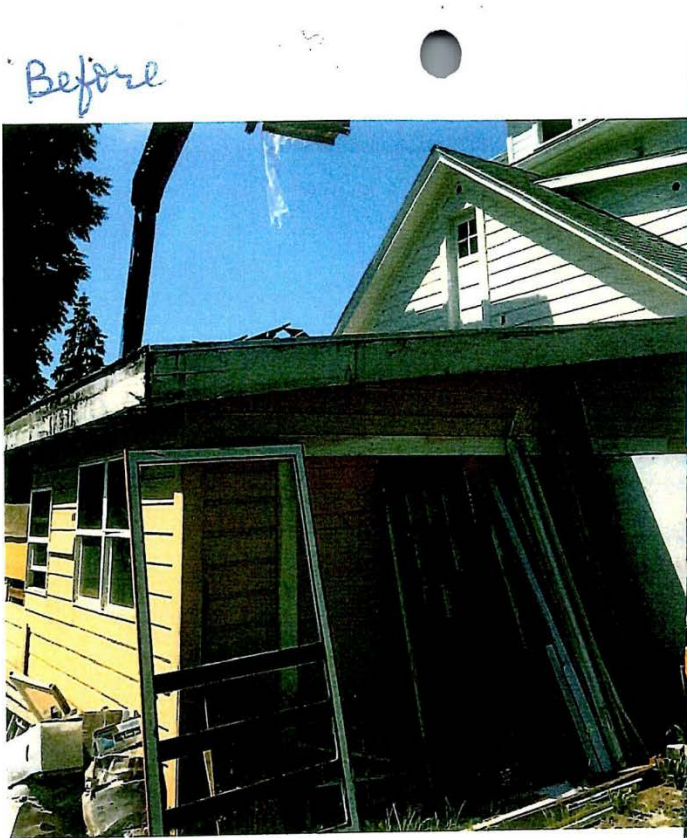
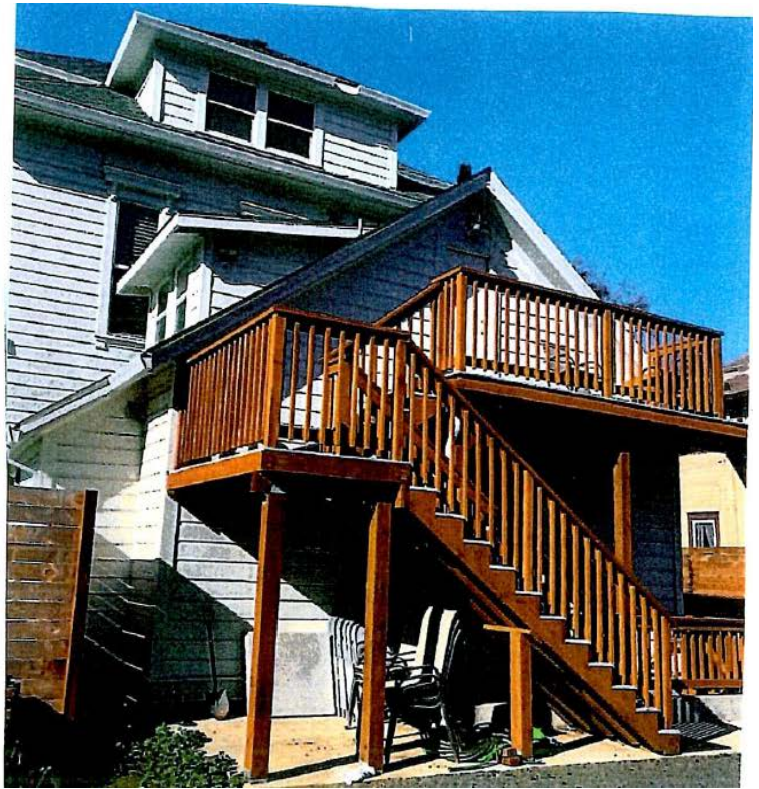
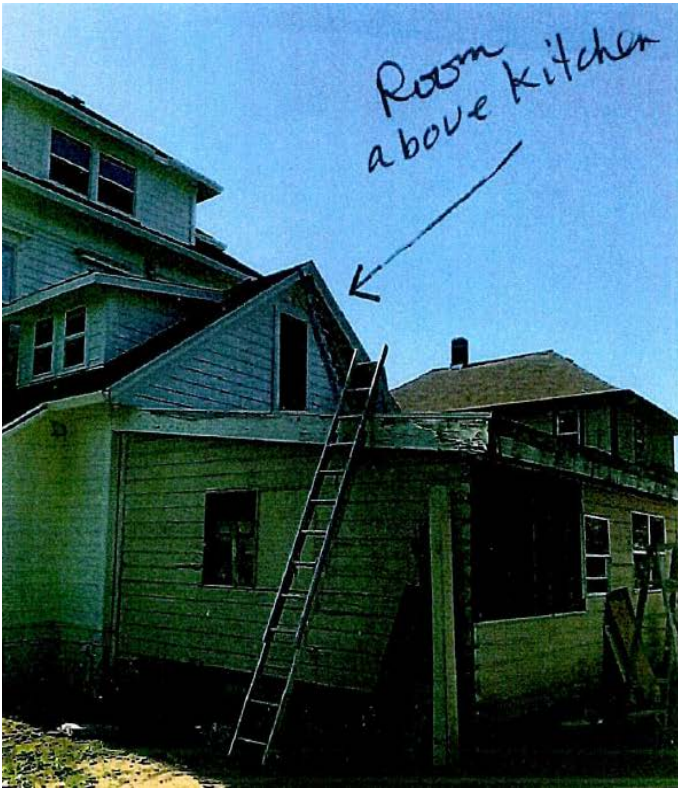
Historic Resources Survey City of McMinnville Yamhill County, Oregon						
Site Information						
Site Address			Owner at Time of Survey			
436 SE Baker St.			Roy & Marian Mahaffey			
Map/Tax Lot	Current Zoning	Special Tax Assessment	Downtown Historic District			
R4421CB09800	O-R	No	No			
Subdivision Name		Block	Lot	Lot Size	Quadrant	
					SE	
Site Number	Aerial Number	Resource Classification	Resource Number	Historic Significance		
15.24	J-12	A	513	Primary Resource #225.1		

**Figure 3: Exterior Conditions Before and After the Alteration**



*Attachments:*

Attachment 1 – Application and Attachments

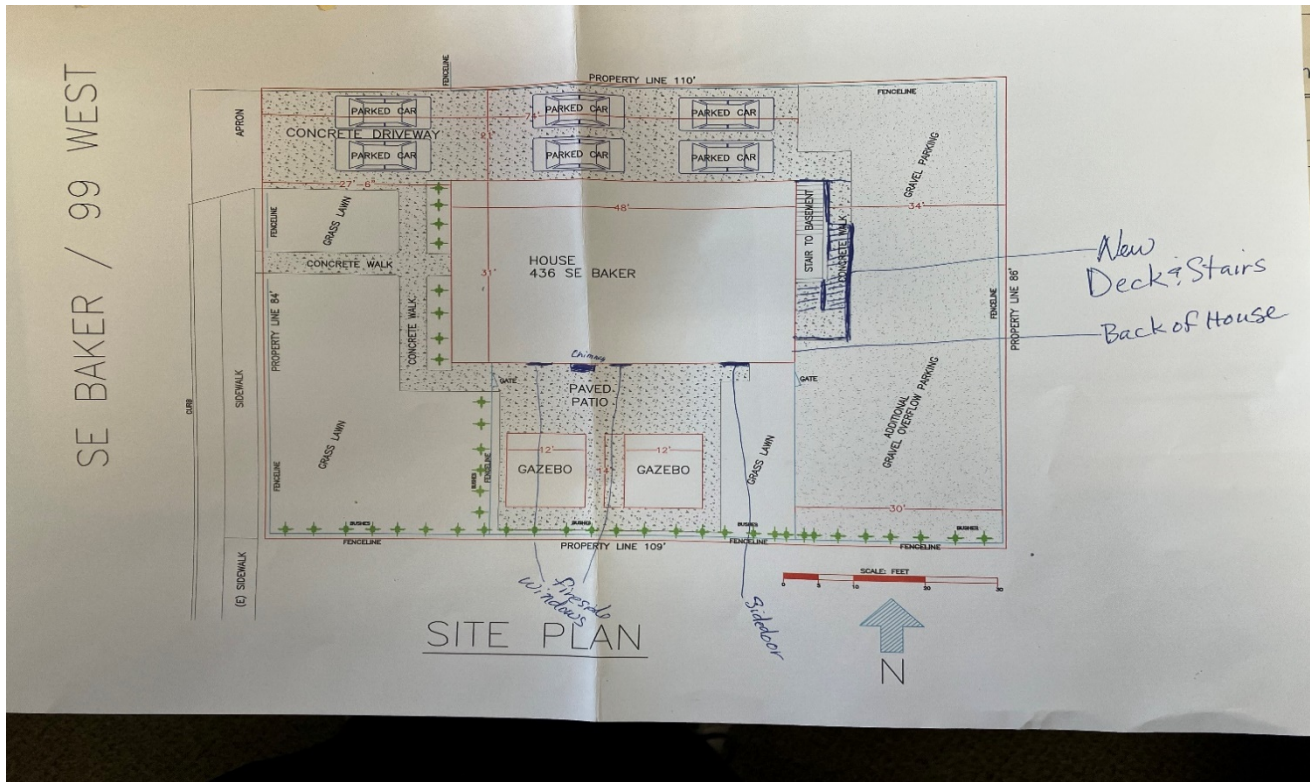




**Figure 4: Completed Staircase**



Figure 5: Site Plan



**Background**

The building is a historic home on the City of McMinnville’s Historic Resources List. It is on the highest category A list, known as Distinctive Resources. “Distinctive resources are defined as outstanding resources for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places.” The building is resource number A513 the Dr. Norhup House. It was first constructed in 1870 and added onto over the years. It has served as the home of several prominent people associated with nearby Linfield University including former Presidents of the University, Deans and Professors.

The applicant already executed the work in the application. It was reported to the City of McMinnville, and the applicant is participating in a code compliance plan to have the work reviewed by the Historic Landmarks Committee for compliance with the McMinnville Municipal Code (MMC). If the Historic Landmarks Committee finds that the work is not compliance with the MMC it will need to be corrected.

This approval is requested for changes already made to the structure. The applicant, Teresa Drevdahl renovated the home in order to apply for a rezone so she could sell it as a commercial short term rental. The applicant claims they were unaware that they needed to apply for a Certificate of Approval from the Historic Landmarks Committee in order to make the changes they did to the structure. The applicant demolished an attached garage on the North side of the home, for which they claim they received verbal permission to do. They then added a modern staircase to a second floor entrance in the space where the garage formerly stood. They also removed the glass storm windows on either side of the chimney/fireplace and replaced them with fireside windows.

The stairs were added because the applicant claims it is the only way to access the second story room above the kitchen. In their narrative they state that the only access to that room previously was to use

*Attachments:*

Attachment 1 – Application and Attachments

a ladder against the garage, climb on the roof of the garage and enter the room through a open doorway. Only once the garage was demolished does the applicant claim they were made aware of the Historic Landmarks Committee review needed to construct the stairs. Instead of applying for review, the applicant chose to build the stairs first, without review by the HLC or the Building Dept. The Building Dept. has serious reservations as to whether or not this room can be deemed habitable and will determine as such when they inspect it and the new staircase after the Historical Landmark Committee review.

The applicant sold the home on April 11<sup>th</sup>, 2022, to the new owners Ryan and Emily Forbes who operate the commercial short term rental known as the Water and Vine Inn out of the home. It is a whole home vacation rental. The applicant then applied for the Certificate of Approval for Alteration on May 10<sup>th</sup>, 2022.

### **Summary of Criteria & Issues**

The application (HL 1-22) is subject to Certificate of Approval for Alteration review criteria in Section 17.65.060(B) of the McMinnville Municipal Code (MMC). 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 a written narrative to support the request for a Certificate of Approval for Alteration. This will be discussed in detail in Section VII (Conclusionary Findings) below.

### **II. CONDITIONS:**

1. That the applicant and/or current owners shall submit building permit applications prior to completing any future work of their choice or work required by either the Historic Landmarks Committee or City of McMinnville Building Department. Any construction plans submitted with these building permit applications will be reviewed by the Planning Director for consistency with the written narrative, exhibits, drawings, and renderings submitted for review by the Historic Landmarks Committee, along with any revisions to respond to other conditions of approval.
2. The applicant or new owners will need to provide a sign permit for any new signs on the property.

### **III. ATTACHMENTS:**

1. HL 1-22 Application and Attachments (on file with the Planning Department)

### **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. All departments had no comment except for the Building Dept.

- McMinnville Building Department:

First, it's unclear whether the second floor use is legitimate and with the pictures and narrative

explaining that the only access was by ladder and across the roof, the space may not be inhabitable. That will be verified by the building inspector at the time the stairs are inspected.

Second, there is currently no building permit application in process. It awaits the conclusion of the historic landmarks review.

There are multiple issues identified from the photographs and much will have to be verified in the filed since plans have not been provided and the applicant desires to use photo's of the already built structure. **NO USE OF THE STAIRS OR SECOND FLOOR ACCESSED BY THE STAIRS** should occur until the stairs have been made safe.

The general aesthetic of the stair, as constructed will not need to change significantly to comply with building code. An example of changes will be to infill that stair riser, add a handrail and possibly stiffen the guard railing.

### **Public Comments**

Notice of this request was mailed to property owners located within 300 feet of the subject site. As of the date of the Historic Landmarks Committee public meeting on June 23, 2022, no public testimony has been received by the Planning Department.

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

1. The applicant, Teresa Drevdahl, submitted the Certificate of Approval application (HL 1-22) on May 10, 2022.
2. The application was deemed complete on June 2, 2022. Based on that date the 120 day land use decision time limit expires on September 30<sup>th</sup>, 2022.
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.

Comments received from agencies are addressed in the Decision Document.

4. Notice of the application and the June 23rd, 2022, Historic Landmarks Committee public meeting 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 June 2, 2022.
5. Notice of the application and the June 23rd, 2022 Historic Landmarks Committee public hearing was posted in the McMinnville News-Register on Friday, June 17th, 2022.
6. On June 23rd, 2022, the Historic Landmarks Committee held a duly noticed public hearing to consider the request.

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

1. **Location:** 436 SE Baker St, also known as Tax Lot R4421CB-09800

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*Attachments:*

Attachment 1 – Application and Attachments

2. **Size:** Lot 8,755 Square Feet, House 3,504 Square Feet
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** O-R (Office/Residential Zone)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Commercial
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** The building is a historic landmark on the McMinnville Historic Resources list, NO. A513.
  - b. **Other:** None
8. **Other Features:** The site is generally flat, and fully developed. There are no significant or distinguishing natural features associated with the property.
9. **Utilities:**
  - a. **Water:** Water service are available to the subject sites.
  - b. **Electric:** Power service are available to the subject sites.
  - c. **Sewer:** Sanitary sewer service are available to the subject sites.
  - d. **Stormwater:** Storm sewer service are available to the subject sites.
  - e. **Other Services:** Other utility services are available to the subject sites. Northwest Natural Gas and Comcast are available to serve the sites.
10. **Transportation:** The site is adjacent to SE Baker Street, which is identified as a major arterial in the McMinnville Transportation System Plan. Section 17.53.101 of the McMinnville Municipal Code identifies the right-of-way width for major arterials as 104 feet. The site is adjacent to no other streets.

## **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 Alteration are specified in Section 17.65.060(B) of the Zoning Ordinance, as well as Section 17.59 of the Zoning Ordinance, Downtown Design Guidelines, and OAR 660-023-0200.

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.

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#### *Attachments:*

Attachment 1 – Application and Attachments

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

**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’S RESPONSE:** I want you to understand that it was always my whole hearted intention when I purchased this terribly neglected property back in 2014 to renovate it with the utmost concern for its historical character.

**FINDING: SATISFIED.** The City concurs with the applicant’s findings. The building currently functions as a historical home like it did before, even if the changes to it were unauthorized.

**GOAL III 4: ENCOURAGE THE PRESERVATION AND REHABILITATION OF HISTORIC RESOURCES**

**APPLICANT’S RESPONSE:** None

**FINDING: SATISFIED.** Despite an unorthodox approach, the applicant has preserved/rehabilitated a historic resource.

**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 Alteration 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 hearing 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**

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*Attachments:*

Attachment 1 – Application and Attachments

**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.

**17.65.060 Exterior Alteration or Remodeling.** The property owner shall submit an application for a Certificate of Approval for any exterior alteration to a historic landmark, or any resource that is listed on the National Register for Historic Places. 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 Planning Director shall determine whether the proposed activities constitute an alteration as defined in Section 17.65.020 (A) of this chapter. 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. Within five (5) working days after a decision has been rendered, the Planning Department shall provide written notice of the decision to all parties who participated.

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The applicant filed an application and request for approval of already completed alterations to the building designated as A513 in the City of McMinnville Historic Resources Survey. The application was reviewed by the Historic Landmarks Committee within 30 days of the application being deemed complete.

**17.65.060 Exterior Alteration or Remodeling.** [...]

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

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

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The findings for the applicable Comprehensive Plan policies are provided above.

**17.65.060(B)(2)(a).** *A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The building is a home used as a short term rental by its new owners who are not the applicant. This use is somewhat in keeping with its historical residential use.

**17.65.060(B)(2)(b).** *The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

**APPLICANT'S RESPONSE:** We took out two full glass storm doors that had been installed on either side of the fireplace and replaced them with period correct fireside windows and used all the existing moldings as you can see by the pictures and found matching exact siding to fill in with the siding needed.

**FINDING: SATISFIED.** It appears the applicant made an effort to retain the historic character of the property.

**17.65.060(B)(2)(c).** *Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.*

**APPLICANT'S RESPONSE:** None

**FINDING: NOT SATISFIED.** The applicant has not provided proper documentation of the process.

**17.65.060(B)(2)(d).** *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

**APPLICANT'S RESPONSE:** None

**FINDING: NOT SATISFIED.** The applicant demolished the garage with what they claim was verbal permission. It is now impossible to verify if the garage had historic significance in its own right.

**17.65.060(B)(2)(e).** *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

**APPLICANT'S RESPONSE:** None

**FINDING: SATISFIED.** It appears that most of the distinct materials and finishes were preserved.

**17.65.060(B)(2)(f).** *The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.*

**APPLICANT'S RESPONSE:** We took out two full glass storm doors that had been installed on either side of the fireplace and replaced them with period correct fireside windows and used all the existing moldings as you can see by the pictures and found matching exact siding to fill in with the siding needed.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, but adds that the applicant did not specify what material the replacement siding is made of.



**17.65.060(B)(2)(g).** *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

**APPLICANT’S RESPONSE:** None.

**FINDING: NOT APPLICABLE.** It does not appear that the applicant utilized such materials, but it is hard to know for sure.

**17.65.060(B)(2)(h).** *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

**APPLICANT’S RESPONSE:** None

**FINDING: NOT APPLICABLE.** It does not appear that any excavation or site disturbance was necessary for the project.

**17.65.060(B)(2)(i).** *The Guidelines for Historic Preservation as published by the United States Secretary of the Interior.*

**APPLICANT’S RESPONSE:** None

**FINDING: NOT SATISFIED.** There is no indication on whether or not the applicant consulted the Guidelines for Historic Preservation as published by the United States Secretary of the Interior.

**17.65.060(B)(3).** *The economic use of the historic resource and the reasonableness of the proposed alteration and their relationship to the public interest in the historic resource’s preservation or renovation;*

**APPLICANT’S RESPONSE:** none

**FINDING: SATISFIED.** The proposed alteration is reasonable and in the public interest if they are deemed necessary for the historic home’s operation as a vacation rental which has the potential to increase tourism and public interest in historic resources in the City of McMinnville.

**17.65.060(B)(4).** *The value and significance of the historic resource; and*

**APPLICANT’S RESPONSE:** none

**FINDING: SATISFIED.** The building is an A list Historical Landmark on the City’s Historic Resources List, the alterations undertaken do not change that fact.

**17.65.060(B)(5).** *The physical condition of the historical resource.*

**APPLICANT’S RESPONSE:** None.

**FINDING: SATISFIED.** The physical resource is in good condition.

**17.65.060(C).** *Any approval may be conditioned by 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.*

**APPLICANT’S RESPONSE:** none

**FINDING: SATISFIED.** Adequate photographic documentation has been provided by the applicant.

**17.65.060(D).** *If the historic landmark is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the exterior alteration shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines)..*

**APPLICANT’S RESPONSE:** none

**FINDING: NOT APPLICABLE.**

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## **EXHIBIT 3 - STAFF REPORT**

**DATE:** June 23, 2022  
**TO:** Historic Landmark Committee Members  
**FROM:** Heather Richards, Associate Planner  
**SUBJECT:** Cultural Resources, Comprehensive Plan, Volume 1

### **STRATEGIC PRIORITY & GOAL:**



### **GROWTH & DEVELOPMENT CHARACTER**

Guide growth & development strategically, responsibly & 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 the consideration of proposed text amendments to update Volume I of the McMinnville Comprehensive Plan relative to Goal 5 – Cultural Resources.

### **Background:**

The City of McMinnville Comprehensive Plan is divided into three volumes. Volume I is the factual basis for the Plan. Per Oregon Land Use Goal #2, it is where the inventories and other forms of data are needed as the basis for the policies and other decisions set forth in the plan. This factual base provides the data for McMinnville's Comprehensive Plan Goals and Policies which is found in Volume II of the City of McMinnville Comprehensive Plan. Volume III is the implementing ordinances of the Comprehensive Plan – the McMinnville Municipal Code, Comprehensive Plan Map and Zoning Map.

The cultural resources section McMinnville's Comprehensive Plan, Volume I has not been updated since 1981. (Please see attached current Cultural Resources section of Volume I of the McMinnville Comprehensive Plan.)

### **Discussion:**

The City hired Northwest Vernacular in 2018 to work with the Historic Landmarks Committee on the development of McMinnville's first Historic Preservation Plan and updates to McMinnville's Historic Preservation Goals and Policies. However, we never updated Volume I of the Comprehensive Plan.

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The City hired Northwest Vernacular in 2022 to develop language for Volume I of the McMinnville Comprehensive Plan based on the work in 2018. (Please see attached proposed amendments).

Per OAR 660-023-0200(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.

**Attachments:**

- Existing Goal 5 - Cultural Resources narrative for the McMinnville Comprehensive Plan, Volume I.
- Proposed Goal 5 - Cultural Resources narrative for the McMinnville Comprehensive Plan, Volume I.

**Fiscal Impact:**

None.

**Recommendation/Suggested Motion:**

The Historic Landmarks Committee should vote to recommend the proposed Comprehensive Plan Volume I text amendments to the McMinnville Planning Commission.

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Linfield College library recently underwent interior remodeling to better utilize existing space and provide a more attractive atmosphere. In addition to the curriculum-related volumes, the library has an extensive magazine and newspaper selection, newest additions of which are located in a newly furnished leisure reading room. Continued interior remodeling and expansion of resources and services will take place at the college library. No expansion of the existing building is planned at this time.

#### SUMMARY

Library services are provided to McMinnville area residents through the McMinnville Library, School District 40, Chemeketa Cooperative Regional Library Service, and Linfield College. The resources of these facilities meet a variety of needs within the community. Services at each facility complement, rather than duplicate, other available services.

Facility improvement plans are being considered for the public library, school district, and Linfield. School District 40 will provide a library in their new school at Lafayette. Linfield College plans to renovate interior sections of its library and add to its resources and services, rather than build or expand its current facility.

Based on the information presented herein, the City finds that:

1. Library services are provided to McMinnville residents by the public library, School District 40, Chemeketa Cooperative Regional Library Service, and Linfield College.
2. The existing library facilities offer a variety of resources for, and service different needs of, the community.
3. Expansion of resources is either planned or being planned by all facilities. The public library expansion proposal calls for additional construction. Linfield College plans to continue remodeling the interior of its facility.
4. The location of the public library is advantageous for the community; the library is centrally situated in relation to anticipated residential growth areas; it is located within the park near recreational and cultural centers, which strengthens the diversity of activities offered to citizens within a compact, aesthetically pleasing area; and the library combined with the park and swimming pool offers an open space activity center which anchors the western portion of the central business district.
5. The public library is included on the statewide inventory of potential historical landmarks for McMinnville.

#### CULTURAL/SOCIAL FACILITIES

McMinnville is provided with a variety of cultural/social facilities by both private groups and public agencies. The most notable of these facilities are the proposed community center (previously discussed), the Gallery

Players Theater, the McMinnville Association of the Arts building, the various public and private schools, and city and county buildings.

### Facilities

The community center, as noted, will provide meeting space for a variety of groups, including many groups that provide social services for the elderly and youth segments of our population. The center will also provide space for a variety of cultural and recreational activities, including auditorium facilities for concerts, speakers, and theatrical productions.

The Gallery Players, a community theatrical group, provides cultural activities including plays, concerts, films, and classes. The group is undertaking a fund-raising campaign to raise money for expansion of the existing facility at Second and Ford. Additional monies are being provided by the Economic Development Administration (EDA) through a grant to the Gallery. The group is planning to establish an annual festival of American theater, patterned (somewhat) after the Shakespearean Festival in Ashland. This festival would not only greatly enhance the cultural opportunities available in the city, but should provide an economic boon to the community (especially the core area) much as the Shakespearean Festival has done for Ashland.<sup>2</sup>

The McMinnville Association of the Arts provides instruction in a variety of artistic modes, from painting to sculpture to weaving. The group is centered in a renovated historical house on Fourth and Adams street, and in addition to the instructional services, offers shows of local artists' works. The building is also open to a variety of social service groups to use for meeting space.

The public schools and private schools (including Linfield College, and the parochial schools) stage cultural events that are open to the general public. Linfield College also provides a diverse offering of guest lecturers; usually these events are free of charge.

Social services for a wide variety of groups are funded and operated by agencies in the Yamhill County government. The City also makes available the City Council Chambers to various groups.

### Summary

Cultural and social facilities and services are provided by both public agencies and private groups in McMinnville. While it is difficult to assess the adequacy of these facilities and services, plans are under way for expansion of several facilities to provide additional space for cultural/social activities. These expansions should further enhance the cultural and social programs already in existence.

Based on the information contained herein, the City finds that:

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2. The festival proposed by the Gallery Players will be much smaller than the Ashland Festival; therefore, the economic effects will probably be less significant for McMinnville's economy.

1. Cultural and social facilities and activities are provided by a number of private groups and public agencies, most notably the Gallery Players, the McMinnville Association of the Arts, the education institutions, and city and county governments.
2. Construction of a new community center, expansion of the Gallery Players' theater, and continued growth in public and private schools will add to the physical space and activity offerings available to the community.

### HISTORIC PRESERVATION

The historic resources in McMinnville include a number of structures with distinctive architectural styles from the late 19th and early 20th centuries and sites of significance to the local history of our area. Aside from their intrinsic value as visible links to our past, these resources add diversity to and contribute to the character of the modern urban landscape. Historic resources, as with natural resources, are threatened by increased pressures of urbanization, and natural resources, are threatened by increased pressures of urbanization, and intense competition for land. Therefore, conservation and preservation of historic resources should be recognized as an important element in the urban planning process.

Statewide Goal #5 provides for the protection of historical, cultural and archeological sites and structures through the inventorying of these resources and the creation of programs for their preservation in the comprehensive plan of each locality. The Citizens' Advisory Committee Community Needs Subcommittee, interested local citizens, and the city staff have gathered information from a variety of sources (including the State Historic Preservation Office), for preparation of a historical preservation program for the city. That information includes a preliminary inventory of historical resources, and an analysis of preservation techniques suited to our local situation.

### HISTORIC RESOURCES

"Historic" as it is used here refers to cultural, architectural and archeological resources as well as historic sites and structures. For clarification, cultural, historic, architectural, and archeological are defined below:

Cultural Area - are areas characterized by evidence of an ethnic, religious, or social group with distinctive traits, beliefs, and social forms.

Historic Areas - are lands with sites, structures and objects that have local, regional, statewide, or national historic significance.

Architectural Resources - refers to structures or objects that have unique design or construction attributes. Significance may be local, regional, statewide, or national.

Archeological Resources - refers to physical evidence of human life and culture of past ages.

For an historic resource to be recognized, its significance does not have to be nationwide or even statewide. Resources that have significance in our local history will warrant inclusion in the preservation program developed by the City.

Under the auspices of the McMinnville Planning Department and the State Historic Preservation Office, and with a matching grant from the State Historical Preservation Office, a survey of historic resources in McMinnville was undertaken in 1980. The project, directed by Janice Rutherford, involved some 30 community volunteers in researching, inventorying, and recording historical resources in the core area of the city. The result is completion of the first phase of a concentrated and comprehensive survey of the entire community. With the aid of the volunteers and professionals involved in the project, some 500 structures and sites within 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 were identified as primary or secondary historic resources. Criteria used for evaluating the resources was developed by Director Rutherford, who, with the professional assistance of George McMath, identified the resources. Copies of the inventory, maps, and an explanation of the methodology used in the survey are available at the City Planning Department, and the State Historic Preservation Office.

Although comprehensive in nature, the survey completed for McMinnville by no means constitutes the entire inventory of historic resources in the community. With survey tools and methods now established, it will be easier to expand on the first phase of the resource inventory to thoroughly examine the entire community. It must also be noted that identification of these resources does not imply that preservation measures need be used in each and every case where destruction or alteration of the resource is contemplated. The value of the individual resources to the community will have to be discerned as part of the preservation program established by the City.

#### PRESERVATION TECHNIQUES

Statewide Goal #5 requires that an inventory of cultural and historic resources be made and a preservation program be established that (1) increases awareness of the historical resources which exist in the planning area, and (2) resolve conflicts (wherever possible) between development proposals and historic resources through the local planning process.

The preservation techniques examined by the Community Needs Subcommittee differed from the traditional approach that equates historical structures with museums. While the preservation and exhibition of historical artifacts, structures, and sites is still an important part of the historical preservation program, preservation groups are acknowledging historic properties as resources to be utilized. The philosophy statement of the Historic Preservation League of Oregon states that:

"Preservation of structures and sites can be seen as management of nonrenewable and irreplaceable resources...as with the conservation of other resources, recycling of historic sites and structures, through restoration and/or adaptation for reuse, is an important part of historic preservation."



This approach, usually called adaptive preservation, seeks to protect the historical and cultural uniqueness of a structure - many times this involves preserving the exterior facade of a building - while allowing a beneficial usage to occur. This approach appears suited to the historic buildings in the core area of the city. Preservation of the exterior architectural facades of these historic buildings would go hand in hand with the restoration of their interiors for commercial use.

The most common method of establishing a preservation program in Oregon has involved the establishment of an historic preservation committee, or landmarks committee, whose purpose is to conduct a comprehensive inventory of historic resources and establish a program for the protection and preservation of those resources - usually an historic preservation ordinance.

In addition to the local preservation programs, a number of state and federal antiquity codes pertaining to cultural and historic resources have been adopted. Some of the legislation is designed to provide protection of historic resources through regulatory limitations on alterations or demolition of structures. Other legislation is aimed at providing tax incentives and financial resources for the renovation and/or restoration of historic resources. A list of those state and federal antiquity codes is included in Appendix III-1.

Examples of preservation ordinances and programs utilized in the state (and elsewhere in the nation) were presented to the Community Needs Subcommittee. Those examples are on file at the City Planning Department. For the comprehensive plan, however, development of the mechanism through which to develop detailed preservation techniques was accomplished.

#### PRESERVATION TECHNIQUES - LOCAL SITUATION

The historic resources already identified in the McMinnville planning area are most notable for the number of buildings within the commercial core area of the city, and several concentrations of historical housing types on the core peripheries.<sup>3</sup> The economics of renovation and restoration of buildings is well documented in a number of sources (a bibliography of these sources is available at the Planning Department). Various groups in the city (including the Committee on Redevelopment) have expressed interest in exploring the possibilities of integrating historical preservation projects into programs to further development in the downtown area. Economic incentives associated with state and federal antiquity legislation,<sup>4</sup> enhance the feasibility of undertaking combined preservation/renovation projects to encourage redevelopment downtown.

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3. See the Volume I, Historic Resource Inventory, McMinnville, Oregon, Phase I, Aug. 1980, for further elaboration. Also see Table III-1 which includes sites and structures considered eligible for inclusion on the National Register of Historic Places as inventories by Dr. Stephen Beckham for the State Historical Preservation Office in 1976.

4. Two of the most important tax incentives in antiquity legislation area Oregon HB 2476 and Federal PL 94-455. The Oregon legislation allows for the freezing of property taxes for 15 consecutive years for properties listed in the National Register of Hisortic Places. Federal PL 94-455, the Tac Reform Act, changes the tax treatment of rehabilitation expenses, depreciation, charitable contributions of property, and other actions associated with certified historic properties.

TABLE III-1

## INVENTORY OF HISTORIC SITES AND BUILDINGS IN McMinnville

<u>NO.</u>	<u>COMMON NAME</u>	<u>HISTORIC NAME</u>	<u>ADDRESS</u>	<u>DATE OF CONSTRUCTION*</u>
1	Pioneer Hall	McMinnville College	Linfield College	1882-3
2	Apperson-Day House	Apperson House	609 Cowls	1897 & 1909
3	Clevenger House	Davis House	Rt. 3 Box 312	c 1875
4	Grenfell House	Shadden House	West 1 mile from McMinnville	c 1859
5	Hotel Yamhill	Cooks Hotel	3rd Street & Evans	1880
6	Linfield Observatory	McMinnville College Observatory	Linfield College	1894
7	Malone Cemetery	Malone Cemetery	Lafayette Ave.- Hwy 99	c 1875
8	Newby House	Newby House	230 S. Evans	NA
10	Old Bank Bldg.	McMinnville Nat'l Bank Building	3rd Street & Cowls	1885
11	Oregon Hotel	Hotel Elberton	3rd & Evans	1905 & 1912
12	Schilling Bldg.	Boss Saloon	238 3rd Street	c 1880
13	Southern Pacific Depot	McMinnville Red Electric Depot	3rd Street & Galloway	c 1912
14	Star Mill Site	Newby Mill Site	City Park	1853 & 1881
15	Union Block	Union Block	403 3rd Street	1890
16	Wright Building	Wright Building	3rd Street & Davis	1893

Source: Statewide Inventory of Historic Sites and Buildings, Yamhill County State Historic Preservation Office, 1976.

\*c - circa or approximate date. Where two dates are shown, additional construction or reconstruction occurred.

An important part of any program established in the city must be the involvement of property owners and interested local citizens in the preservation process. A drawback to the application of preservation programs in some cities has been the unwillingness of property owners to submit to the strict regulatory controls that often accompany the designation of structures or sites to historical registers. Preservation techniques formulated by the City that include regulatory controls on historically designated resources should include provisions for the consent of the owner whose property is affected. Property owners would then be fully aware of both the incentives and disincentives involved in designating their property as historical. Recent amendments to the legislation establishing the National Register of Historic Places recognize this provision.

Local citizen involvement, whether as members of a historical landmarks committee, or as volunteers in the comprehensive inventory process and other preservation projects, is vital to the establishment of a viable preservation program. Several local groups, including the Chamber of Commerce and the Committee on Redevelopment, have sponsored meetings on historic preservation techniques to increase awareness of the historic resources in the city. Several other groups, including the Kiwanis Rotary, and established by Janice Rutherford. Potential volunteers may be drawn from interested persons in these groups and from the already coordinated corps of volunteers who carried out the historic resource survey.

Based on the research conducted by the city and with the direction of the Community Needs Subcommittee of the Citizens' Advisory Committee, the City has prepared proposals for establishing a preservation program, details of which are described in the findings below. Until such time as those, or other, proposals are implemented, it will be necessary to supply interim measures for preservation of historic resources. Since the initial inventory consists of over 500 resources, protection measures applied to all structures and sites will prove unwieldy. Therefore, until a preservation program is enacted by the City, an interim Historic Preservation Ordinance shall be adopted.

#### GOAL 5 COMPLIANCE

The goal 5 process involves three steps. The first step is to collect data and provide information on location, quality and quantity if that information is available. If the information is inadequate, the process can be delayed. The second step is to identify conflicting uses which may have economic, social, environmental, or energy consequences. The final, third step is to develop a program to achieve the goal and to resolve any conflicts.

McMinnville has completed an initial inventory of historic resources in which 515 sites were inventoried. The City's inventory identifies historic resources as either primary or secondary resources.

Primary Historic Resources were identified as those built before 1910 and in a state of preservation which would allow their builders to recognize them. The period from 1890 to 1910 was one of great building activity for McMinnville as is noted in the introduction to the City's inventory. For this reason, 1910 seemed a reasonable date at which to cut off the primary period.

Primary resources also included especially significant architectural or historic sites, regardless of age. Buildings identified as the works of such noted architects as Ernst Kroner, A. E. Doyle, and F. Manson White date from slightly later than 1910, yet have been included as primary resources due to their architectural importance.

Secondary Historic Resources were identified as those sites and structures dating from the period 1910 to 1930. Again, only those still bearing enough of their original fabric to be recognizable by their builders were included. In at least one case, however, a site was identified as a secondary resource largely because of its historic significance, despite the change in its appearance.

The City recognizes that its inventory of 515 sites is incomplete and that more detailed information is required to adequately identify significant resources. For this reason, a policy will be added to the Comprehensive Plan requiring future analysis of the City's resources with 1985 as a targeted completion date. (See plan Policy 17.01).

Until such time as the inventory is refined, the City will consider its Primary Historic Resources as significant sites worthy of protection. In the terminology of Goal 5, the process being used by the City is as follows:

1. The City's primary historic resources are considered "1C" sites (information available on location, quality, and quantity).
2. The City's secondary historic resources are considered "1B" sites (some information is available but inadequate to identify the resource site).

The second step of the Goal 5 process requires that conflicting uses be identified for those resources where information is available on location, quality, and quantity ("1C" sites). Conflicting uses that may impact the City's primary resource sites include demolition or any alteration requiring a building permit which would change or destroy the historic or architectural significance of the building or site. The consequences of such a change or demolition would be the loss of tangible and visual local history, heritage, and educational opportunities.

The final step is the process of the development of a program to achieve the goal and resolve the conflicts. The City's response is two-fold. First, a policy will be adopted to require completion of the historic resources inventory and protection of significant sites within the city. The policy will require that work be completed by 1985. Second, an ordinance will be adopted to protect those sites identified as primary historic resources on the 1980 Historic Resources Inventory. This will be an interim protective measure until such time as the inventory is completed and significant sites are protected.

#### SUMMARY

Historical resources are an integral part of the man-made environment in the planning area. They are visible reminders of the heritage

of McMinnville, the foundations on which the city was built. Historic structures should also be recognized as underutilized resources that could potentially be restored and adapted for beneficial urban uses while retaining their historical character.

Statewide Goal #5 provides for the preservation of historical resources through the local planning process. A program to increase awareness of these resources and a process to resolve conflicts between developmental proposals and historic resources needs to be developed in McMinnville.

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.

#### EDUCATION

Educational resources in the planning area are provided by public school district 40, two parochial elementary schools, Chemeketa Community College, and Linfield College. Projected growth in the planning area will have the greatest impact on the public school system. The impact will result from an increased number of school age children and from the location of those

## Historic Preservation

### 1. Summary

Historic preservation is more than just protecting old buildings – historic preservation provides communities with environmental, economic, and cultural benefits. Historic resources encompass the built environment, archaeological sites, and landscapes.

McMinnville's Historic Preservation Plan sets forth the goals and policies summarized below for the preservation of the city's historic resources. As a city planning document, it works in conjunction with volumes I and II of the city's Comprehensive Plan and the city's historic preservation ordinance to steer the city's historic preservation program. McMinnville is already a vibrant city known for its historic character. The success of historic preservation efforts within the city have fostered community pride in the city's historic resources.

The Historic Preservation Plan established four goals to guide the city's historic preservation activity:

- Goal 1: Increase Public Awareness and Understanding of McMinnville's History and its Historic Preservation Program
- Goal 2: Encourage the Preservation and Rehabilitation of Historic Resources
- Goal 3: Document and Protect Historic Resources
- Goal 4: Increase Heritage Tourism

Goal 1—Increase Public Awareness and Understanding of McMinnville's History and its Historic Preservation Program—encourages connections between the community and preservation. McMinnville's historic resources contribute to its overall character and make it a desirable place to live, work, and visit. Promoting McMinnville's history and its historic preservation program—what it is, why it's important, and what it can do for the community—will help residents better understand McMinnville's history, its efforts to preserve that history, and how it affects them. Four policies were established to support this goal:

- Policy 1.A. Promote Historic Preservation Month every May
- Policy 1.B. Partner with related organizations on programs to establish connections between historic preservation and other city interests
- Policy 1.C. Increase interpretation efforts of the city's historic resources
- Policy 1.D. Increase and streamline the historic preservation program's media presence

Goal 2—Encourage the Preservation and Rehabilitation of Historic Resources—focuses on the nuts and bolts of owning a historic property and how the City of McMinnville can be a resource to property owners. Lack of information and funds were two key constraints to maintaining historic properties that came up during the development of the historic preservation plan. Two policies were established to support this goal:

- Policy 2.A. Promote local, state, and federal incentives available to historic resources
- Policy 2.B. Strengthen the integration of historic preservation in city planning to capitalize on neighborhood history and character as City assets.

Goal 3—Document and Protect Historic Resources—focuses on the City of McMinnville’s historic resources inventory and its design review process. Six policies were established to support this goal:

- Policy 3.A. Regularly update the Historic Resources Inventory
- Policy 3.B. Create tools to better assist applicants through the design review process
- Policy 3.C. Train the HLC and staff
- Policy 3.D. Continue to explore National Register nominations
- Policy 3.E. Implement survey recommendations
- Policy 3.F. Provide resources for historic property owners to protect their historic properties

Goal 4—Increase Heritage Tourism—focuses on McMinnville’s heritage and its ability to appeal to heritage tourists. One policy was established to support this goal:

- Policy 4. A Amplify the heritage tourism program for McMinnville

## **2. Purpose**

This Historic Preservation section in Volume I of the Comprehensive Plan establishes the background for the City’s historic preservation activities and how the Comprehensive Plan and Section 2.34, Historic Landmarks Committee, and 17.65 of the McMinnville Municipal Code, Historic Preservation, and the Historic Preservation Ordinance (Ordinance No. 5034) address Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces as it pertains to historic resources. They provide the context for the Goals and Policies adopted in Volume II of the Comprehensive Plan and summarize the Historic Preservation Plan (adopted April 23, 2019).

Historic preservation is about preserving the buildings, structures, sites, and objects of our past. But more than that, historic preservation helps us ask questions about our history and what to preserve from our past for future generations. The city’s historic character is vital to the city’s identity, economic growth, and appeals to residents and visitors alike. These historic resources—encompassing the built environment, archaeological sites, and landscapes—are tangible and visual links to the past and contribute to the character of the city. The preservation of historic resources is a vital element in the city’s urban planning process.

## **3. Process**

The City of McMinnville’s historic preservation program began in the 1980s and is operated within the City’s Planning Department. The Citizens' Advisory Committee



Community Needs Subcommittee, interested local citizens, and City staff gathered information from a variety of sources (including the State Historic Preservation Office) to establish the historic preservation program for the City. That process included a preliminary inventory of historic resources. In 1980, a historic resources survey centered on McMinnville's downtown resulted in the creation of a Historic Resources Inventory and fulfilled the City's inventory of historic resources requirement under Statewide Planning Goal No. 5. The City grew its historic preservation program to protect resources on the inventory, passing Ordinance No. 4228 in 1982, establishing the Historic Landmarks Committee and protecting properties identified as primary historic resources (generally properties built prior to 1910) in the 1980 Historic Resources Inventory.

The City expanded its Historic Resources Inventory with a second round of survey work in 1983 and 1984, per Comprehensive Plan Policy 17.01 (adopted by Ordinance No. 4218 in 1982), to re-evaluate and document all historic resources within the city's Urban Growth Boundary. In 1987, the City adopted its historic preservation ordinance (Ordinance No. 4401, repealing Ordinance No. 4228). Ordinance No. 4401 was updated in 2017 (Ordinance No. 5034) by the incorporation of the historic preservation program and protection processes into the McMinnville Municipal Code.

In 2017, the City of McMinnville and its Historic Landmarks Commission (HLC) set out to create a Historic Preservation Plan to guide preservation planning efforts for the next 15 to 20 years. The City of McMinnville received a grant from the Oregon State Historic Preservation Office (SHPO) to prepare this plan. The Historic Preservation Plan is the result of a process through which stakeholder and community input established goals, policies, and proposals for the preservation of McMinnville's historic resources. The Plan is a guiding document that identifies the community's priorities for the preservation of historic resources and sets forth related goals, policies, and action steps toward their implementation. Buildings and structures from the past not only provide tangible links to McMinnville's rich history but they also enhance quality of life, foster economic development, create an authentic and unique sense of place, and build community pride. The historic preservation plan includes a brief overview of the city's history, architecture, and historic development patterns as well as review of the historic preservation program. It is used by the City and its preservation partners to guide and monitor preservation efforts in the community.

In 2021, the City developed a report summarizing the existing conditions for belowground archaeological resources and a city-wide predictive model for the City to utilize when reviewing proposed land development actions.

#### **4. Regulatory Context**

Two key regulatory contexts apply to McMinnville's historic and cultural resources—Oregon Statewide Planning Goal 5 and a series of municipal regulations.

##### Goal 5

Within Oregon's Statewide Planning Goals and Guidelines, Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) requires local government to adopt programs to protect natural resources and conserve scenic and historic areas. It is

designed to protect Oregon's natural and cultural resources. Local governments are required to inventory resources such as wetlands, riparian corridors and wildlife habitat and are encouraged to maintain current inventories of historic resources, open space, and scenic views and sites. Communities use the inventories to determine which resources are most significant and to protect such resources in a manner that complies with Goal 5 and applicable administrative rules.

According to OAR 660-023 – Procedures and Requirements for Complying with Goal 5, an inventory is defined as: "A survey, map, or description of one or more resource sites that is prepared by a local government, state or federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, "inventory" means to collect, prepare, compile, or refine information about one or more resource sites."<sup>1</sup>

The OAR 660-023 procedures also define that in Goal 5, "Protect," when applied to an individual resource site, means to limit or prohibit uses that conflict with a significant resource site (except as provided in OAR 660-023-0140, 660-023-0180, and 660-023-0190). When applied to a resource category, 'protect' means to develop a program consistent with this division."<sup>2</sup>

Under Planning in Goal 5, OAR 660-023, the following subsections specifically relate to historic resources:

4. Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources; and
5. The National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation should be utilized in designating historic sites.

Under Implementation in Goal 5, OAR 660-023, the following subsections specifically relate to historic resources:

6. Significant natural areas that are historically, ecologically or scientifically unique, outstanding or important, including those identified by the State Natural Area Preserves Advisory Committee, should be inventoried and evaluated. Plans should provide for the preservation of natural areas consistent with an inventory of scientific, educational, ecological, and recreational needs for significant natural areas;
7. Local, regional and state governments should be encouraged to investigate and utilize fee acquisition, easements, cluster developments, preferential assessment, development rights acquisition and similar techniques to implement this goal; and

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<sup>1</sup> OAR 660-023-0010(4).

<sup>2</sup> OAR 660-023-0010(7).

8. State and federal agencies should develop statewide natural resource, open space, scenic and historic area plans and provide technical assistance to local and regional agencies. State and federal plans should be reviewed and coordinated with local and regional plans.

OAR 660-023-0200 – Historic Resources specifically addresses how to comply with Goal 5 in relationship to historic resources in 10 sections with four additional subsections about the OAR filings with the Secretary of State:

- (1) Definitions;
- (2) Relationship of Historic Resource Protection to the Standard Goal 5 Process;
- (3) Comprehensive Plan Contents.
- (4) Inventorying Historic Resources.
- (5) Evaluating and Determining Significance.
- (6) Designating Locally Significant Historic Resources.
- (7) Historic Resource Protection Ordinances.
- (8) National Register Resources are significant historic resources.
- (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.
- (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 two requirements are met.

### Municipal Regulations

McMinnville has a number of municipal regulations that relate to historic resources and achieve Goal 5 compliance.

Historic Preservation is currently addressed in Chapter 17.65 in the McMinnville Municipal Code. Chapter 17.65 of the McMinnville Municipal Code establishes that districts, objects, structures, and sites of special historical, architectural, or cultural significance should be preserved as part of the City's heritage. The chapter (Section 17.65.010) explains its purpose in the following ways:

- (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's ordinance complies with Goal 5 related to the rule (OAR 660-023-0200(7)) which requires a local government to have a historic preservation ordinance if it chooses to protect historic resources.

In addition to the Historic Preservation Ordinance, the Downtown Design Standards and Guidelines and Zoning work to protect historic resources and accomplish Goal 5 compliance.

The City of McMinnville's Downtown Design Standards and Guidelines ensure the protection, enhancement, and preservation of buildings, structures, and other elements in the city's downtown core. The value of this area to the city is further emphasized in the purpose statement of the standards and guidelines which clarifies their intention.

*[I]t 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.<sup>3</sup>*

The area subject to the "Downtown Design Standards and Guidelines" is bounded to the west by Adams Street, to the north by 4th Street, to the east by Kirby Street, and to the south by 1st Street. Property immediately adjacent to the west of Adams Street, from 1st Street to 4th Street, is also subject to these standards and guidelines. Properties within this area must complete an application and submit it to the Planning Department for initial review. Minor alterations go through an administrative review with the Planning Director while major alterations and new construction go through review with the HLC. The Downtown Design Standards and Guidelines are currently only located in the Zoning Ordinance in Chapter 17.59. The standards and guidelines address:

*Properties that are within the standards and guidelines boundaries, but that are also listed on the National Register for Historic Places or designated as a historic landmark (i.e. those classified as "distinctive" or "significant") on the City's Historic Resources Inventory, must also comply with the standards and guidelines specific to historic preservation contained in Chapter 17.65.*

Zoning governs the use and development of land in the City of McMinnville. The following states the purpose set forth for the City of McMinnville's zoning.

*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 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, adequate community facilities; and to provide assurance of opportunities for effective utilization of the land resources; and to promote in other ways public health, safety, convenience, and general welfare. (Ord. 4920, §2, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).*

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<sup>3</sup>. "Purpose," Zoning Ordinance, Chapter 17.59.010, <https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/1341/zoningordinance.pdf>.

The City of McMinnville is projected to grow in population in the future. The Population Research Center at Portland State University recently prepared population forecasts for Yamhill County and the City of McMinnville. Local governments are required by the State of Oregon Department of Land Conservation and Development (DLCD) to use these population forecasts in their land use planning and comprehensive planning processes. The forecasts for the City of McMinnville show an increase in population from 34,293 in 2017 to 44,122 in 2035. By 2067, the population is forecasted to grow to 62,804. As the City of McMinnville grows, there will be redevelopment pressure in existing built environments, which could result in development pressure on historic properties and historic resources throughout the city.

The Historic Preservation Plan identified some areas of the city that have a high number of historic resources that may see increased redevelopment pressure based on their current zoning classifications. Based on that, the Historic Preservation Plan recommended further evaluation of these areas to better support the retention of historic resources. These areas were selected after considering the zoning classification and how that may affect historic and potentially historic properties, with the intention of highlighting opportunities to both retain historic character and support population densities and compatible uses.

## **5. Historic Context Statement**

Chapter 3 of the Historic Preservation Plan provides a summarized Historic Context for McMinnville. The context is organized into development periods, which outline the history as related to its growth and development. According to OAR 660-023-0200(1)(c)), a “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.

McMinnville’s growth is a testament to the economic importance of agriculture and railroad connections. Centrally located within the South Yamhill River Valley, agricultural production in the surrounding valley supported commercial and industrial growth within the city. These deep agricultural roots remain evident today in the surrounding agricultural landscape.

During the area’s developmental years, the neighboring town of Lafayette (founded 1847) along the Yamhill River served as the county seat and main commercial hub until McMinnville secured the county seat in 1887. The 1850 Oregon Donation Land Act triggered a dramatic settlement increase, which was followed by the 1853 grist mill development by William Newby serving local growers. Newby’s 1856 donation land claim encompassed the majority of what would become downtown McMinnville. The next 50 years witnessed the platting and incorporation of the city, railroad connection, provision of electricity to every building, and the substantial build out of the main brick business district. From 1900 to 1910 the city experienced a 679-percent population growth rate with continued growth through the following decades. The build out of housing, commercial, and industrial growth followed suit with brief drops during the Great Depression and World War II followed by a resurgence during the 1950s and 1960s.

The city's history can largely be divided into five development periods:

- Pre-Settlement History (pre-1844)
- Settlement and Early Development (1844-1879)
- Entry of the Railroad and Development of Industry (1879-1903)
- Motor Age, Boom and Bust (1903-1940)
- World War II and the Post-war Years (1941-1965)

The historic context was then compared with extant historic resources and related historic property types (organized by function) and architectural styles were identified. Key architectural styles included: Vernacular forms, Classical Revival, Gothic Revival, Italianate, Queen Anne, Colonial Revival, Craftsman, Prairie Style, Tudor Revival, English Cottage, Minimal Traditional, Ranch, and Contemporary.

Archaeological records are confidential, but a 2021 Archaeological Resources Existing Conditions report identified that approximately 30+/- archaeological surveys have been carried out across the entire McMinnville UGB, and only three archaeological resources have been recorded directly within its boundaries.

## **6. Preservation Program**

The City of McMinnville historic preservation program includes the appointed Historic Landmarks Committee (HLC) and the program is responsible for evaluating and determining the significance of historic resources. The program, administered by City planning staff with assistance from the HLC, administers the Certificate of Approval (CofA) process, the demolition ordinance, and inadvertent discovery plan.

### Historic Landmarks Committee

The McMinnville Historic Landmarks Committee (HLC) was established by Ordinance No. 4228, and was updated by Ordinance No. 4401 (which repealed Ordinance No. 4228). The enabling language for the Historic Landmarks Committee was more recently updated by Ordinance No. 5035, which brought the enabling language for the Committee into Chapter 2.34 of the McMinnville Municipal Code.

The HLC consists of five at-large members; each member is allowed one vote on the HLC. City Council appoints the HLC members who may serve two consecutive four-year terms. After the completion of these two terms, members may be reappointed to the HLC after a four-year hiatus.

Section 2.34.20 of the McMinnville Municipal Code identifies the role of the HLC as follows:

- Serve as a hearings body for matters concerning historical and cultural resources listed on the McMinnville Historic Resources Inventory, including the review any alteration, demolition, moving or new construction on a McMinnville Historic Landmark per Chapter 17.65 of the McMinnville Zoning Ordinance.

- Evaluate and designate historic districts, buildings, structures, sites, and objects as provided by Chapter 17.65 of the McMinnville Zoning Ordinance.
- Receive requests by any citizen, or may on its own motion make recommendations concerning identifying and preserving significant historic and cultural resources which the Committee determines to be of historical significance to the City, state or nation.
- Develop or adopt a system, based on historic integrity and significance, for evaluating historic and cultural resources for potential designation as historic landmarks.
- Compile and maintain a McMinnville Historic Resources Inventory of all historical and cultural resources within the City, the applicable tax lots and addresses, the date of landmark designation, and a brief description of the resource and reasons for inclusion.
- Conduct surveys, inventories, and studies of potential historic resources, and periodically revise the McMinnville Historic Resources Inventory by adding or deleting properties.
- Undertake to inform the citizens of, and visitors to the City or McMinnville, regarding the community's history and prehistory; promote research into its history and prehistory; collect and make available materials on the preservation of historic resources; provide information on state and federal preservation programs; document historic resources prior to their alteration, demolition, or relocation and archive that documentation; assist the owners of historic resources in securing funding for the preservation of their properties; and recommend public incentives and code amendments to the McMinnville City Council.
- Advise and make policy recommendations to the McMinnville City Council and the Planning Commission on matters relating to historic preservation.
- Perform such other duties relating to historical matters as the McMinnville City Council or Planning Director may request.
- Have the authority to coordinate its activities with other city, county, state or federal agencies.

Two of the roles assigned to the HLC relate to design review, for alterations and demolitions, and new construction on historic landmark sites (where no structure exists). Guidelines for design review for alterations are outlined in the McMinnville Municipal Code Section 17.65.060. Guidelines for demolition, moving, or new construction are outlined in Section 17.65.050.

The survey and inventory process provides the HLC with the opportunity to implement Goal 5 in relation to conflict resolution in land use. Survey work not only documents historic resources, but can identify potential threats to these resources so the City can navigate protection of these resources while balancing conflicting land uses.

## Evaluating and Determining Significance

McMinnville's Historic Resources Inventory assigns significance to surveyed historic resources. A 1983-1984 survey established the methodology and process defining the city's historic resource classes conveying level of significance as "distinctive," "significant," "contributory," or "environmental."<sup>4</sup> Ordinance No. 4401 Section 2(g) provides the following definitions:

- 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;
- 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.

## Historic Resource Protection Ordinances

Those properties which are classified as "distinctive" or "significant" in McMinnville's Historic Resource Inventory are considered historic landmarks per Ordinance No. 4401 Section 2(e) and OAR 660-023-0200(1)(j). National Register of Historic Places-listed properties are classified as "distinctive." The Historic Landmarks Committee reviews alterations to and demolitions of historic landmarks, as well as the demolition of any historic resource per Zoning Ordinance Section 17.65.040(C).

The Historic Landmarks Committee, as of 2022, is working through adoption of a revised demolition ordinance and inadvertent discovery plan requirement, which should be adopted as part of the Volume I update. McMinnville offers meaningful protection for historic resources by requiring a Certificate of Approval in order to pull a permit for the demolition or moving of a historic resource, or any resource that is listed in the National Register of Historic Places, or for new construction on historic sites with no current structures under Section 8 of Ordinance No. 4401 and codified in McMinnville Municipal Code (MMC) 17.65.050. The revised demolition ordinance will address staff and Historic Landmarks Committee concerns related to deficiencies in the city's demolition permit application and process, particularly as the information related the demolition process is not located in one place; the inadequacy of mitigation to offset the loss of historic resources; lack of clarity regarding demolition by neglect; and subjectivity in assessing economic hardship.

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<sup>4</sup>. Section 17.65.030 of the city's Zoning Ordinance establishes the process for adding, deleting, or changing the level of significance of a resource.



The inadvertent discovery plan (IDP) requirement stems from recommendations in a 2021 *Archaeological Resources Existing Conditions* prepared for the City and is intended to protect archaeological resources. IDPs provide a mechanism to plan for the unanticipated discovery of archaeological resources, include a City point of contact, a procedure for stop-work notification, and for notification of appropriate agencies.

## **7. Historic Resources**

### Historic Registers

The National Register of Historic Places (NRHP) is the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. Properties listed in the NRHP may be significant at the local, state, or national level. The National Historic Preservation Act (NHPA) of 1966 created the program which is managed by the National Park Service.

The City of McMinnville does not have its own register of historic places; instead, it classifies properties within its inventory as “distinctive” or “significant.” Distinctive and significant inventoried properties are identified as historic landmarks in the city’s historic preservation ordinance.

Per the Procedures and Requirements for Complying With Goal 5 in OAR 660-023-0200 section 8, Goal 5 states that “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;
- (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

(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.”<sup>5</sup>

McMinnville meets this requirement within Goal 5 by identifying National Register resources as “distinctive” within its Historic Resource Inventory and requiring design review by the HLC for alterations or demolition.

### Historic Resources Inventory

The Oregon SHPO defines a survey as “the process of gathering and recording information about cultural resources.” An inventory is the organized compilation of the survey records. There are two types of surveys: Reconnaissance Level Survey (RLS) and Intensive Level Survey (ILS). The Oregon SHPO has published guidelines, “Guidelines for Historic Resource Surveys in Oregon” (2011), to help communities and historic preservation professionals identify, evaluate, and document historic resources in the state of Oregon.

A Reconnaissance Level Survey (RLS), is defined by the Oregon SHPO as “the basic survey level to identify, document, and report historic resources.” An RLS is the first step in documenting properties and provides local governments and the SHPO with a baseline dataset about historic and non-historic resources within a surveyed area. Information collected for an RLS is primarily limited to physical and architectural data. General research is conducted to provide context for the survey area; individual property research is not necessary with an RLS.

An Intensive Level Survey (ILS) is often the next step after an RLS and contains a higher level of documentation for each surveyed property. This documentation includes additional research into the history of each individual survey property, including builders, architects, and previous owners and tenants.

Since the late 1970s, McMinnville has conducted a number of historic resource surveys. After McMinnville established its historic preservation program in the early 1980s, the City commenced a series of surveys funded by National Park Service grants through the Oregon SHPO to inventory the city’s historic resources. These produced the following two products:

Historic Resources Inventory maintained and updated by the city with resource classes specific to the City of McMinnville. Historic resources, per Ordinance 4401 section 2(f), are any site, structure, building, district, or object that is included on the Historic Resources Inventory. This inventory uses the same property data as the Oregon SHPO Historic Sites Database. When new survey work is conducted, this inventory is updated per section 17.65.030 of the city’s Zoning Ordinance.

Resource forms within the Oregon SHPO Historic Sites Database and serving as the main repository for property data (location, physical attributes, photos, etc.) but using a different set of evaluation codes relative to potential National Register of Historic Places eligibility.

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<sup>5</sup> OAR 660-023-0200, “Procedures and Requirements for Complying With Goal 5.” The rule was effective 2017.

The City's Historic Resource Inventory only includes properties resulting from survey work up through 1984. Subsequent survey work has not been evaluated for adding, removing, or updating the Historic Resource Inventory. The following historic resource surveys have been completed in McMinnville

- The 1976 and 1980 reconnaissance level survey focused on the downtown area and surveyed approximately 650 resources built in or prior to 1930 (50-years of age or older at the time).
- The 1983-1984 reconnaissance level city-wide survey extended to the city's urban growth boundary and surveyed approximately 500 resources built in or prior to 1934 (50-years of age or older at the time). This survey also included several barns and related properties existing within the Urban Growth Boundary.
- The 2010 reconnaissance level survey focused on predominately on 1930s to early 1960s properties within an irregular-shaped area north of downtown and surveyed 402 resources.
- The 2013 Settlement-era Dwellings, Barns & Farm Groups the Willamette Valley, Oregon surveyed 242 resources within the broader geographical area of nine Oregon counties: Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington and Yamhill. From this survey, three resources surveyed within Washington County exist within the City of McMinnville city limits (a fourth has since been demolished).
- The 2018 intensive level survey focused on eight properties north of downtown.
- The 2020 reconnaissance level survey focused on two areas to resurvey buildings that are designated on the McMinnville Historic Resources Inventory (approximately 192 buildings) and to survey any other properties (buildings and structures) within the areas that may not have been identified in previous survey work (approximately 97 properties), resulting in 371 properties surveyed. Survey Area 1 encompassed commercial and residential areas south of downtown and north of Cozine Creek. Survey Area 2 followed the outline of the Chandler's Second Addition plat except for the bump out on the northwest corner to pick up the ca. 1890 building at 534 SE Hembree Street.
- The 2021 reconnaissance level survey was conducted within McMinnville's Urban Growth Boundary (UGB) amendment areas (1,285 acres) to identify conflicting uses and develop programs to protect significant resources within this area in compliance with Goal 5 and Urban Reserve Area requirements, per Oregon Administrative Rules (OAR) sections 660-023-0030 and 066-023-020. This work surveyed all extant resources built in or prior to 1976. The survey areas included over 143 buildings of which 101 were considered primary resources for which a form was completed with the rest being secondary buildings and included as part of the form for the associated primary resource.

These surveys followed the State Historic Preservation Office (SHPO) guidance on cultural resource surveys, “Guidelines for Historic Resource Surveys in Oregon” (2011), and comply with Goal 5 requirements, per OAR 660-023-0030(4-7). The resource forms were entered into the Oregon SHPO Historic Sites Database, which serves as the main repository for property data (location, physical attributes, photos, etc.) in Oregon. These historic resources are available to the public online. Copies of the survey reports are reviewed by SHPO, kept on file, and can be requested by the public. Historic resource surveys also provide an opportunity for City staff and the HLC to identify potential or existing land use conflicts with inventoried historic sites. The survey results are shared with the public during a public HLC meeting.

### Archaeological Resources Inventory

In 2021, the City commissioned an *Archaeological Resources Existing Conditions* report to identify conflicting uses and develop programs to protect significant resources in compliance with Goal 5 and Urban Reserve Area requirements, per OAR sections 660-023-0030 and 066-023-0200. The report summarizes the existing conditions for belowground archaeological resources and includes a predictive model for the City to utilize when reviewing proposed land development actions. The model analyzes the potential for buried precontact and early historic-era archaeological resources city-wide.

This summary report does not discuss the specific locations of archaeological resources recorded in the City due to confidentiality. Archaeological site locations are exempt from the Freedom of Information Act (FOIA) under the Archaeological Resources Protection Act of 1979 (16 U.S.C. § 470hh) and are also protected under Oregon State law.

The 2021 *Archaeological Resources Existing Conditions* recommended that the City develop policy, similar to that developed by the City of Salem, that requires all proposed projects that would involve ground disturbance to undergo an initial archaeological documentary study (commonly referred to as a ‘literature review’) conducted by an archaeologist that meets the Secretary of the Interior’s Professional Qualifications Standards for Archaeologist. Preliminary archaeological studies may include an overview of all historic and archaeological records associated with the land proposed for impact, including relevant property documentation, historic map review, Indigenous use of the location, and any other pertinent literature related to the history and development of the site. The study may be used to provide a preliminary recommendation regarding the potential presence or absence of archaeological resources, as well as recommendations for additional archaeological work. Additional archaeological work may include field survey/testing; archaeological monitoring; the development of an Inadvertent Discovery Plan; the development of a Treatment Plan; the development and implementation of a Mitigation and Data Recovery Plan. Archaeological field effort is contingent upon the results of initial study review and should be determined in consultation with Oregon SHPO, Tribes, or any other regulatory entity.

### **8. Incentives and Benefits**

There are a number of financial incentives and benefits currently available to historic properties and historic preservation-related activities in the city of McMinnville. This list is not exhaustive and these incentives may change over time.

McMinnville's Facade Grant Program is a matching grant program of the City of McMinnville Urban Renewal Agency for property within the Urban Renewal District. The maximum individual grant is limited to \$25,000. A minimum private match of 100% (1:1) of the grant amount is required. Eligible applicants include property owners of commercial or industrial zoned buildings within the Urban Renewal District and business owners or tenants of commercial or industrial zoned buildings within the District with property owner consent. The grant funds are to be used for existing exterior facade improvements on any street-facing building wall.

McMinnville's Free Design Assistance Program offers 10 free hours (or \$1,000) of architectural/conceptual/design services for an eligible property. Properties must be located within the Urban Renewal Zone (see Figure 1). This appears to be the only local incentive that is available to single-family residential properties, albeit just those located in the Urban Renewal District.

McMinnville's Development Loan/Grant Program, offered through the McMinnville Urban Renewal Agency, provides an ongoing source of gap financing for new construction or substantial rehabilitation projects that provide an immediate increase in assessed value and support additional goals identified in the McMinnville Urban Renewal Plan. Loans are available up to 20% of construction costs, but they cannot exceed \$100,000 and are subject to funding availability. Projects must be located within the McMinnville Urban Renewal District and meet other eligibility requirements.

Established in 1975, Oregon's Special Assessment of Historic Property Program was the nation's first state-level historic preservation tax incentive. The program specially assesses a property's assessed value for 10 years. It is most effective when the program is in place prior to any substantial rehabilitation of the property. This incentive is available to both commercial and residential properties, though more readily used and applicable to commercial properties. Per the 2008 State Taskforce report on the incentive: "The complicated nature of "special assessment" has inadvertently triggered much higher taxes for some participants (primarily residential) at the end of their terms than they would have had if they had not participated in the program."<sup>6</sup>

Preserving Oregon Grant Program is administered by the Oregon State Historic Preservation Office (SHPO). Grant funds are to be used for rehabilitation work on properties listed in the National Register of Historic Places, or significant work contributing to identifying, preserving and/or interpreting archaeological sites. As of the 2017-19 biennium, grant funds may be awarded for amounts up to \$20,000 and require a match of 100% (1:1), which can be in the form of cash, in-kind donations, and volunteer time. While commercial properties may be eligible, they need to have exceptional significance and/or extraordinary public benefit to compete. Higher priority is given to publicly owned resources and private non-profit resources, and properties that offer the greatest public benefit through visual access and interpretive/educational value.

Within the Preserving Oregon Grant program there is also the Diamonds in the Rough Grant Program (at least for the 2017-2019 biennium). This program provides grants to

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<sup>6</sup> Report of the Task Force on Historic Property (2008), 5.

restore or reconstruct the facades of buildings that have been heavily altered over the years. The purpose is to return them to their historic appearance and potentially qualify them for historic register designation (local or national). Grants may be awarded up to \$20,000. These grants are funded in part by the Oregon Cultural Trust.

The Oregon Heritage Commission administers the Oregon Heritage Grant Program, which provides matching grants to non-profit organizations, federal recognized tribal governments, universities, and local governments for projects that conserve, develop, or interpret Oregon's heritage. Currently, \$200,000 per biennium is available, but awards generally range between \$3,000 and \$20,000. Grants are made for no more than 50 percent of total project costs.

The Oregon Commission on Historic Cemeteries (OCHC) offers Historic Cemetery Grants to provide financial assistance in the following general categories: Protection and Security, Restoration and Preservation, Education and Training, Research and Interpretation. Eligible projects may include, but aren't limited to: security needs, training, conservation of historic elements such as curbs, markers, etc., documentation and mapping, signage, landscape restoration and planning.

The Oregon Heritage Commission offers matching grants (Oregon Museum Grant) to public and non-profit heritage museums that meet certain qualifications. The grants support Oregon museums in projects for the collection and management of heritage collections, for heritage-related tourism, and heritage education and interpretations. Currently, \$110,000 per biennium is available.

The Oregon Main Street Revitalization Grant supports downtown revitalization efforts in communities participating in the Oregon Main Street Network (e.g. McMinnville Downtown Association). The purpose of the program is to acquire, rehabilitate, and construct buildings on properties in designated downtown areas statewide; and facilitate community revitalization that will lead to private investment, job creation or retention, establishing or expanding viable businesses, or creating a stronger tax base. Grants may be awarded up to \$100,000. Grants may fund up to 70% of project costs. 30% of project costs must be matched. Match can be in the form of cash, in-kind donations, and volunteer time. The match requirement may include necessary project "soft" costs for professional service (i.e. architectural or engineering studies directly related to the project/property). Project costs outside of the grant period do not qualify as match.

The Federal Historic Tax Credit program is for income-producing buildings only (commercial and residential rental). A 20% income tax credit is available for the rehabilitation of historic, income-producing buildings that are determined by the Secretary of the Interior, through the National Park Service, to be "certified historic structures." The State Historic Preservation Offices and the National Park Service review the rehabilitation work to ensure that it complies with the Secretary's Standards for Rehabilitation. The Internal Revenue Service defines qualified rehabilitation expenses on which the credit may be taken. Owner-occupied residential properties do not qualify for the federal rehabilitation tax credit.



**City of McMinnville  
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## **EXHIBIT 4 - STAFF REPORT**

**DATE:** June 23, 2022  
**TO:** Historic Landmark Committee Members  
**FROM:** Heather Richards, Associate Planner  
**SUBJECT:** Discussion on Demolition Code Review

### **STRATEGIC PRIORITY & GOAL:**



### **GROWTH & DEVELOPMENT CHARACTER**

Guide growth & development strategically, responsibly & 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:**

The purpose of this discussion item is for the Historic Landmarks Committee to continue their discussion on the City's code related to demolitions of historic resources.

### **Background:**

The City of McMinnville has adopted a historic preservation program that seeks to preserve and protect historic resources, and also to educate the community on historic preservation and promote the benefits that historic preservation has in the community. This historic preservation program is more specifically implemented by the Planning Department and the Historic Landmarks Committee. One component of the historic preservation program is the Certificate of Approval review process that is required to be completed by any property owner that wishes to request the demolition of any designated historic resource.

The Certificate of Approval for Demolition process is described in more detail in McMinnville Municipal Code (MMC) Section 17.65.050. Over the past few years, the Historic Landmarks Committee has reviewed numerous Certificate of Approval for Demolition applications. During the review of those applications there have been some components of the process that have been difficult for applicants to understand, and some aspects of the applicable review criteria that have been difficult for the Historic Landmarks Committee to consistently consider and apply to individual requests based on the information that is provided in the applications.

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The Planning Department had the ability to bring on a consultant to provide a professional assessment and opinion on the City's current application review process and code related to the demolition of historic resources within the 2020-2021 fiscal year budget.

The consultant presented to the Historic Landmarks Committee at their meeting on May 27<sup>th</sup>, 2021. However, the material was still confusing and too tied to the application process and not the actual code. Today's presentation seeks to rectify that by comparing the City of McMinnville's code for the demolition process to that of other relevant cities in Oregon.

City of McMinnville's Demolition Code Criteria. Three issues to address:

- 1) Compliance with OAR 660-023-0200 relative to making decisions about alterations (including demolitions) for properties on the National Register of Historic Places.
- 2) Clarity on the criteria that the Historic Landmarks Committee uses for making decisions to approve or deny requests for demolitions.
- 3) Remedies for non-compliance with demolition and demolition by neglect.

### **Discussion:**

The Historic Landmarks Committee has reviewed the suggested consultant amendments in five work session meetings, May 27, 2021, December 16, 2021, January 27, 2022, February 23, 2022 and March 23, 2022.

At their meeting in March, the committee made several refinements to Section 17.65.050(C) of the code relative to the factors of consideration. Those are highlighted in yellow in the attached proposed amendments.

Staff has added additional amendments to this review in the following ways:

- 1) Relocated definitions to this section of Title 17 for clarity and ease of use. Added definitions for archaeological resource and site per OAR 660-023-0200.
- 2) Made some housekeeping process amendments in resource identification and designation per the new state administrative rules.
- 3) Added the need for applicant to provide findings for Section 17.65.050(C).
- 4) Added definition of findings for relocation and demolition.
- 5) Added Preservation of Archaeological Resource section per OAR 660-023-0200.

### **Attachments:**

- Proposed Text Amendments, 17.65
- Memorandum from Northwest Vernacular, McMinnville Demolition Ordinance Review, dated June 28, 2021

### **Fiscal Impact:**

None.

### **Recommendation/Suggested Motion:**

The Historic Landmarks Committee will recommend final language for the Planning Commission to consider as amendments to Title 17 of the McMinnville Municipal Code.

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## Proposed Amendments to Section 17.65

Proposed deletions are indicated with ~~strike through font~~ and proposed additions are indicated by red underline font.

Sections:

17.65.010	Purpose
17.65.020	Definitions
17.65.030	Historic Resources Inventory
17.65.040	Certificate of Approval Process
17.65.050	Demolition <u>and Relocation</u> , <del>Moving, or New Construction</del>
17.65.060	Exterior Alteration or Remodeling
<u>17.65.065</u>	<u>Preservation of Archaeological Resources</u>
17.65.070	Public Notice
17.65.080	Appeals
17.65.090	Violation, Procedure, and Penalty

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.

Historic districts may have a separate set of regulatory controls and administrative procedures which take priority over this ordinance.

17.65.020 Definitions. For the purpose of this ordinance, certain terms and words are defined as follows: words in the present tense include the future, the singular tense include the plural and vice-versa; the word "shall" is mandatory; the word "may" is discretionary; and the masculine gender includes the feminine gender.

For the purpose of Historic Preservation, the following definitions shall apply.

**Alteration** - The addition to, removal of, removal from, or physical modification and/or repair of any exterior part or portion of an historic resource that results in a change in design, materials or appearance. Painting, reroofing, and general repairs are not alterations when the new materials and/or colors match those already in use.

**Archaeological Object:** An object that is at least 75 years old; is part of the physical record of an indigenous or other culture found in the state or waters of the state; and is material remains of past human life or activity that are of archaeological

significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products, as defined by OAR 358.905.

**Archaeological Site:** A geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects and the contextual associations of the archaeological objects with each other; or biotic or geological remains or deposits. Examples of archaeological sites include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites, as defined by OAR 358.905.

**Certificate of Approval** - A decision issued by the Planning Director or Historic Landmarks Committee, as applicable, to approve the alteration, demolition, or moving of a historic resource or landmark.

**Demolition** - To raze, destroy, dismantle, deface, remove or relocate, in whole or part, or in any other manner cause partial or total ruin to a historic resource.

**Designation.** Decision to include a property or site on the Historic Resources Inventory.

**Exterior** - Any portion of the outside of an historic resource.

**Historic District** - A geographical definable area of local, state, or national historical significance, the boundaries of which have specifically been adopted by the City Council.

**Historic Integrity.** The quality of wholeness of historic location, design, setting, materials, workmanship, feeling and/or association of a historic resource.

**Historic Landmark** - Any historic resource which is classified as "Distinctive" or "Significant" on the McMinnville Historic Resources Inventory or is listed on the National Register of Historic Places (only contributing properties of a National Register of Historic Places Historic District are considered a Historic Landmark). Historic landmarks are also locally significant historic resources as defined by OAR 660-023-0200(1)(j).

**Historic Resources** - Any site, structure, building, district, or object that is included on the Historic Resources Inventory.

**Historic Resources inventory** - The initial inventory includes the resources which were evaluated and ranked by the McMinnville Historic Landmarks Committee. The inventory incorporates the surveys and inventories conducted in 1976, 1980, and 1983/84 and resources which may be included by action of the Historic Landmarks Committee under the provision of Section 17.65.030 of this chapter. The resources included in the inventory are classified as follows:

- A. Distinctive "A": Resources outstanding for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places;
- B. Significant "B": Resources of recognized importance to the City due to

- historical association or architectural integrity, uniqueness, or quality;
- C. Contributory "C": 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
- D. Environmental "D": This category includes all resources surveyed that were not classified as distinctive, significant, or contributory. The resources comprise a historic context within the community.

**Owner** - As defined by OAR 660-023-0200(1)(h). (Ord. 5034 §2, 2017).

*(Definitions, Relocated from 17.06.060)*

17.65.030 Historic Resources Inventory. The McMinnville Historic Resources Inventory, compiled in 1983/84 and as subsequently updated, is hereby adopted and shall be maintained and updated as required. The inventory shall be used to identify historic districts, buildings, structures, sites, and objects for the purposes of this ordinance, and will be retained as a public resource with the exception of archaeological sites, the publication of which is prohibited by state law.

- A. The Historic Landmarks Committee shall be authorized to make all additions, deletions, and changes to the inventory. Any addition, deletion or change, including a reevaluation of the significance of any resource, shall conform to the requirements of this section.
- B. Any person may file an application with the Planning Director to amend the inventory by adding or deleting a resource or changing the level of significance of a resource.
  - 1. 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. Applications must include:
    - a. A description of the boundaries of the proposed nomination area and the buildings, structures, objects, sties and districts contained therein;
    - b. A description of the historic resource character defining features.
    - c. A statement explaining how the historic resource meets the criteria under provisions of Section 17.65.030(C).
    - d. Photos, maps, drawings, and other supporting materials as necessary.
  - 2. The Historic Landmarks Committee shall act on such an application within thirty (30) days of the date the application was deemed complete by the Planning Department. The Committee may delay action on an application for up to thirty (30) days from the date of their meeting so that additional information needed for a decision can be obtained.
  - 3. The owner of the site which is under consideration and the applicant (if different) shall be notified of the time and place of the Historic Landmarks Committee review, although their presence shall not be necessary for action to be taken on the application.
  - 4. Designation must occur at a public meeting and is considered a land-use action.
- C. The Historic Landmarks Committee shall base each decision regarding additions or changes to the inventory on the following criteria:

1. History. The resource is associated with significant past events, persons, organizations, trends, or values which were important at the city, county, state, or national level. The age of the resource relative to other local development contributes to its historic significance;
  2. Style/Design. The resource is representative of a particular style or a type of construction. The uniqueness of the resource or its quality of composition, detailing, or craftsmanship contribute to its design significance. The resource was designated or constructed by a craftsman, contractor, designer, or architect of local, state, or national importance;
  3. Integrity. The resource retains original design elements, materials, and character with relatively minor alterations, if any; and
  4. Environment. The resource contributes to the character or continuity of the street or neighborhood.
  5. Consistency with the National Register Criteria for Evaluation as follows:
    - a. The resource is associated with events that have made a significant contribution to the broad patterns of our history; or
    - b. The resource is associated with lives of significant persons in our past; or
    - c. The resource embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
    - d. The resource has yielded or may be likely to yield, information important in history or prehistory; and
  6. The designation of the resource is consistent with the priorities described in the historic preservation plan.
- D. The Historic Landmarks Committee shall allow owners of property to refuse addition to the inventory at any time during the designation process in Section 17.65.030. The Historic Landmarks Committee shall not designate a site, structure, building, or object on the inventory if the owner objects to its designation on the public record. However, the objection of a property owner must not prevent a property being inventoried, evaluated, or determined significant for placement on the Historic Resources Inventory.
- E. A permit to demolish or modify a Historic Resource under consideration for designation to the Historic Resources Inventory must not be issued for 120 days from the date of the owner's refusal to consent to designation or the application to alter, relocate, or demolish the Historic Resource, whichever occurs first.
- F. The Historic Landmarks Committee is not required to remove a historic resource already on the inventory because an owner refuses to consent to designation. However, the Historic Landmarks Committee must remove a historic resource from the inventory if the designation was imposed on the property and the owner at the time of designation:
1. Has retained ownership since the time of designation; and
  2. Can demonstrate that the owner objected to the designation on the public record; or
  3. Was not provided an opportunity to object to the designation; and

4. Requests that the Historic Landmarks Committee remove the resource from the inventory.
- G. Except as provided in Section 17.65.030 (E), the Historic Landmarks Committee shall base each decision regarding deletions from the inventory on the following criteria:
1. The resource has lost the qualities for which it was originally recognized; or
  2. 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; or
  3. The Building Official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.

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.

Section 17.65.050. Demolition and Relocation of Historic Resources, or Moving, or New Construction. The property owner shall submit an application for a Certificate of Approval for the demolition or relocation of a historic resource, historic landmark, or any resource that is listed on the National Register for Historic Places, either individually or as a contributing resource in a historic district, ~~or for new construction on historic sites.~~

Applications shall be submitted to the planning department for initial review for completeness as stated in MMC [17.72.040](#). The Historic Landmarks Committee shall meet within 30 days of the date the application was deemed complete by the planning department to review the request. A failure to review within 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.
  1. The Committee must find the following when approving or approving with conditions the demolition of a Historic Resource.
    - a. The applicant completed a replacement plan for the site, including drawings approved by the Committee.; and

- b. The Committee determines that the Historic Resource cannot be safely relocated from the site; and
  - c. The value to the community of the proposed replacement plan outweighs the value of retaining the Historic Resource.
    - 1. The factors in Section 17.65.050(C) must be considered when making this determination.
    - 2. Public testimony must be considered when making this determination.
2. The Committee must find the following when approving or approving with conditions the relocation of a Historic Resource.
- a. The applicant completed a replacement plan for the site, including drawings approved by the Committee.; and
  - b. The value to the community of the proposed replacement plan outweighs the value of retaining the Historic Resource.
    - 1. The factors in Section 17.65.050(C) must be considered when making this determination.
    - 2. Public testimony must be considered when making this determination.
- B. Application Requirements. The applicant shall provide the following information as part of the certificate of approval application for demolition or relocation. This is not an exclusive list, the City can determine that more information is needed to be able to render a decision:
- 1. Property information.
    - a. address
    - b. date of construction
    - c. historic significance.
  - 2. Property owner information (for all property owners regardless of type of ownership with appropriate documentation). If a property owner was part of a previous ownership entity of the property that needs to be disclosed as well.
    - a. when did the property owner purchase the property (if less than one year, please provide information about prior property ownership):
    - b. what types of alterations did the current and previous property owner (if current property ownership is less than one year) make during their ownership;
    - c. a list of maintenance investments made by the current and previous property owner (if current property ownership is less than one year);

3. Relocation Evaluation. The applicant must demonstrate that they have evaluated and pursued appropriately the relocation of the historic resource prior to the request for demolition. This evaluation can consist of written analysis from a building relocation contractor or the Building Official indicating that it can or cannot be relocated from its site. If it can be relocated and the applicant is requesting demolition, the applicant needs to indicate why they are not relocating the resource.
  4. Replacement Plan. The replacement plan should include site plans and construction documents that are ready for building permit issuance. If the property is within a special overlay district that requires design review approval, the replacement plan must include the design review approval or be submitted concurrently with the application.
  5. Findings for Factors in Section 17.65.050(C). The applicant will need to provide findings for each factor. If the factor does not apply, the applicant must state why.
- C. The Historic Landmarks Committee shall base its decision on the following factors.
1. **Local Historic Preservation Policies.** The City's historic preservation policies set forth in the comprehensive plan (Chapter III: Cultural, Historic, and Educational Resources), historic preservation plan, and the purpose of this ordinance;
  2. **Financial Hardship.** Whether retention of the historic and/or National Register-listed resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation with the applicant providing documentation of economic hardship demonstrating the property is incapable of generating a reasonable economic return, including but not limited to:
    - a. The purchase price of the property;
    - b. The property tax statement showing the assessed value, real market value and property taxes for the past two years.
    - c. For commercial properties (defined as properties with a commercial or industrial use, or three or more dwelling units), current fair market value of building or resource as determined by an appraisal in the past twelve months;
    - d. A profit and loss statement and balance sheet for commercial properties (defined as properties with a commercial or industrial use, or three or more dwelling units) and income-producing residential

- properties for the past two years. (This will be deemed confidential and not be part of the public record).
- e. Any expenditures associated with the property during the two years immediately preceding the application;
  - f. For commercial properties (defined as properties with a commercial or industrial use, or three or more dwelling units) and residential Historic Landmarks, report from structural engineer on the condition of the historic and/or National Register-listed resource when that resource is a building(s) or structure(s);
  - g. Estimate of cost for rehabilitation of the historic and/or National Register-listed resource with an existing use from a third-party licensed contractor;
  - h. For commercial properties (defined as properties with a commercial or industrial use, or three or more dwelling units) report from real estate or other market professional identifying potential alternative uses allowed for development of the historic and/or National Register-listed resource with existing zoning. The report should include a market analysis evaluating need for alternative uses as well as the number of existing alternative uses already present within the zone;
  - i. For commercial properties (defined as properties with a commercial or industrial use, or three or more dwelling units) estimate of cost for rehabilitation of the historic and/or National Register-listed resource for at least two other identified uses from a third-party licensed contractor; and
  - j. Report identifying available economic incentives for adaptive reuse of the historic and/or National Register-listed resource, including any federal tax credits available for rehabilitation of National Register-listed resources;
3. **Value to the Community.** The community value (i.e., historic, cultural, social) and significance of the historic resource;
- a. Design or construction rarity. Are there other similar historic resources in the community architecturally;
  - b. Historic significance.
    - 1. Are there other historic resources of the same age in the community..
    - 2. Are there other historic resources that portray the historic era of this resource in the community's history;
4. **Condition of the Historic Resource.** The physical condition of the historic and/or National Register-listed resource. The applicant



provided professionally recognized documentation (structural engineer's or Building Official's report recommending condemnation) that the historic resource constitutes a hazard to the safety of the public or its occupants;

6. The applicant completed a replacement plan for the site that is deemed to be more valuable to the community than the retention of the resource.
  7. Whether the historic and/or National Register-listed resource is a deterrent to an improvement program of substantial benefit to the city which overrides the public interest in its preservation;
  8. Whether retention, either by restoration or relocation, of the historic and/or National Register-listed 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) or offset the community loss through a donation to a heritage organization or fee payment to the city's Historic Preservation Fund to support grants for the preservation of other historic resources.
- D. If the structure for which a demolition permit request has been filed has been damaged in excess of 70 percent 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.
- E. The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any individually listed or contributing resource listed on the National Register of Historic Places consistent with the procedures in MMC [17.72.120](#).
- F. In approving or denying an application for the demolition of a historic resource, the Historic Landmarks Committee may impose the following conditions:
1. The Historic Landmarks Committee may delay a demolition permit for up to one hundred twenty (120) days in the interest of exploring reasonable alternatives. If the permit request affects a "distinctive",

individually listed or contributing resource on the National Register of Historic Places, the delay period may be extended an additional sixty (60) days. The applicant can be required to post the property regarding the pending demolition during the delay period to seek community engagement about reasonable alternatives. During the delay period, the applicant will be provided with any resources for federal and state programs to incentivize restoration of the resource.

2. That the relocation of the historic resource be considered. The applicant can be required to pay for the relocation costs, public notices, funds paid to a potential buyer who will relocate the building equal to or more than the costs of demolishing the structure.
3. Photographic, video, or drawn recordation of the historic resource in its original location.
4. Fee payment to a city-wide preservation fund or to the Facade Improvement Grant Program to support grants for the preservation of historic resources. Fee amounts to be graduated and based on the listing/HRI status as a means of communicating relative community impact with National Register-listed resources as the highest and descending with Environmental as the least. Fee payment to be calculated based on the assessed value of the structure to be demolished.
5. Other reasonable mitigation measures, including, but not limited to:
  - a. Donation to a preservation or heritage-related organization;
  - b. Interpretive panel, plaque, and/or marker created on site and included in the redevelopment that commemorates the original historic building;
  - c. Property or building survey;
  - d. Offering architectural features for donation and/or reuse and working with an established company to appropriately salvage;

G. 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 20 black and white photographs with negatives or 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.

- H. If any proposed new construction is located in the downtown core as defined by MMC [17.59.020\(A\)](#) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter [17.59](#) MMC (Downtown Design Standards and Guidelines).
- I. Demolition by neglect. No historic resource shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this Section. Demolition by neglect shall include any one or more of the following courses of inaction or action:
1. Deterioration of the exterior of the building to the extent that it creates or permits a hazardous or unsafe condition.
  2. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster, or mortar to the extent that it adversely affects the character of the historic resource or could reasonably lead to irreversible damage to the structure.
- J. It shall be unlawful to knowingly or negligently demolish a historic resource without first obtaining a historic resource demolition permit under MMC 17.72.040. This includes demolition by neglect as outlined in 17.65.050.H.
1. A violation of this section will be pursued following the procedures outlined in MMC 2.50 "Code Compliance."
  2. Penalty for violating this section will require a fee paid into the city preservation fund, in addition to following other penalties for code violations per MMC 2.50
    - a. Citations up to \$3,000 or 0.1% of the real market value of the most recent assessor's statement for both the structure and the land whichever is greater per day for demolition by neglect.
    - b. Penalty equal to the real market value of the most recent assessor's statement for both the structure and the land if demolition occurs without approval.
- K. Demolished resources shall be removed from the McMinnville Historic Resource Inventory.
- L. Notice of a demolished or relocated National Register resource must be provided to the State Historic Preservation Office.

17.65.060 Exterior Alteration or Remodeling. The property owner shall submit an application for a Certificate of Approval for any exterior alteration to a historic landmark, or any resource that is listed on the National Register for Historic Places. 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 Planning Director shall determine whether the proposed activities constitute an alteration as defined in Section 17.65.020 (A) of this chapter. 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. Within five (5) working days after a decision has been rendered, the Planning Department shall provide written notice of the decision to all parties who participated.

- 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 following standards and guidelines:
    - a. A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
    - b. The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
    - c. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
    - d. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
    - e. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
    - f. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
    - g. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
    - h. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

- i. The Guidelines for Historic Preservation as published by the United States Secretary of the Interior.
  3. The economic use of the historic resource and the reasonableness of the proposed alteration and their relationship to the public interest in the historic resource's preservation or renovation;
  4. The value and significance of the historic resource; and
  5. The physical condition of the historical resource.
- C. Any approval may be conditioned by 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.
- D. If the historic landmark is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the exterior alteration shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).

**17.65.065 Preservation of Archaeological Resources. The following provisions apply to the preservation of archaeological resources under Oregon State law.**

- A. Archeological resources must be protected and preserved in place subject to the requirements of federal, state, and local regulations, including the guidelines administered by the Oregon State Historic Preservation Office and ORS 358.905—358.962.
- B. A person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on public or private lands unless that activity is authorized by a permit issued under ORS 390.235. A violation of this subsection is a misdemeanor.

**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.

17.65.080 Appeals.

- A. Any appeal of a decision by the Historic Landmarks Committee, including an appeal of conditions placed on the approval of a Certificate of Approval by the committee, may be made to the City Planning Commission within fifteen (15) days of the date the written notice of the decision is mailed.
- B. If the appeal is filed, the Planning Commission shall receive a report and a recommendation from the Historic Landmarks Committee and shall hold a public hearing on the appeal consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance. Any permit shall be invalid and no work shall be undertaken during the appeal process.

17.65.090 Violation, Procedure, and Penalty.

- A. All historic resources shall be preserved against decay and deterioration, and kept free of structural defects by the owner or other person(s) or entities who may have legal possession, custody and control thereof. ~~Demolition by neglect shall be prohibited.~~
- B. Violations of the provisions of this chapter or other applicable provisions of this code are subject to the provisions of Chapter 17.03 (General Provisions





# MEMO

**TO** City of McMinnville Planning Department  
Historic Landmarks Commission

**FROM** Northwest Vernacular, Inc.

**DATE** June 28, 2021

**SUBJECT** McMinnville Demolition Ordinance Review: Final

This report was prepared by Northwest Vernacular, Inc. (NWV) between March and April 2021 for the City of McMinnville and revised between May and June 2021. In preparing this report, NWV reviewed the McMinnville Municipal Code (MMC 17.65.050) and conducted interviews with City of McMinnville staff—Heather Richards, Planning Director, and Charles Darnell, Senior Planner—who relayed staff and HLC concerns related to demolitions of historic resources in the city. Conversation with city staff also identified two programs to look into as possible positive examples of well-written demolition ordinances: the cities of Bend and Redmond. In addition to Bend and Redmond, NWV staff reviewed the demolition ordinances of Portland, Salem, Albany, and Eugene. We selected cities that had preservation programs and populations of varying size to gain a broad understanding of how other communities within a shared statewide regulatory framework are addressing demolition of historic resources.

This report is divided into four parts:

- Overview of McMinnville's Demolition Review: This section reviews the specific language of McMinnville's demolition ordinance and identifies potential areas of concern.
- Comparisons: This section reviews several other municipalities' demolition ordinances in comparison to McMinnville's ordinance.
- Recommendations: This section provides recommendations on next steps to improve McMinnville's demolition ordinance with specific language changes called out.
- Appendices: This section provides copies of other example demolition ordinances and relevant materials.

## Overview of McMinnville's Demolition Review

McMinnville offers meaningful protection for historic resources by requiring a Certificate of Approval in order to pull a permit for the demolition or moving of a historic resource, or any resource that is listed in the National Register of Historic Places, or for new construction on



historic sites with no current structures under Section 8 of Ordinance No. 4401 and codified in McMinnville Municipal Code (MMC) 17.65.050.

A historic resource is defined in MMC section 17.06.060 as any site, structure, building, district, or object that is included in the City's Historic Resources Inventory. Properties included within the Historic Resources Inventory are classified as Distinctive, Significant, Contributory, or Environmental.<sup>1</sup>

- A. Distinctive: Resources outstanding for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places;
- B. Significant: Resources of recognized importance to the City due to historical association or architectural integrity, uniqueness, or quality;
- C. 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
- D. 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.

The McMinnville Municipal Code (MMC) defines demolition under section 17.06.060 as “to raze, destroy, dismantle, deface or in any other manner cause partial or total ruin to an historic resource.”

The demolition permit application for historic resources is the same application used for any demolition permit within the city, with the process set out under section MMC 17.65.050. The application form does not include any reference to historic resources. Per MMC 17.65.050, with the general land use application requirements outlined in MMC 17.72.020, all permit applications for demolition of a historic resource (i.e. any site, structure, building, district, or object that is included in the City's Historic Resources Inventory) are submitted to the Planning Director for staff outreach to the applicant for additional information required for a Certificate of Approval review. An applicant must submit both a demolition permit application as well as apply for a Certificate of Approval through the HLC. All historic resources are flagged in the City's online permitting system; building department staff notify Planning Department staff to contact the applicant and share the Certificate of Approval process. Once a Certificate of Approval application is submitted it is reviewed by the HLC within 30 days of the application being deemed complete by the planning department. The HLC holds a public meeting to consider an application for demolition. The HLC decision is then written up by the Planning Department staff, utilizing the process outlined in MMC 17.72.150. The applicant is provided notice of the decision which is then sent to the building official in order to release or deny the demolition permit. The Historic Landmarks Committee may approve, approve with conditions, or deny the issuance of a demolition permit, moving permit, or building permit.

The Historic Landmarks Committee, in considering a Certificate of Approval for the demolition, bases its decision on several criteria not included within the demolition permit application. This

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1 Title 17: Zoning, Ordinance 3380, 36-37.

information is submitted by the applicant per MMC 17.65.050. Demolition due to the effects of a natural disaster are dealt with under MMC section 17.65.050.C.

The decision criteria in approving a demolition for the Historic Landmarks Committee (outlined in MMC 17.65.050.B) are:

- (1) The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance [historic preservation ordinance];
- (2) The economic use of the historic landmark and the reasonableness of the proposed action and their relationship to the historic landmark's preservation or renovation;
- (3) The value and significance of the historic landmark;
- (4) The physical condition of the historic landmark;
- (5) Whether the historic landmark constitutes a hazard to the safety of the public or its occupants;
- (6) Whether the historic landmark 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 landmark would cause financial hardship to the owner not outweighed by the public interest in the landmark's preservation; and
- (8) Whether retention of the historic landmark 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 landmark 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.

## POTENTIAL AREAS OF CONCERN

There are a few areas of concern within the ordinance and MMC 17.65.050 as written and from apprehensions expressed by staff and the Historic Landmarks Committee. These concerns are related to deficiencies in the city's demolition permit application and process, particularly as the information related the demolition process is not located in one place; the inadequacy of mitigation to offset the loss of historic resources; lack of clarity regarding demolition by neglect; and subjectivity in assessing economic hardship.

The demolition permit application submitted to the building official—a standard demolition application, not one specific to historic resources—does not indicate that additional information needs to be gathered by the applicant when demolition of a historic resource is proposed, or that demolition of a historic resource will trigger a separate review process requiring additional material that must be completed in order to pull the demolition permit. This appears to place the onus on the planning department to request or the information required under MMC 17.65.050.B and the submittal of a Certificate of Approval for Demolition land use application. The absence of applicant notice at the outset of the permit application regarding the potential for an additional review process and information needs makes it confusing for applicants and increases their frustrations with historic preservation activities. Conversation with staff indicated that it is unclear for applicants how to determine if the subject property is historic or not, and if so, what information is required to file a demolition permit application and what the

process steps will be for a historic property. While there is a separate demolition application for properties within the HRI, that application is not included on the City's "Permit Application" webpage (<https://www.mcminnvilleoregon.gov/building/page/permit-applications>).

The guidance on demolition of a historic resource in section 8 of the ordinance and MMC section 17.65.050 is subjective and limited in potential mitigation options for historic resources that are demolished. The ordinance does say the approval may be conditioned and require photograph documentation, but it is not a standard requirement and it is not articulated what triggers the requirement (e.g. required for demolition of a Distinctive but not for Environmental classified historic resource). Photographic and written documentation is a typical baseline for mitigation used by State Historic Preservation Offices to mitigate loss of historic resources identified through Section 106 of the National Historic Preservation Act (1966) consultation, but additional or different mitigation approaches can more meaningfully offset the community impact due to the loss of the historic resource (e.g. investment in community preservation funds or facade grant programs).

The McMinnville historic preservation ordinance (4401), under section 14, establishes a fine of no more than \$1,500 for failure to acquire a demolition permit prior to demolition. Demolition is permanent and for the ordinance to have more "teeth" the consequences for violation must be commensurate with the loss of the historic resource and associated community impact based on the established community value historic resources hold. This penalty is not within MMC 17.65.

The McMinnville historic preservation ordinance (ord. 4401 and MMC 17.65) does not provide a definition for nor consequences for "demolition by neglect" of historic resources, other than stating that demolition by neglect is prohibited (MMC 17.65.090). One of the decision criteria to be considered by the Historic Landmarks Committee is whether the historic resource constitutes a hazard to the safety of the public or its occupants—which could be the result of demolition by neglect. The National Trust for Historic Preservation defines demolition by neglect as "the term used to describe a situation in which a property owner intentionally allows a historic property to suffer severe deterioration, potentially beyond the point of repair. Property owners may use this kind of long-term neglect to circumvent historic preservation regulations."<sup>2</sup> Demolition by neglect can be a challenging issue and can result in extreme actions by the City, property owner, or both.

Preservation ordinances can include a safeguard against demolition by neglect, closing the loophole that property owners may leverage to circumvent historic preservation laws. For example, economic hardship is a decision criteria that the Historic Landmarks Committee must consider with the Certificate of Approval for Demolition application; however, there is no language in the McMinnville historic preservation ordinance preventing the property owner from creating their economic hardship through their own neglect. The City may need to add language surrounding demolition by neglect or affirmative maintenance to the historic preservation ordinance to allow the City and Historic Landmarks Committee to consider this issue. See "[Appendix 3: National Trust for Historic Preservation's 'Preservation Law Educational Materials...Demolition by Neglect,'](#)" on page 2424, for additional strategies.

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2 National Trust for Historic Preservation, "Preservation Law Educational Materials...Demolition by Neglect," <https://forum.savingplaces.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=c-cd565f7-27f1-fcd7-f3a9-351b5a7b645b&forceDialog=0> (accessed March 10, 2021).

Assessing economic hardship can be incredibly difficult for the Historic Landmarks Committee, as personal appeals and emotions may be used to sway members and financial analysis is most likely not within the professional skillset of volunteer HLC members. Without a rubric to aid in their assessment, the Committee is left to their own opinions, which can diminish the integrity of the Committee's decisions. The type of evidence required to demonstrate economic hardship must be spelled out in the preservation ordinance. The National Trust for Historic Preservation addresses "economic hardship" in its Preservation Law Educational Materials and states, "Under many preservation ordinances economic hardship is defined as consistent with the legal standard for an unconstitutional regulatory taking, which requires a property owner to establish that he or she has been denied all reasonable beneficial use or return on the property as a result of the commission's denial of a permit for alteration or demolition."<sup>3</sup>

Furthermore, it is unclear what or how the decision criteria are used by the Historic Landmarks Committee in making their decision to approve or deny. There are eight criteria listed in the ordinance, but there is concern that the criteria may be too subjective. The MMC requires the HLC to "consider" the eight criteria, but the code does not require all eight criteria to be met, allowing the HLC to balance which criteria are the most relevant and most important in each particular demolition request. This flexibility can be helpful, but allows for an element of subjectivity. Applicants may be unaware of how their permit application is being evaluated, resulting in potentially confusing, long, and/or contentious Historic Landmarks Committee meetings. The main issue is that all the information for applicants is not set forth in one location; sections 8 and 14 of ordinance 4401 have everything, but the MMC has some, but not all of the information.

## Comparisons

The following section outlines other demolition codes and processes in cities in Oregon. As a basis for size comparison, the City of McMinnville's 2020 population was just over 35,000. McMinnville's Historic Resource Inventory (HRI) has approximately 550 properties.

### ALBANY

The City of Albany has an approximate population of 53,500 and approximately 925 inventoried historic properties, which includes properties in the local inventory and historic contributing, historic non-contributing, and non-contributing properties within its three historic districts. Albany has a demolition review process which applies to all National Register-listed historic buildings and districts as well as those included in the City's official landmark inventory. The Building Official may issue a demolition permit for properties that are designated as non-contributing within a National Register nomination or that have been damaged in excess of 70 percent of its previous value in a fire, flood, wind, or other Act of God, or vandalism. For historic properties that do not meet those conditions, the applicant must go through Landmarks Commission Certificate of Approval review. In addition to the application form (see "Appendix 4: Albany Demolition Form" on page 3131), the applicant must submit:

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3 National Trust for Historic Preservation, "Preservation Law Educational Materials...Assessing Economic Hardship Claims Under Historic Preservation Ordinances," <https://forum.savingplaces.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=ea48dae0-5ade-d1ca-7bfd-e830fbadb462&forceDialog=0> (accessed March 10, 2021).

- (1) A description of the previous and existing uses of the structure and the intended future use of the property.
- (2) A drawing showing the location of the building on the property and any other buildings on the property.
- (3) The overall height of the building and the general type of construction.
- (4) A written statement addressing the review criteria and providing findings of fact in support of the request.

Demolitions do not appear to be a frequent agenda item for Albany's Landmarks Commission. There was a relocation consideration heard in September 2020. The findings of fact outlined in the corresponding staff report are incredibly helpful and would be a helpful example/template for McMinnville (see ["Appendix 5: Albany "Findings of Fact" example" on page 3232](#)). An application in March 2019 to demolish an accessory structure resulted in significant discussion by the Commission highlighting the importance of establishing clear language as to what and how the Commission should review applications for demolition.

## BEND

The City of Bend, with an approximate population of 94,000, is nearly three times the size of McMinnville. Bend has approximately 700 inventoried historic properties, which includes properties in the local inventory and historic contributing, historic non-contributing, and non-contributing properties within its two historic districts. Bend has a demolition review process, outlined in Bend Code 10.20.080 Demolition or Moving of Historic Structures, for contributing and non-contributing historic resources. Historic resources are defined as, "[A] building, historic or cultural site, structure, object, or historic district that meets the significance and integrity criteria for designation as a landmark designated by the City Council, State of Oregon or National Park Service." Contributing resources are those identified as such by the State or Bend Area General Area "as adding to the historical integrity or architectural qualities that make the historic district or resource significant." Noncontributing resources are those identified as not contributing to the historical integrity or architectural qualities.

Of the ordinances reviewed by NWV, Bend has one of the more rigorous demolition review process.

Owners must submit a demolition application (see ["Appendix 6: Bend Demolition of a Historic Resource Application" on page 3737](#)) and participate in a pre-application meeting with the City. The application must submit a letter of their intent to demolish at least 30 days prior to submitting their application to the Deschutes County Historical Society and Oregon State Historic Preservation Office. They must also post a notice at least 30 days prior to submitting their application on the property of their intent to demolish. This notice must also invite purchasers and tenants to make written offers to purchase and/or rent the structure.<sup>4</sup> The pre-application meeting with the City includes a discussion of the various financial incentives available to historic properties and adaptive reuse projects.

Demolitions do not appear to be a frequent agenda item in Bend. The most recent applications

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<sup>4</sup> Bend Development Code (BDC) 10.20.080.A, 10.20.080.B, and 10.20.080.D.

for demolition have been for the demolition of historic, non-contributing accessory structures in January 2020 and November 2019.

## EUGENE

The City of Eugene has a specific demolition review process for historic properties, outlined in Eugene Municipal Code 9.8180 Historic Property – Demolition Approval Criteria. No historic property in Eugene may be demolished without an application approved by the planning director and demolition permit obtained from the city manager (see [“Appendix 7: Eugene Demolition Application” on page 3939](#)). Historic properties are those that are designated as city landmarks or listed in the National Register of Historic Places. Over 300 properties in Eugene are designated (the city has inventoried over 5,000 properties). Prior to submitting an application, the applicant must demonstrate that a pre-application conference was held with the City, and that they solicited purchase offers for the historic property by giving notice of sale within the previous year. The demolition application includes a list of specific requirements, but notes that additional information, including the services of a qualified professional, may be required to adequately address the application. The listed requirements are:

- A written statement that requests meets the approval requirement and a physical description of the property.
- A site plan and architectural information for the property.
- Supporting analysis and documentation, including a historic property mitigation report, and current photographs.

The planning director may approve a postponement of the application if it will likely result in preservation of the historic property at its site, for a maximum of 60 days. Factors that the planning director will consider in assessing the property’s likelihood of preservation:

- (1) The state of repair of the historic property and the financial and physical feasibility of historic rehabilitation, historic property moving, or leaving the property in its current state or location.
- (2) The effects of the moving upon the use and development of the historic property.
- (3) The marketability of the property and the willingness of the property owner to sell the property.

The planning director may impose conditions of approval for the demolition permit, requiring documentation or artifact preservation.

## PORTLAND

The City of Portland, with an approximate population of 645,000, is nearly 19 times the size of McMinnville. Portland has over 500 properties individually listed in the National Register of Historic Places, plus all of the contributing properties in the city’s 17 historic districts. Portland’s demolition review process is hierarchical, with properties listed in the National Register of Historic Places receiving the most protection and properties not designated or inventoried receiving less protection. NRHP-listed properties in Portland must submit a demolition application (see [“Appendix 8: Portland Type IV Land Use Procedure Application” on page 4242](#)) and goes before City Council to approve demolition. City Council must find that an

economic hardship exists and/or that the demolition will better meet the goals and policies of the City's Comprehensive Plan.<sup>5</sup> Properties that are designated as local historic landmarks or historic districts or that are ranked resources on the Historic Resources Inventory (HRI) are subject to a 120-day demolition delay, but there is no ability to deny demolition. Unranked resources on the HRI may be subject to a 35-day demolition day.

McMinnville's current demolition ordinance provides more protection for historic resources than Portland's review process in the sense that it is not only National Register properties that are subject to demolition review.

## REDMOND

The City of Redmond, with an approximate population of 30,000, is comparable in size to McMinnville, with its approximate population of 34,000. Redmond has a demolition process called out specifically within the city's preservation ordinance (Section 8.0820). The Historic Preservation Ordinance does not prevent the demolition of a Landmark if the Building Official determines its required for public safety. Applicants wishing to demolish a Landmark or any property listed in the National Register of Historic Places (either individually or as part of a district), must receive a Certificate of Appropriateness (COA) from the City. Demolition is defined as "the complete destruction or dismantling of sixty-five (65) percent of, or greater, of the entirety of a Landmark."<sup>6</sup> Landmarks are buildings, structures, sites, objects, or districts listed in the City of Redmond Local Landmark Register. Applicants must apply for a Certificate of Appropriateness with the Landmark Commission and a public hearing is held. The applicant must also demonstrate that they have a replacement plan for the site, with plans approved by the City of Redmond (and approved by the Landmark Commission if it is within a locally designated historic district); that the building may not be safely removed from the site (as determined by the Building Official); and that the community value of the proposed use outweighs the value of retaining the Landmark at its original location (with public comment heard). The Landmark Commission may approve, approve with conditions, or deny a demolition application.

The Landmark Commission may impose conditions on applications for the relocation or demolition of a Landmark. Those conditions are:

- Photographic, video, or drawn recordation of the Landmark in its original location; and/or
- In the case of demolition, the Landmark be transported to a new site, and that, to the extent possible, the new location is similar to the original site and that the original setback and orientation of the building is replicated on the new lot; and/or
- In the cases of properties listed in the National Register, that the applicant attempt to obtain permission to move the Landmark from the National Park Service in order to retain the property's listing in the National Register and/or assume all responsibility and cost of removing the if permission cannot be obtained; and/or

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5 "Historic Resource Protections," *City of Portland*, <https://www.portland.gov/bps/historic-resources/historic-resource-protections> (accessed March 9, 2021).

6 City of Redmond, Preservation of Historic Resources, Chapter 8 Development Regulations, 8.0835.4.

- Other reasonable mitigation measures.

At the public hearing for the demolition, the Landmark Commission may also delay an issuance of a Certificate of Appropriateness for 120 calendar days to explore reasonable alternatives to demolition. Furthermore, after a Certificate of Appropriateness is issued for demolition, a legal notice is posted in a local newspaper of general circulation announcing the demolition, the criteria under which the demolition was approved, the historic significance of the property, and inviting the public to provide alternatives to the demolition for consideration by the Commission.

Properties that are not deemed eligible for designation within the Local Landmark Register may be identified by the City Council as of “Historical Interest.” If demolition is requested for properties with the designation of “historical interest,” the city must be permitted to photograph the site or building prior to demolition.

Demolitions do not appear to be a frequent agenda item in Redmond. There have not been any demolition review applications on the Landmarks Commission agendas in the last 2 years.

## SALEM

The City of Salem, with a population of nearly 170,000, is substantially larger than McMinnville. Within Salem’s historic preservation ordinance they have three subsections related to demolition of historic resources: demolition of primary historic structures (Sec. 230.090), demolition of historic accessory structure (Sec. 230.095), and demolition by neglect (Sec. 230.100). Salem has approximately 580 individually listed and properties designated within historic districts (local and National Register of Historic Places). Within Salem’s General Zoning Provisions (Chapter 110 of the Unified Development Code), the code further specifies it is unlawful to knowingly or negligently demolish a historic contributing building or individually listed resource without obtaining a historic resource demolition permit and establishes that violation is a misdemeanor (Sec. 110.145).

Salem distinguishes between primary historic structures and historic accessory structures and establishes a different procedure type for each regarding demolition applications. Historic accessory structures are further classified as either Class 1 or Class 2 structures: Class 1 accessory structures are located at the rear of a property and not visible from the right-of-way, while Class 2 accessory structures are visible from the public right-of-way. Each type (primary historic, Class 1, and Class 2) have a different land use application to complete, plus additional documentation. The documentation for a primary historic structure (see [“Appendix 9: Salem Demolition of Primary Historic Structures” on page 4343](#)) is far more intensive than that for the historic accessory structures (see [“Appendix 10: Salem Demolition of Historic Accessory Structure” on page 4545](#)).

Salem has a dedicated subsection to address demolition by neglect. The subsection states, “No owner of a historic contributing building or an individually listed resource shall maintain and keep such building or resource in a manner that promotes or allows deterioration, dilapidation and decay of any portion of the building or resource, or that would, if the building or resource is vacant, allow open entry by unauthorized persons. Violation of this subsection is hereby declared to be a public nuisance which may be abated as provided in this section.” If there is a violation, code enforcement may initiate enforcement proceedings, which can result in the imposition of a civil penalty. The code enforcement procedures and allowable civil penalties are



outlined in the city's municipal code (Sec. 20J.100; Sec. 20J.140; Sec. 20J.150).

Demolitions do not appear to be a frequent agenda item in Salem.

## Recommendations

Initial recommendations for McMinnville include:

- Repeal Ordinance 4401. The content of the ordinance was included in the MMC in Chapter 17.65, but Ordinance 5034 (G 3-17) that adopted the amendments to Chapter 17.65 does not appear to have repealed Ordinance 4401.
- Update the demolition permit application submitted to the building official to include check boxes for whether a property is included within the City's Historic Resources Inventory and provide information on where to find this information. While a separate certificate of approval application is required for HRI properties, this makes it very clear what the process is for demolition.
- Provide a link to the PDF for the Certificate of Approval application for Historic Resource Demolition, Moving, or New Construction on the Permit Application webpage.
- Consider the City of Salem's approach which tiers the amount of documentation they require for demolition of historic resources. McMinnville could require a higher level of documentation for "Distinctive" or "Significant" resources within the Historic Resource Inventory (i.e. historic landmarks); a moderate level of documentation for "Contributory" or "Environmental" properties; and minimal documentation for accessory structures associated with historic resources. NWV recommends the HLC consider whether they want the demolition process to apply to all historic resources (A, B, C, and D) or differentiate between historic landmarks ("Distinctive" A and "Significant" B) and historic resources ("Contributory" C and "Environmental" D). If the HLC would still like to review demolitions of all historic resources, NWV recommends adopting a review process similar to the one Salem employs.
- Update the current certificate of approval application for demolition (attached with tracked changes)
- Require a pre-application conference with City planning staff to outline financial incentives and/or code relief available for historic properties and instruct applicants on the level of detail required for the demolition permit application.
- Add a subsection within the historic preservation ordinance prohibiting demolition by neglect. See text added to MMC.
- Consider developing a simple graphic or flowchart (like the one used by Bloomington, Indiana, see ["Appendix 11: Bloomington, Indiana, Demolition Guidance Graphic" on page 4747](#)) to outline the metrics used to determine which application to fill out for demolition permission.
- Establish a process connected to code enforcement related to violation of the demolition ordinance with clear penalties, aligning with existing code.
- Consider including definitions or requirements for financial or economic hardship. McMinnville may want to use the legal standard for an unconstitutional regulatory undertaking, which means a property owner has been denied all reasonable beneficial

use or return on their property as the result of the Committee's denial of a permit (this would apply to both demolition and certificate of approval applications). Consider adopting the National Trust for Historic Preservation's educational materials for Economic Hardship Assessment. Train the Historic Landmarks Committee to be consistent and objective in their deliberation and use the following five questions in their evaluation:

- Is the evidence sufficient?
  - Is the evidence relevant?
  - Is the evidence competent?
  - Is the evidence credible?
  - Is the evidence consistent?
- Consider establishing a preservation fund into which a fee is paid in the event demolition is unavoidable. This fund could then be used to support small grants for preservation of historic resources within the city. This would be an alternative approach for mitigation, and the amount could be tiered based on classification, highest for NRHP listed, then decreasing with maybe only photos and a minimal amount for Environmental. Our thought is this is a way to address the community benefit of preservation and rebalance loss from demolition. This fee could also be funneled into the city's existing Facade Improvement Grant Program, particularly for the demolition of non-residential properties.
  - Specific language changes/additions to the demolition ordinance (attached with tracked changes).

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# APPENDIX 1: UPDATES TO 17.65.050 DEMOLITION, MOVING, OR NEW CONSTRUCTION

## 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, historic landmark, or any resource that is listed on the National Register for Historic Places, either individually or as a contributing resource in a historic district, or for new construction on historic sites.

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Applications shall be submitted to the planning department for initial review for completeness as stated in MMC 17.72.040. The Historic Landmarks Committee shall meet within 30 days of the date the application was deemed complete by the planning department to review the request. A failure to review within 30 days shall be considered as an approval of the application.

Field Code Changed

A. The Historic Landmarks Committee may approve, approve with conditions, or deny the application. The Historic Landmarks Committee may delay a permit for up to one hundred twenty (120) days from the time the Certificate of Approval application is deemed complete during which time they will provide the owner of the structure with possible alternatives for demolition, including information concerning local, state, and federal preservation programs. If the permit request affects a "distinctive" resource, the delay period may be extended an additional sixty (60) days.

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

1. The city's historic preservation policies set forth in the comprehensive plan (Chapter 3: Cultural, Historic, and Educational Resources), historic preservation plan, and the purpose of this ordinance;

Commented [KPI]: Or however you want this specifically referenced.

2. The economic use of the historic and/or National Register-listed resource (resource) and the reasonableness of the proposed action and their relationship to the retention of the historic resource with the applicant providing documentation of economic hardship demonstrating the property is incapable of generating a reasonable economic return, including by not limited to:

- a. The purchase price of the property;
- b. Assessed value of the property for the two years immediately preceding the application;
- c. Current fair market value of building or resource as determined by appraiser;
- d. Real estate taxes for the property for two years immediately preceding the application;
- e. The annual gross income generated for the property for the last two years;
- f. The debt associated with the property including a profit and loss statement for the two years immediately preceding the application;
- g. Any expenditures associated with the property during the two years immediately preceding the application;
- h. Report from structural engineer on the condition of the historic and/or National Register-listed resource when that resource is a building(s) or structure(s);
- i. Estimate of cost for rehabilitation of the historic and/or National Register-listed resource with an existing use;
- j. Report from real estate or other market professional identifying potential alternative uses allowed for development of the historic and/or National Register-listed

resource with existing zoning. The report should include a market analysis evaluating need for alternative uses as well as the number of existing alternative uses already present within the zone;

k. Estimate of cost for rehabilitation of the historic and/or National Register-listed resource for at least two other identified uses; and

l. Report identifying available economic incentives for adaptive reuse of the historic and/or National Register-listed resource, including any federal tax credits available for rehabilitation of National Register-listed resources;

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3. The community value (i.e., historic, cultural, social) and significance of the historic and/or National Register-listed resource;

4. The physical condition of the historic and/or National Register-listed resource;

5. Whether the historic resource and/or National Register-listed constitutes a hazard to the safety of the public or its occupants;

6. Whether the historic and/or National Register-listed 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 and/or National Register-listed 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 and/or National Register-listed 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) or offset the community loss through a donation to a heritage organization or fee payment to the city's Facade Improvement Grant Program to support grants for the preservation of other historic resources.

C. If the structure for which a demolition permit request has been filed has been damaged in excess of 70 percent 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 MMC 17.72.120.

Field Code Changed

E. In approving or denying an application for the demolition of a historic resource, the Historic Landmarks Committee may impose the following conditions:

1. Photographic, video, or drawn recordation of the historic resource in its original location; and/or
2. In the case of demolition, that the viability of relocation of the historic resource be considered; and/or
3. Fee payment to a city-wide preservation fund or to the Facade Improvement Grant Program to support grants for the preservation of historic resources. Fee amounts to be graduated and based on the listing/HRI status as a means of communicating relative community impact with National Register-listed resources as the highest and descending with Environmental as the least; and/or
4. Other reasonable mitigation measures, including, but not limited to:
  - a. Donation to a preservation or heritage-related organization;
  - b. Interpretive panel, plaque, and/or marker created on site and included in the redevelopment that commemorates the original historic building;
  - c. Property or building survey;
  - d. Offering architectural features for donation and/or reuse and working with an established company to appropriately salvage;

F. 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 20 black and white photographs with negatives or 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.

G. If any proposed new construction is located in the downtown core as defined by MMC [17.59.020\(A\)](#) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter [17.59](#) MMC (Downtown Design Standards and Guidelines).

H. Demolition by neglect. No historic resource shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this Section. Demolition by neglect shall include any one or more of the following courses of inaction or action:

1. Deterioration of the exterior of the building to the extent that it creates or permits a hazardous or unsafe condition.

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2. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster, or mortar to the extent that it adversely affects the character of the historic resource or could reasonably lead to irreversible damage to the structure.

I. It shall be unlawful to knowingly or negligently demolish a historic resource without first obtaining a historic resource demolition permit under MMC 17.72.040. This includes demolition by neglect as outlined in 17.65.050.H.

1. A violation of this section will be pursued following the procedures outlined in MMC 2.50 "Code Compliance."

2. Penalty for violating this section will require a fee paid into the city preservation fund, in addition to following other penalties for code violations per MMC 2.50.

# APPENDIX 2: UPDATES TO HISTORIC RESOURCE DEMOLITION, MOVING, OR NEW CONSTRUCTION INFORMATION & SUBMITTAL REQUIREMENTS

## Historic Resource Demolition, Moving, or New Construction Information & Submittal Requirements



### Overview

The City of McMinnville recognizes that certain districts, buildings, structures, objects, and sites in the city have special historic, architectural, or cultural significance. These districts, buildings, structures, objects, and sites give the community character and beauty and provide a visual record of McMinnville heritage. Their preservation of these structures and areas is important for the education, enjoyment, and pride of the citizens of McMinnville.

The City of McMinnville has an adopted Historic Resources Inventory, which is a local inventory of historic buildings, structures, objects and sites that have been deemed to be historically, architecturally, or culturally significant to the history of McMinnville. Well over 500 sites, structures, objects, and/or buildings are included on the Historic Resources Inventory. Each building, structure, object, or site on the Historic Resources Inventory is considered a "historic resource" and—depending on its level of significance—may also be considered a "historic landmark." Prior to beginning any construction or maintenance project, property owners with a potentially historic resource are encouraged to contact the McMinnville Planning Department to determine whether it is listed on the Historic Resources Inventory or listed on the National Register of Historic Places, either individually or as a contributing resource in a historic district. When the word property is used it refers to the land within a specific Yamhill County tax parcel along with any permanent improvements attached to the land, whether natural or man-made, including vegetation, buildings, structures, and site features.

In order to encourage the preservation of historic resources, the City adopted a Certificate of Approval process that applies to most changes to buildings or properties that are listed on the Historic Resources Inventory. The Certificate of Approval process ensures that changes are consistent with required historic preservation design standards and guidelines.

A Certificate of Approval is required prior to any of the following actions:

- A. The alteration, demolition, or moving of any historic landmark, or any resource that is listed on the National Register for Historic Places, either individually or as a contributing resource in a historic district;
  - 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 historic sites;
- C. The demolition or moving of any historic resource.

### Pre-Application Requirements

The following items must be completed prior to submittal of an application for review:

- A pre-application conference with City planning staff

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## Application Submittal

The following materials must be provided at the time of submittal, or the application will not be accepted for processing.

- A completed Certificate of Approval application form;
- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), including the following information:
  - Name of owner;
  - Address of site;
  - Lot dimensions;
  - The outline and location of existing structures;
  - The distance of all existing structures from existing property lines;
  - Location, names, and existing widths (right-of-way) of streets and access easements;
  - The outline and location of any proposed building alteration, addition or new construction;
  - The outline and location of any proposed building demolition. If only a portion of a building is to be demolished, highlight that area to be demolished; and
  - Signs, exterior lighting, and other appurtenances such as walls, fences, and awnings.
- Architectural drawings, including elevations showing any proposed demolition or alteration. The elevations shall include colors and descriptions of the proposed finish material.
- Photographs and/or drawings of the existing structure.

## Review Process

The review process described below is provided in more detail in Chapter 17.65 (Historic Preservation) of the McMinnville Zoning Ordinance.

### Demolition, Moving, or New Construction (Section 17.65.050)

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 either individually or as a contributing resource within a historic district, or for new construction on historic sites. 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.

The Historic Landmarks Committee shall base its decision on the following criteria:

1. The City's historic preservation policies set forth in the comprehensive plan (Chapter 3: Cultural, Historic, and Educational Resources), historic preservation plan, and the purpose of this ordinance;
2. The economic use of the historic and/or National Register-listed resource (resource) and the reasonableness of the proposed action and their relationship to the retention of the historic resource with the applicant providing documentation of economic hardship demonstrating the property is incapable of generating a reasonable economic return, including by not limited to:
  - a. The purchase price of the property;

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A public hearing must be held by the Historic Landmarks Committee to consider any application for the demolition or moving of any resource listed on the National Register of Historic Places.¶

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- b. Assessed value of the property for the two years immediately preceding the application;
  - c. Current fair market value of building or resource as determined by appraiser;
  - d. Real estate taxes for the property for two years immediately preceding the application;
  - e. The annual gross income generated for the property for the last two years;
  - f. The debt associated with the property including a profit and loss statement for the two years immediately preceding the application;
  - g. Any expenditures associated with the property during the two years immediately preceding the application;
  - h. Report from structural engineer on the condition of the historic and/or National Register-listed resource when that resource is a building(s) or structure(s);
  - i. Estimate of cost for rehabilitation of the historic and/or National Register-listed resource with an existing use;
  - j. Report from real estate or other market professional identifying potential alternative uses allowed for development of the historic and/or National Register-listed resource with existing zoning. The report should include a market analysis evaluating need for alternative uses as well as the number of existing alternative uses already present within the zone;
  - k. Estimate of cost for rehabilitation of the historic and/or National Register-listed resource for at least two other identified uses; and
  - l. Report identifying available economic incentives for adaptive reuse of the the historic and/or National Register-listed resource, including any federal tax credits available for rehabilitation of National Register-listed resources;
3. The community value (i.e., historic, cultural, social) and significance of the historic and/or National Register-listed resource;
  4. The physical condition of the historic and/or National Register-listed resource;
  5. Whether the historic and/or National Register-listed resource constitutes a hazard to the safety of the public or its occupants;
  6. Whether the historic and/or National Register-listed 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 and/or National Register-listed 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 and/or National Register-listed 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) or offset the community loss through a donation to a heritage organization or fee payment to the city's Facade Improvement Grant Program to support grants for the preservation of other historic resources.



**Planning Department**  
 231 NE Fifth Street ◦ McMinnville, OR 97128  
 (503) 434-7311 Office ◦ (503) 474-4955 Fax  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

<b>Office Use Only:</b>	
File No.	_____
Date Received	_____
Fee	_____
Receipt No.	_____
Received by	_____

## Certificate of Approval (Demolition, Moving or New Construction)

### Applicant Information

**Applicant is:**  Property Owner  Contract Buyer  Option Holder  Agent  Other \_\_\_\_\_

Applicant Name \_\_\_\_\_ Phone \_\_\_\_\_

Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
*(If different than above)*

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Contact Email \_\_\_\_\_

### Property Owner Information

Property Owner Name \_\_\_\_\_ Phone \_\_\_\_\_  
*(If different than above)*

Contact Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Contact Email \_\_\_\_\_

### Site Location and Description

*(If metes and bounds description, indicate on separate sheet)*

Property Address \_\_\_\_\_

Assessor Map No. R4 - - Total Site Area \_\_\_\_\_

Subdivision \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

Comprehensive Plan Designation \_\_\_\_\_ Zoning Designation \_\_\_\_\_

Please note that it is the applicant's responsibility to provide adequate information demonstrating how the project satisfies the applicable approval criteria. Failure to provide such information may result in a denial of the application.

1. What is the Historic Resource Inventory classification of the historic resource?

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2. Architect Name \_\_\_\_\_ Phone \_\_\_\_\_  
(Engineer or Other Designer)

Contact Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Contact Email \_\_\_\_\_

3. Contractor Name \_\_\_\_\_ Phone \_\_\_\_\_

Contact Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Contact Email \_\_\_\_\_

4. The existing use of the property. \_\_\_\_\_

5. The intended use of the property. \_\_\_\_\_

6. What is the reason(s) for the request (e.g., meet building code requirements, redevelopment, etc.).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. Attach a detailed written narrative and any additional materials or evidence necessary to demonstrate how this request is consistent with all applicable approval criteria (Section 17.65.050). The written narrative should include:

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A. The proposed project in detail (specific structures to be removed, new buildings being constructed, etc.);

B. How the proposed project meets the applicable Comprehensive Plan and Historic Preservation Plan policies;

C. The reasonableness of the proposed project and a description of the economic use of the historic and/or National Register-listed resource, and how those factors relate to the alternative action (retention of the historic resource);

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D. The community value (i.e., historic, cultural, social) and significance of the historic and/or National Register-listed resource, and how those factors relate to the proposed project;

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- E. The physical condition of the historic resource, how the condition relates to the proposed project, and how the property came to be in its current condition. Please include a discussion of the property's physical characteristics and integrity in addition to its condition. Include a report from structural engineer on the soundness of the resource and the feasibility of repair;
- F. Whether the historic and/or National Register-listed resource constitutes a hazard to the safety of the public or its occupants;
- G. Whether the historic and/or National Register-listed resource is a deterrent to an improvement project of substantial benefit to the City which overrides the public interest in its preservation; and
- H. Whether retention of the and/or National Register-listed historic resource would be in the best interests of a majority of the citizens of the City.

For historic landmarks (resources ranked "A" or "B") and/or National Register-listed resources, please provide the following additional information:

1. Documentation of economic hardship demonstrating the property is incapable of generating a reasonable economic return, including, but not limited to:
  - A. The purchase price of the property;
  - B. Assessed value for the property for two years immediately preceding the application;
  - C. Current fair market value of the property as determined by appraiser;
  - D. Real estate taxes for the property for two years immediately preceding the application;
  - E. The annual gross income generated from the property for the last two years;
  - F. The debt associated with the property including a profit and loss statement for the two years immediately preceding the application;
  - G. Any expenditures associated with the property during the two years immediately preceding the application;
2. Documentation demonstrating good faith efforts of the property owner to sell, rent, or lease the property, including, but not limited to:
  - A. All real estate listings for the property for the past two years, including prices asked/offers received; and
  - B. All rental listings for the property for the past two years including rental prices and number of rental applications received.
3. Analysis on potential adaptive reuse of the property, including but not limited to:
  - A. Estimate of cost for rehabilitation of the historic and/or National Register-listed resource with an existing use;
  - B. Report from real estate or other market professional identifying potential alternative uses allowed for development of the historic and/or National Register-listed resource with existing zoning. The report should include a market analysis evaluating need for alternative uses as well as the number of existing alternative uses already present within the zone;
  - C. Estimate of cost for rehabilitation of the historic and/or National Register-listed resource for at least two other identified uses; and
  - D. Report identifying available economic incentives for adaptive reuse of historic and/or National Register-listed resource, including any federal tax credits available for rehabilitation of National Register resources;
4. A proposed plan for deconstruction of the resource, including any provisions to salvage historic material for sale, donation, or reuse;
5. A proposed plan for redevelopment of the site.

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

- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), showing the information listed in the information sheet.
- If applicable, architectural drawings, including elevations of the proposed demolition or alteration. The elevations shall include descriptions of the proposed finish material.
- Photographs and/or drawings of the existing structure. All photographs should be clearly labeled with the name of the property, address, date, and view or detail. Minimum requirements include the following:
  - One photograph of each elevation with text identifying the view, such as "south elevation" or "main entry."
  - Four perspective photographs (i.e. views demonstrating the relationship of the historic resource to the site).
  - A minimum of four interior photographs (only needed if interior features were designated or specified by the Historic Landmarks Committee)

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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.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date

## *Preservation Law Educational Materials . . .*

### DEMOLITION BY NEGLECT

“Demolition by Neglect” is the term used to describe a situation in which a property owner intentionally allows a historic property to suffer severe deterioration, potentially beyond the point of repair. Property owners may use this kind of long-term neglect to circumvent historic preservation regulations.

#### Contexts in Which Demolition by Neglect Arises

Sometimes demolition by neglect occurs when an owner essentially abandons a historic property. More often, neglect is an affirmative strategy used by an owner who wants to develop the property. The context in which the issue is raised depends on what action the city decides to take, if any.

At one end of the spectrum, some local governments have taken affirmative enforcement actions against the owners of such properties, ultimately going to court if necessary. At the other end of the spectrum, occasionally the owner of a neglected or deteriorating property will file a lawsuit against the local government, challenging the historic designation or some other feature of the preservation ordinance. The problem with both of these extremes is that courts are very unpredictable.

More commonly, demolition by neglect controversies end up somewhere in the middle of this spectrum, with the local government issuing citations to repair the building, and the owner ignoring the citations. The skirmishes involved in this process often result in a statement that leaves all sides frustrated.

#### Demolition by Neglect and Economic Hardship

Property owners using demolition by neglect as a tactic to work around preservation laws will often argue that the prohibitive cost of repairs and deferred maintenance creates an economic hardship.

Ideally historic preservation ordinances need a safeguard provision to protect against this kind of argument, creating a loophole. Generally, the owner’s own neglect should not be allowed to create an economic hardship. However, it is often difficult to sort out the extent to which an economic hardship is attributable to an owner’s actions, or to things beyond the owner’s control (i.e., circumstances that would have existed in any event). In looking at economic hardship and demolition by neglect, it is important for commissions to look beyond simply the relationship between the cost of repairs and the purchase price or the “as is” value.

#### Tools for Controlling Demolition by Neglect

The most important tool for controlling demolition by neglect is a carefully drafted provision in the local preservation ordinance requiring affirmative maintenance and ensuring that the local commission is equipped with adequate remedies and enforcement authority. Even if a community already has some type of affirmative maintenance provision, it may want to review your ordinance and amend it in order to increase its effectiveness.

The first step is to look at the state's enabling legislation to determine the specific legal authority for affirmative maintenance provisions. Affirmative maintenance provisions have repeatedly been upheld and enforced by the courts. The leading case is *Maher v. City of New Orleans*, 516 F.2d 1051 (5th Cir. 1975), *cert. denied*, 426 U.S. 905 (1976), in which a federal appeals court upheld an affirmative maintenance provision for the French Quarter in New Orleans, ruling that the provision was constitutional as long as it did not have an unduly burdensome effect on the individual property owner. In *Harris v. Parker*, Chancery No. 3070 (Cir. Ct. Isle of Wight County, Va. Apr. 15, 1985), a case from Smithfield, Virginia, the court actually ordered repairs to be carried out in compliance with the affirmative maintenance requirements in the ordinance. And in *Buttnick v. City of Seattle*, 719 P.2d 93, 95 (Wash. 1986), the court ruled that requiring an owner to replace a defective parapet on a historic building did not result in unreasonable economic hardship. The D.C. Court of Appeals in *District of Columbia Preservation League v. Department of Consumer and Regulatory Affairs*, 646 A.2d 984 (D.C. App. 1994), reversed the District of Columbia's approval of the demolition of a historic landmark in dilapidated condition caused by the owner's own actions, because the demolition permit was unauthorized under the District's preservation act.

With the help of its city attorneys, the New York Landmarks Commission has successfully obtained judgments against owners of historic buildings in particularly egregious condition. In 2004, a New York City trial judge ordered the owners of the landmarked "Skidmore House" in Manhattan to make all repairs ordered by the Landmarks Commission and to keep the building in "good repair." See *City of New York v. 10-12 Cooper Square, Inc.*, 793 N.Y.S.2d 688 (N.Y. Cty. 2004). On May 21, 2009, a Manhattan judge ordered the owner of the vacant Windermere Apartment Complex to maintain and repair the complex's three buildings and to pay \$1.1 million in civil penalties.

When drafting an affirmative maintenance provision, it is important to mandate coordination between the preservation commission and the building code enforcement office, to ensure that the commission is consulted before code citations and enforcement orders are issued. Be specific in defining what repairs will be required, and what remedies will be available under what circumstances. Also make sure that the economic hardship provision is drafted so that it prevents owners from arguing that their own neglect has caused an economic hardship.

One important remedy to include in the ordinance is the authority for the local government to make the repairs directly and then charge back the owner by placing a lien on the property. In some jurisdictions, such as New York City, civil penalties up to the fair market value of the property may be levied against violators.

### Incentive Programs and Other Forms of Assistance

Another important tool for controlling demolition by neglect and increasing the effectiveness of affirmative maintenance programs is the use of incentives. Tax incentives, low cost loans, and grants are always encouraged as a way to help owners fund necessary maintenance. Maintenance expenses can also be defrayed through the use of volunteer maintenance crews.

### Enforcement

One reason why demolition by neglect is such a frustrating issue for preservationists and historic preservation commissions is that it often involves a branch of local government over which preservationists have little influence or control—the code inspection and enforcement office. Most preservation groups have good relationships with their preservation commissions, but probably no relationship at all with the building inspection office.



There is often a conflict between these two governmental functions. Even under the best of circumstances, these two offices rarely coordinate their actions. At worst, an outright turf battle may erupt, in which the code enforcement office orders a building demolished as a safety hazard without consulting the preservation commission.

It is therefore very important for local preservation groups to get to know code enforcement officials. A good working relationship with these officials can be critical to helping to ensure that deferred maintenance problems are identified and corrected before they reach the point of demolition by neglect.

## Selected Examples of Demolition by Neglect Provisions

Cited below are:

- examples of provisions in state historic preservation enabling laws authorizing localities to prevent the destruction of historic buildings by "demolition by neglect;"
- sample local ordinance provisions dealing with demolition by neglect through maintenance requirements; and
- examples of the use of eminent domain to prevent demolition by neglect.

### State Enabling Legislation

A number of states permit local governments to prevent the "demolition by neglect" of historic properties. Below are some examples of provisions in state enabling laws for historic preservation intended to address this problem:

**North Carolina:** "The governing board of any municipality may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship."

**Rhode Island:** "Avoiding demolition through owner neglect. a city or town may by ordinance empower city councils or town councils in consultation with the historic district commission to identify structures of historical or architectural value whose deteriorated physical condition endangers the preservation of such structure or its appurtenances. The council shall publish standards for maintenance of properties within historic districts. Upon the petition of the historic district commission that a historic structure is so deteriorated that its preservation is endangered, the council may establish a reasonable time not less than 30 days within which the owner must begin repairs. If the owner has not begun repairs within the allowed time, the council shall hold a hearing at which the owner may appear and state his or her reasons for not commencing repairs. If the owner does not appear at the hearing or does not comply with the council's orders, the council may cause the required repairs to be made at the expense of the city or town and cause a lien to be placed against the property for repayment."

**Alabama:** "Demolition by neglect and the failure to maintain an historic property or a structure in an historic district shall constitute a change for which a certificate of appropriateness is necessary."

**Wisconsin:** "[A] political subdivision may acquire by gift, purchase, or condemnation any property right in historic property, whether the property is real or personal."

## Local Ordinance Provisions Concerning Demolition by Neglect

Many local ordinances include provisions for dealing with the problem of demolition by neglect. Some noteworthy examples are described below:

**San Francisco:** Language in the San Francisco ordinance is quite explicit and detailed with respect to the problem of demolition by neglect:

*"Maintenance:* The owner, lessee, or other person in actual charge of a Significant or Contributory building shall comply with all applicable codes, laws and regulations governing the maintenance of property. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of buildings designated Significant or Contributory, and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. All such buildings shall be preserved against such decay and deterioration and shall be free from structural defects through prompt corrections of any of the following defects:

1. Facades which may fall and injure members of the public or property.
2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports.
3. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
4. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
5. Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering.
6. Any fault or defect in the building which renders it not properly watertight or structurally unsafe."

**Culpeper, Virginia:** A somewhat different approach has been taken by the town of Culpeper, which states in its ordinance:

"Sec. 28-27.2. *Demolition By Neglect.* No officially designated historic landmark or contributing structure within the historic district shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this Section.

*Demolition by neglect* shall include any one or more of the following courses of inaction or action:

1. Deterioration of the exterior of the building to the extent that it creates or permits a hazardous or unsafe condition.
2. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster, or mortar to the extent that it adversely affects the character of the historic district or could reasonably lead to irreversible damage to the structure.

In the event the Culpeper County Building Official, or the agent officially recognized by the Town of Culpeper as serving that capacity, determines a structure in a historic district is being 'demolished by neglect', he shall so notify the Chairperson of the Historic and Cultural Conservation Board, stating the reasons therefor, and shall give the owner 30 days from the date of the notice to commence work rectifying the specifics provided in the notice; or to initiate

proceedings as provided for in Section 28-27. If appropriate action is taken in this time, the Town may initiate appropriate legal action as provided therein."

**Charlottesville, Virginia:** The Charlottesville ordinance not only requires the maintenance of a landmark property but also requires the maintenance of the land on which the landmark sits. Note the following:

*"Section 31-141. Maintenance and repair required.*

Neither the owner of nor the person in charge of a structure or site in any of the categories set forth in section 31-127.2 of this Code shall permit such structure, landmark or property to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce, in the judgment of the appropriate board, a detrimental effect upon the character of the district as a whole or the life and character of the landmark, structure or property in question, including but not limited to:

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of exterior chimneys;
4. The deterioration of crumbling of exterior plasters or mortar;
5. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
6. The peeling of paint, rotting, holes and other forms of decay;
7. *The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, street signs, accessory structures and landscaping (emphasis added);*
8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

The enforcing officer shall give notice by certified or registered mail of specific instances of failure to maintain or repair. The owner or person in charge of such structure shall have sixty days to remedy such violation; provided, that the appropriate board, upon request, may allow an extension of up to sixty days to remedy such violations. Thereafter, each day during which there exists any violation of this section shall constitute a separate violation and shall be punishable as provided in articles XXVIII of this chapter."

**Montgomery County, Maryland:** Montgomery County requires a public hearing when charges of demolition by neglect are raised. If a property owner has been requested to maintain his property but refuses to do so, the ordinance allows the director of the county's Department of Environmental Protection may arrange for necessary repairs and charge the expenses to the owner.

*"Sec. 24A-9. Demolition by Neglect.*

... In the event the corrective action specified in the final notice is not instituted within the time allotted, the Director may institute, perform and complete the necessary remedial work to prevent deterioration by neglect and *the expenses incurred by the Director for such work. Labor and materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be*

*amortized over a period of 10 years subject to a public sale if there is a default in payment."* (Emphasis added.)

**Portland, Maine:** Portland permits its Department of Planning and Urban Development to order property owners to make necessary repairs to deteriorating buildings within specified time periods. The city also spells out in its ordinance procedures for appealing such orders.

*"Section 14-690. Preservation of Protected Structures.*

(a) Minimum Maintenance Requirement.

All landmarks, and all contributing structures located in an historic district, shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control thereof.

- (1) Deteriorated or inadequate foundation which jeopardizes its structural integrity;
- (2) Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety which jeopardize its structural integrity;
- (3) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration which jeopardize its structural integrity;
- (4) Structural members of ceilings and roofs, or other horizontal structural members which sag, split or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety which Jeopardize its structural integrity;
- (5) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety which jeopardize its structural integrity;
- (6) Lack of weather protection which jeopardizes the structural integrity of the walls, roofs, or foundation;

(b) The owner or such other person shall repair such building, object, or structure within a specified period of receipt of a written order to correct defects or repairs to any structure as provided by subsection (a) above, so that such structure shall be preserved and protected in accordance with the purposes of this article.

(c) Any such order shall be in writing, shall state the actions to be taken with reasonable particularity, and shall specify dates for compliance which may be extended by the Department (of Urban Planning and Development) for reasonable periods to allow the owner to secure financing, labor or materials. Any such order may be appealed to the Board of Appeals within 30 days. The Board shall reverse such an order only if it finds that the Department had no substantial justification for requiring action to be taken, that the measures required for time periods specified were not reasonable under all of the circumstances. The taking of an appeal to the Board or to Court shall not operate to stay any order requiring structures to be secured or requiring temporary support unless the Board or Court expressly stay such order. The City shall seek preliminary and permanent relief in any court of competent jurisdiction to enforce any order."

The Portland ordinance also deals firmly with people who violate these and other provisions. In addition to having to pay fines for "each day on which there is failure to perform a required act," the ordinance applies a sort of "scorched earth" policy: If a person violates the ordinance either

willfully or through gross negligence, he may not obtain a building permit for any alteration or construction on the historic landmark site for five years. Moreover, for a period of 25 years, any alteration or construction on the property is subject to special design standards imposed in the ordinance, whether or not the property involved is historic.

### Eminent Domain

Several cities authorize the use of eminent domain as a means of protecting historic buildings from deterioration or neglect. Specific examples include:

**San Antonio, Texas:** San Antonio permits the city to "condemn the [historic] property and take it by the power of eminent domain for rehabilitation or reuse by the city or other disposition with appropriate preservation restrictions in order to promote the historic preservation purposes of [the ordinance] to maintain the structure and protect it from demolition."

**Richmond, Virginia:** Chapter 10, Section 21, of the Code of Virginia states that the Department of Conservation shall have the power to acquire, by purchase, gift or eminent domain, properties of scenic and historical interest which in the judgement of the Director of the Department should be acquired, preserved and maintained for the use and pleasure of the people of Virginia. (Emphasis added)

Richmond, Va., recently obtained a charter change that allows the city to condemn and acquire properties in historic districts suffering from demolition by neglect. The city is currently using this authority to save a Greek Revival house in the Church Hill Historic District.

**Baltimore, Maryland:** Though not a recent example, the City of Baltimore exercised its eminent domain authority to acquire the historic Betsy Ross House in order to preserve it. In *Flaccomio v. Mayor and Council of Baltimore*, 71 A.2d 12 (Md. 1950), the Maryland Court of Appeals upheld the city's use of this power.

**Louisville, Kentucky:** In the late 1970s, the City of Louisville condemned two Victorian townhouses that Louisville the Louisville Women's Club planned to demolish for a parking lot. The city then resold the properties, with preservation covenants attached, to a developer. The Club took the city to court, but the court upheld the city's action.

APPENDIX 4: ALBANY DEMOLITION FORM



**DEMOLITION PERMIT APPLICATION**

Community Development – Building Division  
 333 Broadalbin Street SW • Albany, OR 97321  
 (541) 917-7553 • Fax (541) 917-7598  
[permits@cityofalbanynet.net](mailto:permits@cityofalbanynet.net)

Permits may be obtained online at:

<http://www.cityofalbanynet/aca>

**Job Site Information and Location (where the work is taking place):**

Job Site Address: \_\_\_\_\_

Business Name (If applicable): \_\_\_\_\_

**Property Owner:**

Owner Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_

**Applicant/Contact Information (permit owner):**

Name of Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Contractor/Demolition Company Information:**

Name of Contractor: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_

E-mail: \_\_\_\_\_

Oregon CCB #: \_\_\_\_\_

Lead Based Paint CCB #: \_\_\_\_\_

**Commercial Building Use (if not a residential building):**

Type of Business: \_\_\_\_\_

Square Footage: \_\_\_\_\_

**Project Description:**

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

*I hereby certify I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not.*

Check to verify you have received the Asbestos Abatement Informational handouts.

Authorized Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

<b>Office Use Only:</b>
Permit #: _____

PROPERTY INFORMATION (Check one)	
<input type="checkbox"/> Residential	<input type="checkbox"/> Commercial
Historic District: <input type="checkbox"/> Yes <input type="checkbox"/> No	
DESCRIPTION OF STRUCTURE(S) TO BE DEMOLISHED	
Total Number of Buildings Being Demolished: _____	
Number of Units: _____	
Number of Bedrooms: _____	
Number of Bathrooms: _____	
Is the Property Publicly Owned? <input type="checkbox"/> Yes <input type="checkbox"/> No	
AVAILABLE UTILITIES (check all that apply) Utilities are required to be disconnected prior to permit issuance	
<input type="checkbox"/> Electric	
<input type="checkbox"/> Water	
<input type="checkbox"/> Gas	
<input type="checkbox"/> Sewer	
Number of Water Meters: _____	
Size of Water Meters: _____	
Number of EXISTING Sanitary Sewer Drain Fixtures: _____ (Typical sewer drain fixtures: floor drain, water closet, lavatory, sink, shower, washer, floor sink, drinking fountain drains.)	
ITEMS REQUIRED FOR SUBMITTAL WITH APPLICATION	
<input type="checkbox"/> Application for Erosion Prevention and Sediment Control submitted.	
<input type="checkbox"/> <b>ONE</b> set of construction plans and specifications must be made available electronically to be used for electronic plan review <b>OR FOUR</b> sets of paper plans and specifications.	
<input type="checkbox"/> Letter or contract from owner granting demolition permission. (May be submitted with electronic documents.)	
<input type="checkbox"/> Photographs of exterior, of all buildings to be demolished, all sides. (May be submitted with electronic documents.)	
<input type="checkbox"/> Application of historic review may be required if the property is in a historic district	
NOTICE:	
PERMITS BECOME VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITH 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED.	

Faxed Permit to DEQ on: \_\_\_\_\_ Initials: \_\_\_\_\_ Fax #: (503) 378-4196



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

# Staff Report

## Historic Review of Relocation

HI-20-20

September 30, 2020

### Summary

This staff report evaluates an application for a Historic Review of Relocation (HI-20-20) to relocate the Cumberland Church from a property located at 401 Main Street SE to 520 Pine Street SE (Attachment C.2). The property located at 401 Main Street SE is situated on the southeast corner of Main Street and Santiam Road. The property located at 520 Pine Street SE is situated on the SW corner of Pine Street and Santiam Road. Both properties are situated within the Main Street (MS) zoning district and located outside of a National Register Historic District (Attachment A).

The Cumberland Presbyterian Church is listed on the Local Historic Inventory and is located outside of Albany’s National Register Historic District. The Cumberland Church was constructed circa 1892 and is identified as the only Queen Anne style church within the Albany historic inventory (Attachment B). Decorative features that are listed in the Historic Resources Survey include an open bell tower with Eastlake scroll work, cross-shaped finial on the northwest corner, Eastlake elements in the north peak gable, frieze boards, large colored glass windows, and a round window with Eastlake panels underneath on the north façade.

The property at 401 Pine Street was purchased by the City of Albany in 2000 as a part of the Main Street roundabout project. For some time after purchasing the property, the City leased the Cumberland Church to a small religious congregation. Since that time, the building has been leased for small storage. Beginning in 2004 the City has attempted to sell the property with no success. In 2017 a Historic Properties Work Group was formed. This work group explored the feasibility of restoring or relocating the Cumberland Church. Based on meeting notes (Attachment D) the Historic Properties Work Group determined that it would be best to relocate the Church. In 2019 the Cumberland Church Community Event Center (the applicant) was formed and has been actively engaged with City Council with a plan to relocate the Cumberland Church.

### Application Information

Review Body:	Landmarks Commission (Type III review)
Staff Report Prepared By:	Project Planner Tony Mills
Property Owner:	City of Albany, P.O. Box 490, Albany, OR 97321
Applicant:	Joel Orton, Cumberland Events Center; P.O. Box 2495, Albany, OR 97321
Address/Location	Property A: 401 Main Street SE, Albany, OR 97321 & Property B: 520 Pine Street SE, Albany, OR 97321

[cd.cityofalbany.net](http://cd.cityofalbany.net)



Map/Tax Lot:	Property A: Linn County Assessor’s Map No(s); 11S-03W-06DD Tax Lot 11300 & Property B: 11S-03W-08BB Tax Lot 201
Zoning:	Main Street (MS) Zoning District
Total Land Area	Property A: 9,599 square feet (.22 acres) Property B: 10,454 square feet (.24 acres)
Existing Land Use:	Property A has a vacant church and Property B is undeveloped
Neighborhood:	Willamette
Surrounding Zoning (Property A):	North: Main Street (MS) (across Santiam Road) East: Main Street (MS) (across Santiam Road) South: Main Street (MS) West: Main Street (MS) (across Main Street)
Surrounding Uses:	North: Mixed use commercial retail East: Mixed use commercial retail South: Warehousing and storage West: Computer repair shop
Surrounding Zoning (Property B):	North: Residential Medium Density (RM) (across Santiam Road) East: Residential Medium Density (RM) (across Pine Street) South: Main Street (MS) West: Main Street (MS)
Surrounding Uses:	North: Single-family residential (across Santiam Road) East: Single family residential (across Santiam Road) South: Vacant West: Vacant
Prior Land Use History:	The property was developed prior to land use records. According to the Historic Resources Survey (Attachment B), the church was constructed circa 1892.

## Notice Information

On September 17, 2020, a Notice of Public Hearing was mailed to property owners within 300 feet of the subject property. On September 28, 2020, Notice of Public Hearing was also posted on the subject sites. As of the date of this report, no comments have been received by the Community Development Department.

## Appeals

Within five days of the Landmarks Commission’s final decision on this application, the Community Development Director will provide written notice of decision to the applicant and any other parties entitled to notice.

A decision of the Landmarks Commission may be appealed to the City Council if a person with standing files a Notice of Appeal and associated filing fee with the City within 10 days of the date the City mails the Notice of Decision.



## Analysis of Albany Development Code (ADC) Criteria

### Historic Landmark Relocation Review Criteria (ADC 7.330)

Albany Development Code (ADC) criteria for Historic Review of Relocation (ADC 7.330) are addressed in this report for the proposed development. The criteria must be satisfied to grant approval for this application. Code criteria are written in **bold** followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

#### Criterion 1

##### **No prudent or feasible alternative exists; or**

##### Findings of Fact

- 1.1 To satisfy this criterion, the applicant must demonstrate that there are no prudent or feasible alternatives other than demolition. Alternatives that are often considered include the possibility of rehabilitating the structure, potentially with the assistance of tax incentives or other financial assistance; adapting the structure to a new use; finding a new owner who is willing and able to preserve the structure; incorporating the structure into the applicant's redevelopment plans.
- 1.2 The subject site is currently under the ownership of the City of Albany. The property was purchased in the year 2000 as a part of the Main Street Roundabout project. For a short time, the church was leased to a small religious congregation. Since then, the building has been leased out as storage space. Since 2004 the City has made several unsuccessful attempts to sell the property.
- 1.3 From the minutes of the March 13, 2017 (Attachment D.1) meeting of the Historic Properties Work Group, maintaining the structure on-site costs the City roughly \$6,000 annually.
- 1.4 According to the Linn County Assessor's information on the property, the structure is valued at \$56,330 (Attachment E) and the estimated cost to renovate the structure on site is \$300,000 (Attachment D.1).
- 1.5 The property is a 9,599-square-foot uniquely shaped lot. The building footprint of the church occupies almost half the parcel. The property at 401 Main Street SE has a limited number of available uses due to site constraints and required improvements.
- 1.6 Cumberland Community Events Center has been engaged in an ongoing effort to relocate the church. According to applicant submitted materials (Attachment C.3) at their June 10, 2020 and July 8, 2020 meetings, City Council has encouraged the Cumberland Community Events Center to formally engage in a process to relocate the structure.
- 1.7 The applicants have demonstrated that no feasible alternative to relocation exists. This criterion is met.

#### Criterion 2

##### **The building or structure is deteriorated beyond repair and cannot be economically rehabilitated on the site to provide a reasonable income or residential environment compared to other structures in the general area; or**

##### Findings of Fact

- 2.1 According to March 6, 2017 meeting minutes from the Historic Properties Work Group (Attachment D.1), identified issues with the building include the structure is not compliant with Americans with Disabilities Act requirements, widespread electrical service issues, the main floor requires reinforcement, dry rot has been identified in several locations, and the roof requires replacement. The

estimated cost to make the required repairs total about \$300,000. The Linn County Assessor's office estimates the value of the structure at \$56,330 and the value of the land at \$146,950 (Attachment E).

- 2.2 The property at 401 Main Street SE is situated on the southeast corner of Main Street and Santiam Road within the Main Street mixed use zoning district. The property is 9,599 square feet in size and is a triangular shaped lot that gains access from Santiam Road. The church building footprint occupies roughly 3,500 square feet of the property. Any new use of the property would be required to upgrade the existing gravel parking area to the standards in Article 9 of the Albany Development Code including, paving, striping, landscaping, dedicated travel aisles and setbacks from adjacent properties. These requirements coupled with the shape of the lot will limit the number of available spaces for this site. Parking constraints limit the type of uses and subsequent economic opportunities available.
- 2.3 The proposed relocation site is a 10,454-square-foot, vacant property owned by the City located on the southwest corner of Pine Street and Santiam Road within the Main Street zoning district. The applicant has submitted a site plan (C.1) indicating how the proposed property can accommodate a larger parking area that meets City standards. This will allow for a variety of uses that are not feasible at the structure's current location.

### Criterion 3

**There is a demonstrated public need for the new use that outweighs any public benefit that might be gained by preserving the subject buildings on the site.**

#### Findings of Fact

- 3.1 The proposed relocation will move the structure approximately 1,000 feet. Both properties are within the same Main Street (MS) zoning district. The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area.
- 3.2 Currently, the structure is being leased for storage space. The applicant is proposing to relocate and restore the structure with the intention of opening a non-profit community event center. The proposed use is defined as Community Service which is an allowed use in the MS zone through an approved Site Plan Review.
- 3.3 The current location of the structure is limited to the available uses by the size and unique shape of the property. Relocating the structure will allow for a greater variety of uses that are compatible with the MS zone.

### Criterion 4

**The proposed development, if any, is compatible with the surrounding area considering such factors as location, use, bulk, landscaping, and exterior design.**

#### Findings of Fact

- 4.1 The proposed relocation is not within a National Register Historic District.
- 4.2 This criterion is not applicable.

### Criterion 5

**If the building or structure is proposed to be moved, moving to a site within the same historic district is preferred to moving it outside the district.**

## Findings of Fact

- 5.1 The proposed relocation will be moving a structure not located within a National Register Historic District to another location that is not within a National Register Historic District.
- 5.2 The applicant is proposing to move the structure to a vacant site roughly 1,000 feet southeast from its current location (Attachment C.2) within the same zoning district.
- 5.3 This criterion is not applicable.

## Conclusion

The analysis in this report finds that the applicant has demonstrated that the applicable criteria in ADC 7.330 have been met. Therefore, staff recommends the Landmarks Commission approve the relocation of the Cumberland Church.

## Options and Recommendations

The Landmarks Advisory Commission has three options with respect to the subject application:

- Option 1: Approve the request as proposed;
- Option 2: Approve the request with conditions of approval;
- Option 3: Deny the request.

Based on the discussion above, staff recommends that the LANDMARKS COMMISSION pursue Option 1 and approve the request as proposed. If the LANDMARKS COMMISSION accepts this recommendation, the following motion is suggested.

## Potential Motion

*I move to approve the relocation of the Cumberland Church from the property located at 401 Main Street SE to a property located at 520 Pine Street SE application planning file HI-20-20. This motion is based on the findings and conclusions in the September 30, 2020 staff report, testimony presented, and findings in support of the application made by the Landmarks Commission during deliberations on this matter.*

## Attachments

- A. Location Map
- B. Historic Resource Survey – 401 Main Street SE
- C. Applicant Submitted Materials
  1. Site Plan
  2. Relocation Route
  3. Narrative
- D. Historic Properties Work Group Meeting Minuets
  1. March 6, 2017 minutes
  2. July 24, 2017 minutes
- E. Linn County Assessor’s Summary Report – Tax Account No. 86062

## Acronyms

ADC	Albany Development Code
MS	Main Street Mixed Use District
RM	Medium Density Residential Zoning District

**CITY OF BEND  
HISTORIC RESOURCE  
APPLICATION**  
*Demolition of a Historic Resource*



Primary Historic Structure     Secondary Historic Structure     Non-historic Structure

**Contact Information**

Applicant: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Email: \_\_\_\_\_  
Owner: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Email: \_\_\_\_\_  
Primary Contact: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Email: \_\_\_\_\_

**Property Information**

Historic Name of Site or Building: \_\_\_\_\_  
Address: \_\_\_\_\_ Zone: \_\_\_\_\_  
Tax map & parcel number: \_\_\_\_\_ Related Planning File #: \_\_\_\_\_

The Site or Building is identified as (mark all that apply):

- Local Historic Resource
- National Register of Historic Places
  - Historic Contributing
  - Historic Non-Contributing
  - Non-Historic
  - Vacant Lot

Please identify the dates of construction and any previous major alterations: \_\_\_\_\_  
\_\_\_\_\_

Present Use: \_\_\_\_\_

**Proposal**

Reason for Demolition: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Certified Building Inspector, Registered Engineer or Architect who performed the structural inspection: \_\_\_\_\_

**Submittal Requirements**

---

- Filing Fee
- Current Deed
- Current color photos or digital images of the site or buildings. Submit photos of each side of each building and each side of every interior space. Tape or staple them to additional 8.5" x 11" sheets and label the location of each photo on the pages.
- Fee: This fee is not refundable after public hearing is held.
- Historic photos of the building or structure. (Check with staff, your local historical society, neighbors, or previous owners.)
- Scale drawing of the lot and all buildings, walls, fences, structures, and trees that are more than 50-years old. Show parking area and driveway, if any, and the locations of sidewalks, curbs, and street/road. (8 copies)
- For condemnations: the report of the Building Official.
- Copies of advertisements and news articles offering the building(s) for public or private acquisition or relocation.
- Burden of proof providing the evidence required by the demolition section of the Bend Historic Preservation Code. (8 copies)
- Date of required meeting with staff to explore Preserving Oregon Grants, the Oregon Special Assessment Program and the Federal Investment Tax Credits that may be available to you \_\_\_\_\_. This meeting MUST take place at least a month before submitting this application to allow a thorough exploration.
- Narrative. Letter or narrative report documenting compliance with the applicable approval criteria contained in the Preservation Code.

---

I have examined all statements and information contained herein, and all attached exhibits, and to the best of my knowledge and belief, they are true and correct. I authorize the City of Bend staff and/or Hearings Body to enter property for inspection of the site in conjunction with this land use application.

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

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

---

**PLANNING USE ONLY**

Fee Paid Received by \_\_\_\_\_ Date \_\_\_\_\_ File No. \_\_\_\_\_

APPENDIX 7: EUGENE DEMOLITION APPLICATION



HISTORIC PROPERTY DEMOLITION

Please complete the following application checklist. Note that additional information may be required upon further review in order to adequately address the applicable criteria for approval. If you have any questions about filling out this application, please contact Planning staff at the Permit and Information Center, phone (541) 682-5377, 99 West 10<sup>th</sup> Avenue, Eugene, 97401.

List all Assessors Map and Tax Lot numbers of the property included in the request:

Assessor's Map	Tax Lot	Zoning

Street Address (if available):

Existing Use(s) of the Property:

Proposed Use(s) of the Property:

Historic or Common Name:

**Historic Property Designation Status**

- National Register       City Landmark (Related City File Numbers      )

**Filing Fee**

- A filing fee must accompany all applications. The fee varies depending upon the type of application and is adjusted periodically by the City Manager. Check with Planning staff at the Permit and Information Center to determine the required fee or check the City's website at [www.eugeneplanning.org](http://www.eugeneplanning.org)

**Pre-Application Requirements**

- A Pre-Application Conference was conducted, as required in Section 9.8160(3) of the Eugene Code. (Conference No.:      )
- In order for the City to determine that an application for historic property demolition is complete, the owner must also provide documentation to show that purchase offers have been solicited for the historic property by giving notice of sale of the property within the previous year, as follows:
- Listing the property for sale in both *The Register Guard* and *Oregonian* at least six times and at regular intervals;
  - Posting and maintaining visible for sale sign(s) on the property as specified by the Planning Director; and,
  - Making a financial prospectus on the status of the property available to interested parties.

**Submittal Requirements:**

Provide 3 paper copies and one CD copy of all application materials (i.e. written statement, site plans, etc.) in pdf format at the time of initial submittal. Please note that it is the applicant's responsibility to make sure that the CD and paper copies are identical. Following completeness review, an updated CD and additional paper copies may be required. All site plans must be folded to a size equal or less than 11" x 17".

[www.eugene-or.gov/planning](http://www.eugene-or.gov/planning)

Planning & Development

Planning Division

99 W. 10<sup>th</sup> Avenue, Eugene, OR 97401

Phone: 541.682.5377 or E-mail: [planning@ci.eugene.or.us](mailto:planning@ci.eugene.or.us)

Updated: March 2014

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## HISTORIC PROPERTY DEMOLITION

### Written Statement

- Submit a detailed written statement and any additional materials or evidence necessary to demonstrate how this request is consistent with all applicable approval criteria (see Section 9.8180 of the Eugene Code). Please note that it is the applicant's responsibility to provide adequate information demonstrating how the project satisfies the applicable approval criteria. Failure to provide such information may result in a denial of the application.
  
- Physical Description – The written statement should include a description of the physical appearance of the historic property. Please include the year of construction, a description of the original appearance (if known), any past alterations or additions. Much of this information can be obtained from the property's landmark application.

### Site Plan and Architectural Information

- Show date, north arrow and standard engineer's scale on the site plan.
  
- Show Assessor's Map and Tax Lot numbers on the site plan.
  
- Show a vicinity map on the site plan. (Vicinity map does not need to be drawn to scale.)
  
- Include floor plans, elevation drawings, and a depiction of existing structures and other features on the subject property.

### Supporting Analysis and Documentation

- Provide a legal description of all property included in the application. This description must be typed on an 8-1/2 x 11" white sheet of paper (no letterhead) so that it is suitable for recording.
  
- Provide a historic property mitigation report.
  
- Provide current photographs of the historic property proposed for demolition. All photographs should be clearly labeled with the name of the property, address, date, and view or detail. Minimum requirements include the following:
  - One photograph of each elevation with text identifying the view, such as "south elevation" or "main entry."
  - Four perspective photographs (i.e. views demonstrating the relationship of the historic property to the site).
  - A minimum of four interior photographs (only needed if interior features were designated or specified by the Historic Review Board).

***NOTE: This is not a complete list of all potential requirements. Additional information including the services of a qualified professional may be required in order to adequately address the required approval criteria.***

[www.eugene-or.gov/planning](http://www.eugene-or.gov/planning)

Planning & Development  
Planning Division

99 W. 10<sup>TH</sup> Avenue, Eugene, OR 97401  
Phone: 541.682.5377 or E-mail: [planning@ci.eugene.or.us](mailto:planning@ci.eugene.or.us)

Updated: March 2014

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By signing, the undersigned certifies that he/she has read and understood the submittal requirements outlined, and understands that omission of any listed item may cause delay in processing the application. I (We), the undersigned, acknowledge that the information supplied in this application is complete and accurate to the best of my (our) knowledge.

OWNER (Also the Applicant?  Yes /  No):

Name (print): \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Signature: \_\_\_\_\_

APPLICANT  / APPLICANT'S REPRESENTATIVE  (Check one):

Name (print): \_\_\_\_\_ Phone: \_\_\_\_\_

Company/Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ E-mail (if applicable): \_\_\_\_\_

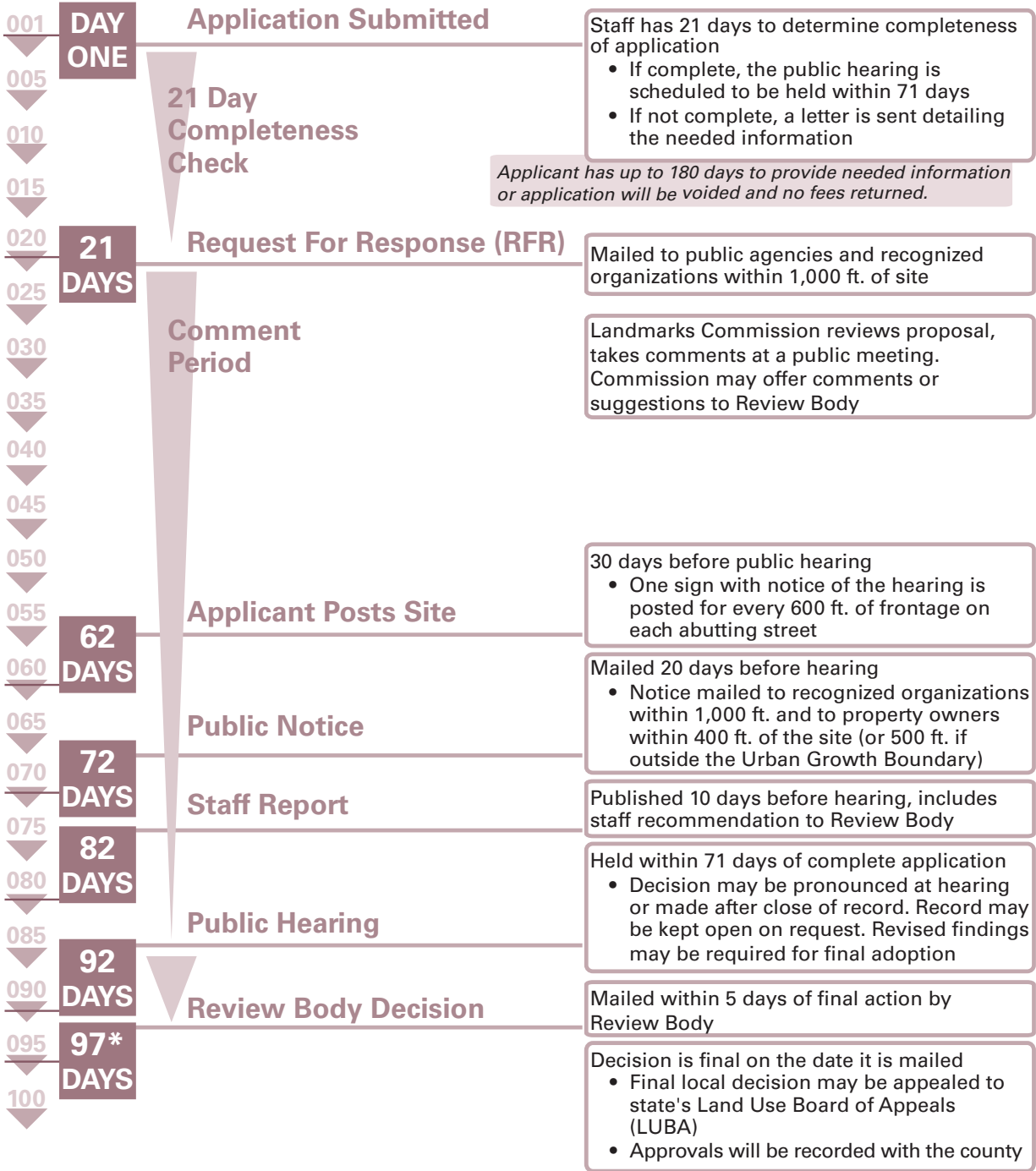
Signature: \_\_\_\_\_



**CITY OF PORTLAND OREGON - BUREAU OF DEVELOPMENT SERVICES**

**Type IV Land Use Review Procedure**

✓ • Pre-Application Conference is required for all Type III Procedures, valid for two years



\*Timeline reflects Portland City Code requirements found in 33.730.030. Oregon State law requires a final local decision within 120 days of complete application. Applicants always retain the right to postpone the decision or to waive the 120 Day Rule. As noted above, requests to keep the record open may cause the timing of the decision to vary.

type4\_procedure 07/30/20

## APPENDIX 9: SALEM DEMOLITION OF PRIMARY HISTORIC STRUCTURES

### **Sec. 230.090. - Demolition of primary historic structures.**

(a) Applicability. Prior to the issuance of a permit for the demolition of a historic contributing building within a local or National Register Historic District or individually listed local or National Register [historic] resource, the owner must obtain historic resource demolition approval pursuant to this section.

(b) Procedure type. Historic resource demolition is processed as a Type III procedure under SRC chapter 300.

(c) Submittal requirements. In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for historic resource demolition shall include:

(1) A statement of the historic value and significance of the building or resource to the community from the listing document (Local, National Register listing) as well as any relevant supportive documentation from a preservation professional, taking into consideration its designation as a local landmark, individually listed historic contributing building on the National Register, or its location within a National Register Historic District;

(2) Documentation confirming that the property owner has owned the property for at least one year prior to applying for historic resource demolition; and

(3) Documentation of economic hardship demonstrating the property is incapable of generating a reasonable economic return, including, but not limited to:

(A)The purchase price of the building or resource;

(B)Assessed value for the two years immediately preceding the application;

(C)Current fair market value of building or resource as determined by appraiser;

(D)Real estate taxes for the two years immediately preceding the application;

(E)The annual gross income generated from the building or resource for the last two years;

(F)The debt associated with the building or resource including a profit and loss statement for the two years immediately preceding the application; and

(G)Any expenditures associated with the building or structure during the two years immediately preceding the application.

(4) Documentation demonstrating good faith efforts of the property owner to sell, rent, or lease the building or resource, including, but not limited to:

(A)All real estate listings for the building or resource for the past two years, including prices asked/offers received; and

(B)All real rental listings for the building or resource for the past two years including rental prices and number of rental applications received.

(5) Analysis of the proposed adaptive reuse of the building or resource, including, but not limited to:

(A) Report from structural engineer on the condition of building or resource;

(B) Estimate of cost for rehabilitation of building or resource with an existing use;

(C) Report from real estate or other market professional identifying potential alternative uses allowed for development of the building or resource with existing zoning. The report should include a market analysis evaluating need for alternative uses as well as the number of existing alternative uses already present within the zone;

(D) Estimate of cost for rehabilitation of building or resource for at least two other identified uses; and

(E) Report identifying available economic incentives for adaptive reuse of the building or resource, including any federal tax credits available for rehabilitation of National Register properties.

(6) A determination of historic resource relocation feasibility pursuant to SRC 230.084.

(7) A proposed plan for deconstruction of the resource, including provisions to salvage historic material for sale, donation, or reuse on the site.

(8) A proposed plan for redevelopment of the site on which the building or resource is located.

(d) Criteria. An application for a historic resource demolition shall be granted if the following criteria are met:

(1) The value to the community of the proposed use of the property outweighs the value of retaining the designated historic resource on the present site.

(2) The designated historic resource is not capable of generating a reasonable economic return and the demolition is economically necessary.

(3) The owner has made a good faith effort to sell or relocate the designated resource.

(4) No prudent and feasible alternative exists to rehabilitate and reuse the designated resource in its present location.

(5) The applicant has demonstrated that the resource will be deconstructed and historic material will be salvaged at the time of demolition.

## APPENDIX 10: SALEM DEMOLITION OF HISTORIC ACCESSORY STRUCTURE

### **Sec. 230.095. - Demolition of historic accessory structure.**

(a) Applicability. Prior to the issuance of a permit for the demolition of a historic accessory structure the owner must first obtain a historic accessory structure demolition approval pursuant to this section.

(b) Classes.

(1) Class 1 historic accessory structure demolition is the demolition of a historic accessory structure located at the rear of the property and not visible from the right-of-way.

(2) Class 2 historic accessory structure demolition is the demolition of a contributing historic accessory structure visible from the right-of-way.

(c) Procedure type.

(1) Class 1 historic accessory structure demolition is processed as a Type I procedure under SRC chapter 300.

(2) Class 2 historic accessory structure demolition is processed as a Type III procedure under SRC chapter 300.

(d) Submittal requirements. In addition to the submittal requirements set forth under SRC chapter 300, an application for Class 1 or Class 2 historic accessory structure demolition shall include:

(1) Site plan. A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

(A) The total site area, property lines with dimensions, and orientation relative to north

(B) The location, width, and names of all existing streets, alleys, flag lot accessways, and public accessways abutting the perimeter of the subject property.

(C) The location and distance to property lines of all existing primary and accessory structures and other improvements including fences, walls, driveways, off-street parking areas, off-street loading areas, vehicle turnaround areas.

(2) A summary of the estimated real market value of the structure, estimated costs to repair the accessory structure, any efforts to repair the structure and a statement regarding why repair is not feasible.

(3) A report from a structural engineer as to the soundness of the structure and the feasibility of repair.

(e) Criteria.

(1) An application for Class 1 historic accessory structure removal shall be granted if the accessory structure lacks structural integrity and would be cost prohibitive to repair on site.

(2) An application for Class 2 historic accessory structure removal shall be granted if the

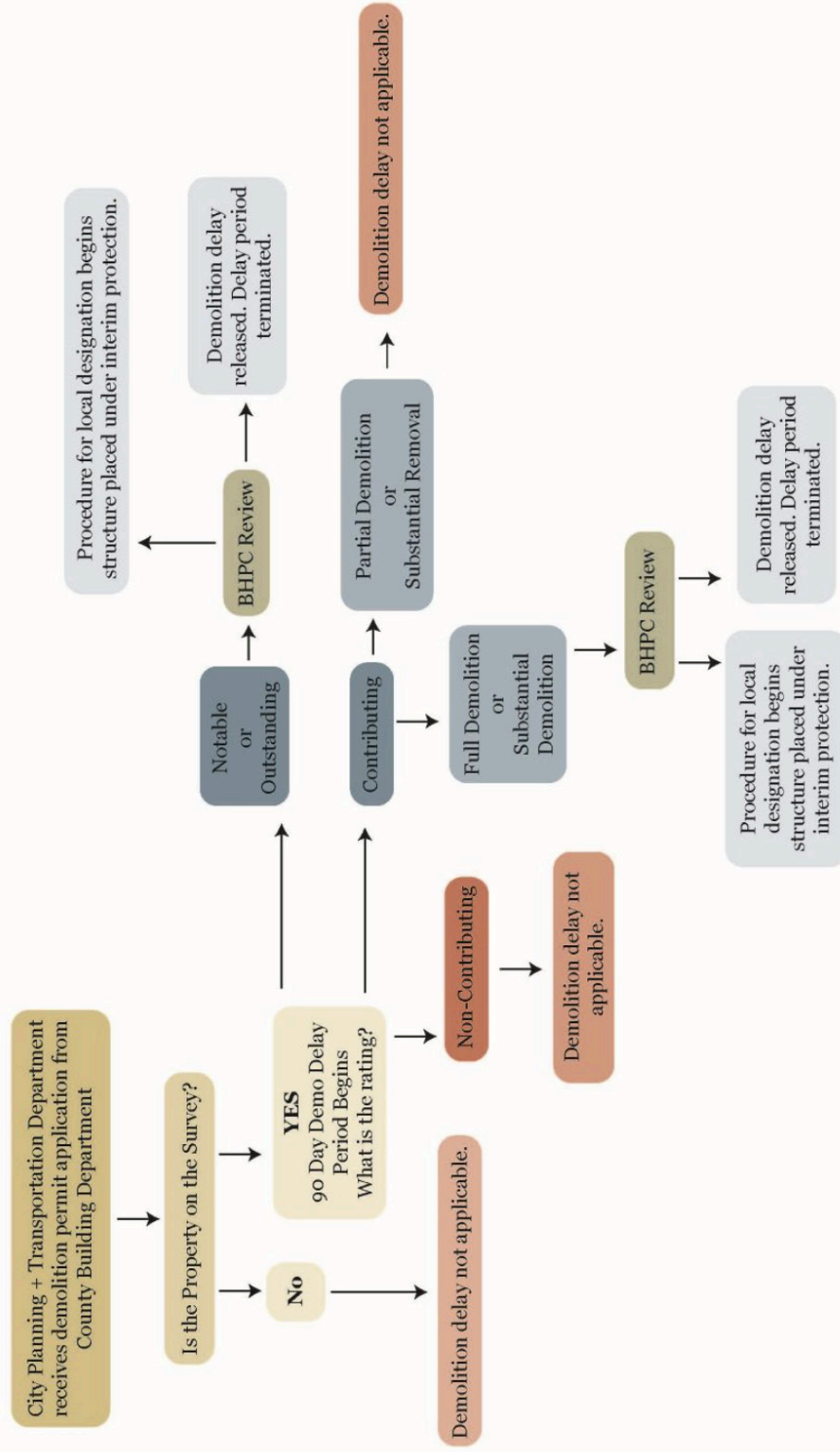
following criteria are met:

(A) The historic accessory structure is not individually significant nor comprised of distinctive stylistic features or examples of skilled craftsmanship that contribute significantly to the historic value of the primary historic structure on the site;

(B) The historic accessory structure lacks structural integrity and would be cost prohibitive to repair on site; and

(C) No feasible alternative exists to rehabilitate the historic accessory structure.

# APPENDIX 11: BLOOMINGTON, INDIANA, DEMOLITION GUIDANCE GRAPHIC



**Demolition** - the complete removal or destruction of any structure excluding its foundation

**Substantial Demolition** - the moving or razing of a building including the removal or enclosure of fifty percent or more of the structure

**Partial Demolition** - means the complete or substantial removal or destruction of any exterior portion of a structure, which shall include but not be limited to:

1. Complete or substantial removal or destruction of a porch, wing, cupola, addition, or similar feature
2. Partial demolition of a roof shall include work that results in any change to the pitch of any portion of the roof, or; covering or otherwise obscuring the existing roof with a new roof of different pitch or material, or; adding any gable, dormer or other similar feature to an existing roof
3. Any work resulting in the obscuring from view of forty percent or more of the exterior of any facade on the structure; or, removal or destruction of the exterior surface of forty percent or more of the area of any exterior facade on the structure
4. Construction or attachment of any addition to a structure
5. Replacement of any window or door where the window or door opening is enlarged or obscured from view
6. Creation of any new window or door opening

**Substantial Removal** - as used in the definition of "partial demolition" means an alteration, pulling down, destruction or removal of a portion of a structure which jeopardizes a structure's individual eligibility for listing in the National Register of Historic Places, or its status as a contributing structure in a national, state or local register of historical places, which shall include, but not be limited to, the removal of a defining architectural feature or element which defines or contributes to the historic character of the structure

## **EXHIBIT 5 – STAFF REPORT**

**DATE:** June 23, 2022  
**TO:** Historic Landmark Committee (HLC) Members  
**FROM:** Adam Tate, Associate Planner  
**SUBJECT:** Update on Historic Outreach & Engagement Program and Activities  
**STRATEGIC PRIORITY & GOAL:**



### **GROWTH & DEVELOPMENT CHARACTER**

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

**OBJECTIVE/S:** Define the unique character through a community process that articulates our core principles

---

#### **Report in Brief:**

This is an update on four items related to Historic Preservation Education and Outreach:

- The Outreach and Engagement Program funded by the Certified Local Government (CLG) grant.
- Speaker Series
- Walking Tour
- Poster Disclaimer Update

This is an informational update only, and no action is required.

#### **Background:**

##### **1. Certified Local Government (CLG) Grant**

The City was awarded as CLG grant to be used for promoting and marketing historic properties in McMinnville. This is being done through development of a series of posters and pamphlets. The grant deadline for completion of work is 8/31/2022.

**Posters.** Several of the posters have been released on the City's social media accounts and they have been a huge hit with the community, generating a lot of interest and excitement. Several citizens, as well as Nectar Graphics has proposed

the idea of making some versions of the posters for sale. This was also brought up at our last meeting as a potential source of fundraising for future historic projects.

Some of the newly released posters are attached as **Attachment 1**.

**Pamphlets.** Nectar Graphics is also developing two pamphlets. The pamphlets are still in the development stage as City Staff and Nectar Graphics continue to collaborate on what the final product will be. Staff hope to review drafts from Nectar Graphics by late June/Early July and get final designs published quickly after the initial review. The pamphlets will be linked to updated webpages for the City's Historic Preservation Programs linked to the main Planning website.

The first pamphlet will be all about the 30 sites the Committee selected. It will have a map showing their locations around the city, and then a page highlighting each site, with a photo and a paragraph about each site's history and significance.

The second pamphlet will be a "how-to" guide for homeowners and property owners that want to make updates to their historic properties. It will explain the process and provide more information about historic preservation in McMinnville and the Historic Landmarks Committee.

## **2. Speaker Series**

The speaker series kicked off this month. Our first speaker series event was on Thursday, June 16<sup>th</sup>, where Michael Haffner spoke about the history of transportation in McMinnville, and covered topics such as:

- Street grids/stamps
- Railroads, stations and the electric interurban rail
- Ralph Wortman (who brought the first car and airplane to McMinnville)
- the highway network
- McMinnville's little known historical bridge networks.

Tiffany Hennes has a tentative date for her speaker series event for July 26th. Her topic will be the City's little-known Chinese and Asian American history.

Mary Beth Branch will also speak at a speaker series event in July, we are looking at a potential late July date for her talk as well. It will be hosted at Buchanan Cellars and focus on the history of the site and the role of historic preservation in their upcoming restoration project. We will have a tour of the building afterwards for interested parties.



In August we will have our final speaker series event at City Park, where Librarian Courtney Terry will give a talk about the history of City Park and the Library. The final date is still TBD.

### **3. *Walking Tour***

We are also working on developing a walking tour that will incorporate several of the sites from the poster series. We will post yard signs at the sites with QR codes so the walkers can learn more information about them. We will also host a guided walking tour to kick this off in either July or August with Adam Tate leading the walk.

### **4. *Poster Disclaimer Update***

We have updated our posters with required language from both the State of Oregon and the National Park Service disclaimers. This language will appear on all official materials associated with the CLG grant.

**Attachment 1. New Posters**



# City of McMinnville

**HISTORIC PRESERVATION**

**Wright Building • Est. 1893**

**SCAN**  
to learn more



Wright Building

OR VISIT  
[www.mcminnvilleoregon.gov/planning](http://www.mcminnvilleoregon.gov/planning)

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# City of McMinnville

HISTORIC PRESERVATION

McMinnville/Southern Pacific Train Depot • Built 1912

SCAN  
to learn more



Pacific Train Depot

OR VISIT  
[www.mcminnvilleoregon.gov/planning](http://www.mcminnvilleoregon.gov/planning)

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