



City of McMinnville

PLANNING

**City of McMinnville
Planning Department**

231 NE Fifth Street
McMinnville, OR 97128
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Historic Landmarks Committee Hybrid In-Person & ZOOM Online Meeting Thursday, November 20 - 3:00 PM Community Development Center, 231 NE 5th Street

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

**Join Zoom Meeting
Meeting ID: 876 3249 3472
Passcode: 456456**

<https://mcminnvilleoregon.zoom.us/j/87632493472?pwd=3JUUqdvkxXwuph2MQaQnmrtjUgwJqB.1>

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

Committee Members	Agenda Items
Mary Beth Branch, Chair Katherine Huit, Vice Chair Mark Cooley Christoper Knapp Lisa Allen City Council Liaison: Scott Cunningham	<ol style="list-style-type: none"> 1) Call to Order 2) Swearing In of New Committee Member – Lisa Allen 3) Citizen Comments 4) Discussion Items <ul style="list-style-type: none"> • Work Session <ul style="list-style-type: none"> ○ Demolition Code Discussion (<i>Exhibit 1</i>) • Committee Interview Questions (<i>Exhibit 2</i>) 5) Committee Member Comments 6) Staff Comments 7) Adjournment

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. You may also request a copy from the Planning Department.



EXHIBIT 1 - STAFF REPORT

DATE: November 20, 2025
TO: Historic Landmark Committee Members
FROM: Matthew Deppe, 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

Report in Brief:

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

This is a continuation of the discussion that occurred on August 28, 2025.

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.

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 27th, 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 seven work session meetings: May 27, 2021; December 16, 2021; January 27, 2022; February 23, 2022; March 23, 2022; June 23, 2022 and August 28, 2025.

The attached proposed code amendments include all of the changes that were directed by committee members at the June 23, 2022, HLC meeting. At that time, the HLC felt that they wanted to see the amendments one more time prior to submitting them to the Planning Commission for review and adoption.

Soon after the June 2022 work session, the City received a land use application for a Certificate of Approval for the demolition of three historic landmarks, and elected to focus on putting the demolition code review on hold as the committee and community focused on the proposed historic landmarks demolition request. What was commonly known as the Gwendolyn Hotel project became an engaged community-wide discussion regarding the decision-making process of the value of preserving three historic projects versus the value of a new investment in the community. The HLC denied the applications for demolition. The Planning Commission approved them on appeal. And the City Council denied them on appeal. The vote was fairly even distributed at each level of decision-making, demonstrating just how difficult it is to either make that decision of value (preservation versus replacement project) and how well the code criteria helps or does not help the community in making that decision.

Now is the opportunity to revisit the proposed demolition code amendments developed in 2021/2022, review them with a new lens and evaluate whether they serve the community based on the lessons learned with the request for the demolition of three historic landmarks in 2022/2023. What worked and what didn't work.

The HLC started this re-evaluation at their meeting on August 28, 2025, and this is a continuation of that discussion.

Attachments:

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

Proposed Amendments to Section 17.65

Historic Preservation

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> , Moving, or New Construction
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 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~~ relocation 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, 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 Landmark 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 Landmark.
- 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.
 - d. copy of McMinnville Historic Resources survey sheet
 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; the dates of the alteration and whether or not the alteration(s) were approved by the Historic Landmarks Committee.
 - 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 with demonstrated experience or the jurisdictional 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, floor plans, exterior elevations, exterior renderings, schedule of exterior features and finishes, building materials (colors and features), section of exterior, construction documents that are ready for building permit issuance and other documents that may be necessary as determined by the Planning Director. 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;
 3. If the historic significance is association with a person(s), are there other historic resources within the city limits associated with that person(s).
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;

5. 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.
 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, either by restoration, rehabilitation, 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 **property** 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 historic landmark, and/or a property 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 high resolution color photographs and electronic files~~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, moldings 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 automatically 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 (accessory structures and non-contributing resources within a National Register for Historic Places nomination are excluded from the Certificate of Approval process). 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) 20 high resolution color photographs and electronic files ~~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.
- 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).
- E. If the alteration removes any historic integrity from a contributing property on the National Register of Historic Places, the Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of property listed on the National Register of Historic Places consistent with the procedures in MMC 17.72.120.

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)

DRAFT



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.¹

- 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

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.”² 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.

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."³

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:

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.⁴ 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

⁴ 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.⁵ 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."⁶ 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

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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Deleted: on which no structure exists

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;

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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

Office Use Only:	
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? _____
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:
 - 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);
 - 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 NEGLIGENCE

“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@cityofalbany.net

Permits may be obtained online at:

<http://www.cityofalbany.net/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: _____

Office Use Only:
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"/> ONE set of construction plans and specifications must be made available electronically to be used for electronic plan review OR FOUR 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



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 10th 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

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

Planning & Development

Planning Division

99 W. 10th Avenue, Eugene, OR 97401

Phone: 541.682.5377 or E-mail: 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

Planning & Development
Planning Division

99 W. 10TH Avenue, Eugene, OR 97401
Phone: 541.682.5377 or E-mail: 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: _____

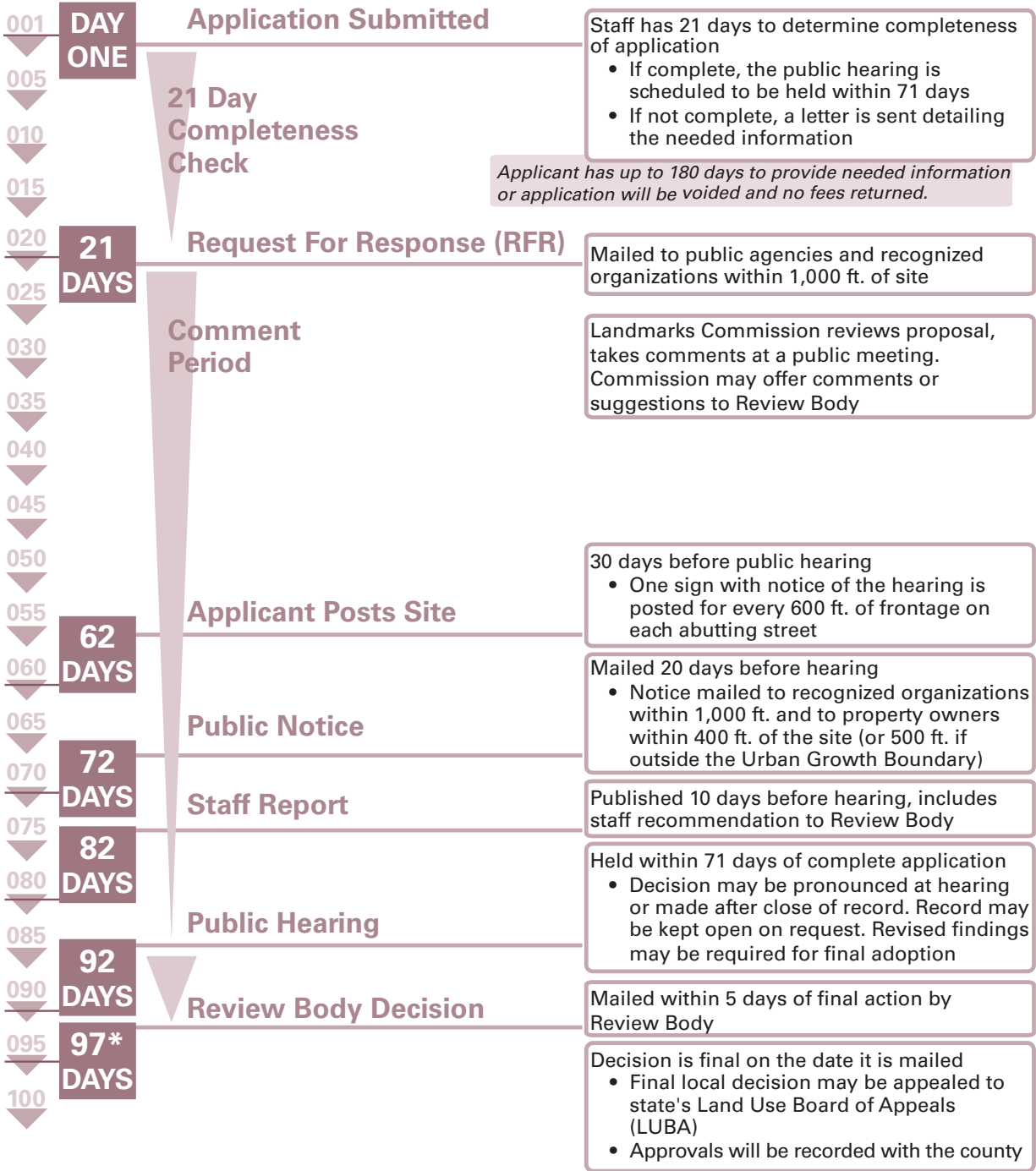
City/State/Zip: _____ E-mail (if applicable): _____

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

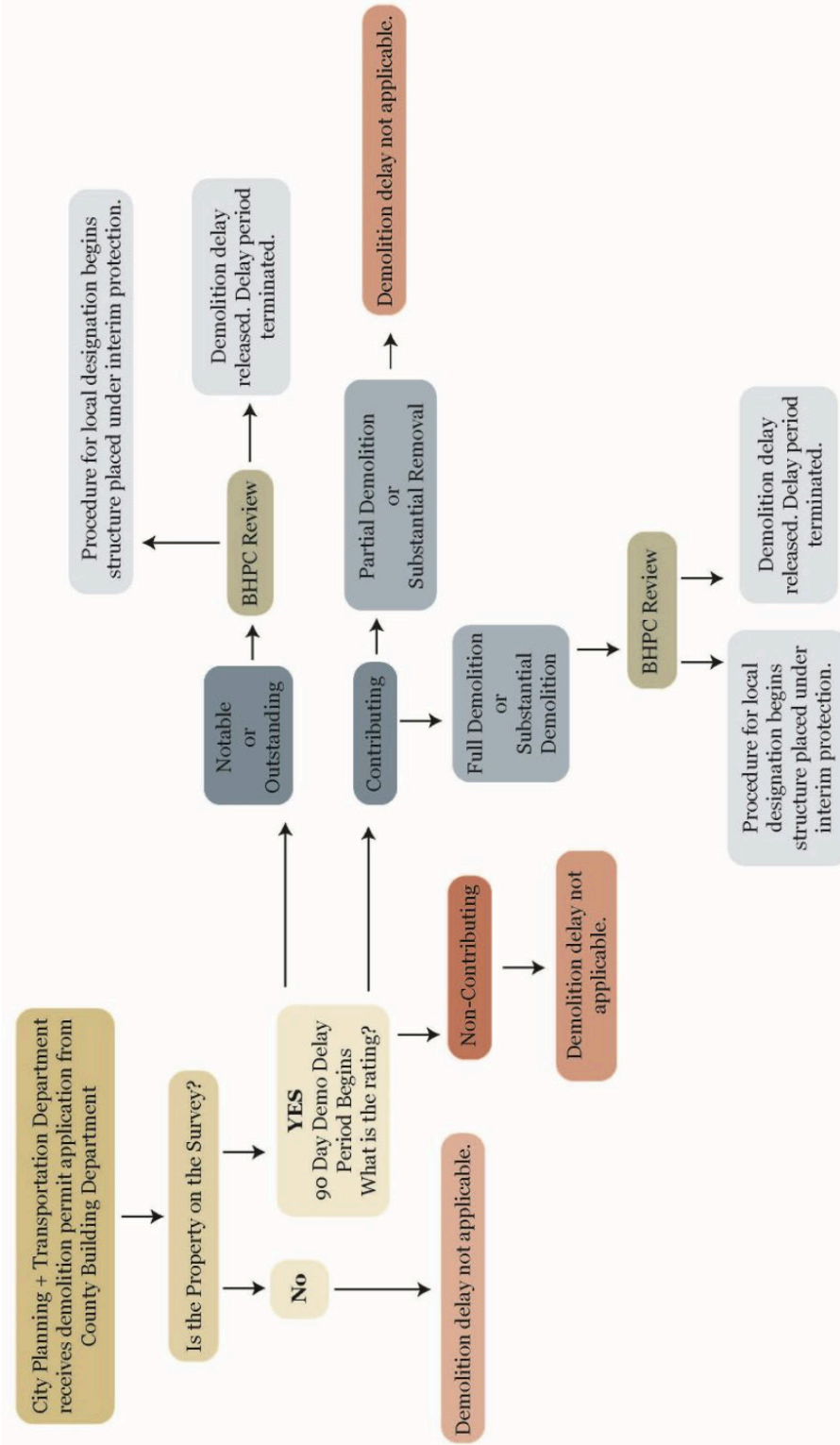
following criteria are met:

(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 2: DRAFT Historic Landmarks Committee Interview Questions

Applicant Name: _____ Interviewer: _____ Date: _____

QUESTION:

1. **What motivates your interest in serving on the Historic Landmarks Committee?** Please describe any relevant experience, expertise, or unique perspective you would contribute to the committee's work.
2. **The City of McMinnville maintains a Historic Resources Inventory and enforces preservation regulations through a formal review process.** Do you have prior experience evaluating architectural plans or advising on how to integrate historic preservation into construction or renovation projects?
3. **Looking ahead, what potential challenges do you foresee for historic preservation efforts in McMinnville?** What strategies or policy recommendations would you propose to address these issues?
4. **Committee decisions are made through a democratic process involving data analysis, discussion, and voting.** How would you navigate situations where you personally disagree with a decision, particularly when discussing it outside of official meetings?
5. **Given the City's commitment to diversity, committee members may hold differing viewpoints and priorities.** How would you approach conflict resolution and foster constructive dialogue among members with opposing perspectives?
6. **At the conclusion of your term, how would you define a successful experience on the committee?** Complete the sentence: "That was a great experience because..."