

## **ORDINANCE NO. 5131**

**AN ORDINANCE DENYING THE REQUEST FOR A CERTIFICATE OF APPROVAL FOR DEMOLITION OF HISTORIC RESOURCES AT 609, 611 AND 619 NE THIRD STREET, DENYING THE REQUEST FOR DOWNTOWN DESIGN REVIEW, AND ADOPTING A DECISION DOCUMENT WITH FINDINGS TO THAT EFFECT.**

### **RECITALS:**

**WHEREAS**, on August 9, 2022, HD McMinnville LLC submitted four land-use applications to the City of McMinnville. Three to request a Certificate of Demolition for the historic resources on 609, 611, and 619 NE Third Street (Dockets HL 6-22, HL 7-22, and HL 8-22), and one for review of the compliance of a new hotel constructed on the three properties with McMinnville's Downtown Design Standards and Guidelines (Docket DDR 2-22); and

**WHEREAS**, the new hotel could only be constructed if the three historic resources were demolished; and

**WHEREAS**, on January 26, 2023, the Historic Landmarks Committee voted to deny all three requests for demolition and the new construction compliance with the downtown design standards and guidelines; and

**WHEREAS**, on February 10, 2023, the applicant appealed the Historic Landmarks Committee decisions to the McMinnville Planning Commission (Dockets AP 1-23, AP 2-23, AP 3-23, and AP 4-23); and

**WHEREAS**, on March 16, 2023, the McMinnville Planning Commission overturned the Historic Landmarks Committee decisions and voted to approve all four land-use decisions; and

**WHEREAS**, on April 3, 2023, Daniel Kiser appealed the Planning Commissions decisions to the McMinnville City Council (Dockets AP 5-23, AP 6-23, AP 7-23 and AP 8-23); and

**WHEREAS**, on April 18, the McMinnville City Council hosted a public hearing to consider the appeal of the Planning Commission decisions, heard a staff report, the applicant's presentation, the appellant's presentation and public testimony both in support and opposition of the applications, and then closed the public record; and

**WHEREAS**, the McMinnville City Council then heard the applicant rebuttal on April 19, 2023, closed the public hearing and deliberated directing city staff to draft findings for a decision that denies the three land-use applications for a Certificate of Approval for Demolition of the historic resources at 609, 611 and 619 NE Third Street; and

**WHEREAS**, with a decision to deny the demolition of the historic resources at 609, 611 and 619 NE Third Street, the application for the new construction of the Gwendolyn Hotel on the same site is no longer viable.

**NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF  
MCMINNVILLE ORDAINS AS FOLLOWS:**

1. That the appeals in Dockets AP 5-23, AP 6-23, AP 7-23, and AP 8-23 are granted and, the permits sought in Dockets HL 6-22, HL 7-22, HL 8-22, and Docket DDR 2-22 are thereby denied.
2. That the Council votes to adopt the decision document for the City Council's decision on AP 5-23, AP 6-23, and AP 7-23 as provided in Exhibit A; and
3. That the Council has determined that since the new construction project (Docket DDR 2-22) is reliant upon the successful demolition of the three historic resources in Dockets HL 6-22, HL 7-22, and HL 8-22, and with the adoption of this ordinance those applications are denied, then subsequently DDR 2-22 is denied as well; and
4. This Ordinance will take effect 30 days after passage by the City Council.

Passed by the McMinnville City Council this 8<sup>th</sup> day of May 2023 by the following votes:

Ayes: Geary, Payne, Garvin, Drabkin

Nays: Menke, Chenoweth, Peralta



\_\_\_\_\_  
MAYOR

Approved as to form:



\_\_\_\_\_  
City Attorney

Attest:



\_\_\_\_\_  
City Recorder

**EXHIBITS:**

- A. AP 5-23, AP 6-23 and AP 7-23 Decision Document



Community Development Department  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7311

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

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS OF THE MCMINNVILLE CITY COUNCIL FOR THE DENIAL OF A DEMOLITION OF THE HISTORIC LANDMARKS LOCATED AT 609, 611 and 619 NE THIRD STREET. THIS IS A RULING IN FAVOR OF THE APPELLANT IN THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF THESE LAND-USE APPLICATIONS**

**DOCKET:** AP 5-23 (Appeal of AP 1-23, HL 6-22 Certificate of Approval for Demolition of a historic resource at 609 NE Third Street)

AP 6-23 (Appeal of AP 2-23, HL 7-22 Certificate of Approval for Demolition of a historic resource at 611 NE Third Street)

AP 7-23 (Appeal of AP 3-23, HL 8-22 Certificate of Approval for Demolition of a historic resource at 619 NE Third Street)

**REQUEST:** Appeal of the Planning Commission's decision to approve the applicant's request for the demolition of three existing buildings that are listed on the McMinnville Historic Resources Inventory and are also listed on the National Register of Historic Places as a Significant Contributing buildings in the McMinnville Downtown Historic District.

**LOCATION:** 609 NE Third Street. The resource is located at the property that is identified as Tax Lot 4500, Section 21BC, T. 4 S., R. 4 W., W.M.

611 NE Third Street. The resource is located at the property that is identified as Tax Lot 4300, Section 21BC, T. 4 S., R. 4 W., W.M.

619 NE Third Street. The resource is located at the property that is identified as Tax Lot 4500, Section 21BC, T. 4 S., R. 4 W., W.M.

**ZONING:** C-3 General Commercial (Downtown Overlay District)

**APPLICANT:** Mark Vuong, HD McMinnville LLC

**APPELLANT:** Daniel Kiser

**PROPERTY OWNER:** 609 NE Third Street, Jon Bladine, Oregon Lithoprint, Inc.  
611 NE Third Street, Jon Bladine, Bladine Family Limited Partnership  
619 NE Third Street, Phillip Frischmuth, Wild Haven, LLC.

**STAFF:** Heather Richards, Community Development Director

**DATE DEEMED COMPLETE:** September 7, 2022

**HEARINGS BODY**

**& ACTION:** McMinnville City Council

**HEARING DATE**

**& LOCATION:** April 18, 6:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 856 0506 4343, Meeting Password: 425877

Hearing continued to April 19, 2023, 6:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 856 0506 4343, Meeting Password: 425877

First reading of Ordinance No. 5131 adopting findings on May 5, 2023, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 822 9166 0812, Meeting Password: 096136

Second reading of Ordinance No. 5131 adopting findings on May 8, 2023, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 897 1225 4455, Meeting Password: 343494

**HEARINGS BODY**

**& ACTION:** McMinnville Planning Commission

**HEARING DATE**

**& LOCATION:** March 2, 6:30 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853

Hearing continued to March 16, 2023, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 893 6863 4307, Meeting Password: 989853

**HEARINGS BODY**

**& ACTION:** McMinnville Historic Landmarks Committee

**HEARING DATE**

**& LOCATION:** September 29, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 859 9565 0539, Meeting Password: 661305

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

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

Meeting continued to January 26, 2023 4:00 PM for Historic Landmarks Committee deliberation, a decision and adoption of written findings. In person at Kent Taylor Civic Hall 200 NE 2<sup>nd</sup> St and online via Zoom. Zoom Online Meeting ID: 885 9559 0268, Meeting Password: 925948.

**PROCEDURE:**

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

**CRITERIA:**

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

**APPEAL:**

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

**COMMENTS:**

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

Based on the findings and conclusionary findings, the City Council finds in favor of the appellant that the applicable criteria are **NOT SATISFIED** and **DENIES** the Certificate of Approval for the demolition of the structures at 609, 611 and 619 NE Third Street (AP 5-23, AP 6-23, and AP 7-23).

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**DENIES**

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City Council: \_\_\_\_\_

Remy Drabkin, Mayor

Date: May 8, 2023

Planning Department: \_\_\_\_\_

Heather Richards, Community Development Director

Date: May 9, 2023

## **I. SUMMARY:**

**APPEAL:** The appellant is appealing the decision of the Planning Commission to approve the applicant's land-use applications for a Certificate of Demolition for the historic resources at 609, 611, and 619 NE Third Street.

In their notice of appeal dated April 3, 2023, the appellant asserted that the applications did not meet the applicable criteria and that the Planning Commission unreasonably and incorrectly interpreted the Oregon Administrative Rules (OAR) and relevant McMinnville Municipal Code (Chapter 17, Zoning Ordinance), and failed issue findings consistent with the evidentiary record, and that the decisions were not supported by substantial evidence in the record before the Planning Commission.

Per the McMinnville Municipal Code, an appeal of the decision of the Planning Commission is noticed as a de novo public hearing of the City Council. The City Council opened a public hearing on April 18, 2023, heard the staff report, applicant presentation, and appellant presentation, and listened to public testimony. The City Council then closed the public record. On April 19, 2023, the applicant provided a rebuttal then the City Council closed the public hearing and deliberated providing direction to city staff to draft findings of denial for all three land-use demolition applications. On May 5, the City Council reconvened to consider Ordinance No. 5131 adopting the decision document and findings, at which time they voted on the first reading of the ordinance. On May 8, the City Council voted on the second reading of the ordinance and adopted the decision document and findings.

**APPLICATION:** The applicant has provided information in their application narrative and findings regarding the history of the subject site(s) and the request(s) under consideration.

### ***Proposed Project***

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

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

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

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

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



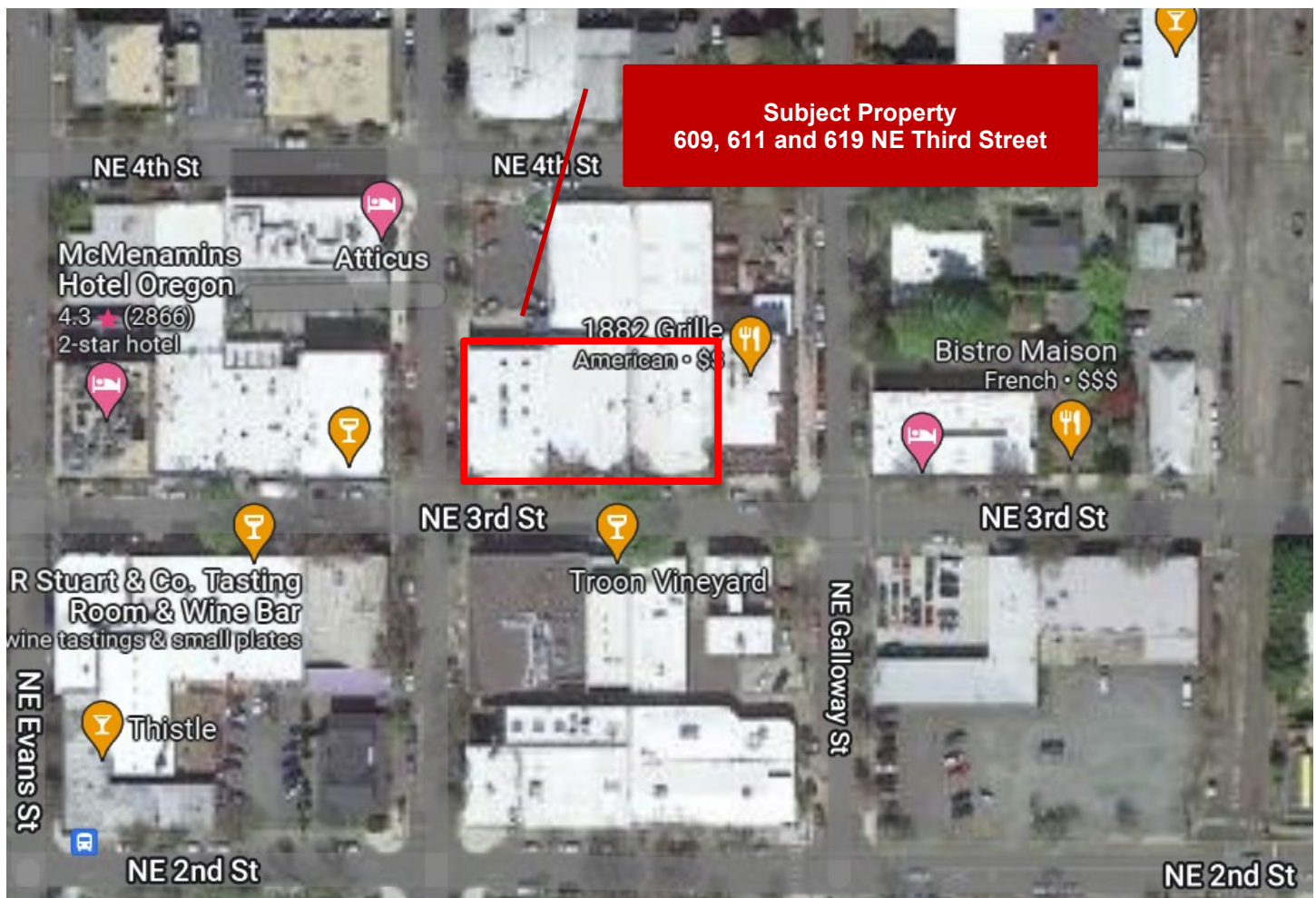
The proposal is to replace the three underutilized buildings at 609, 611, and 619 NE 3<sup>rd</sup> Street with a 90-95 room boutique hotel. The ground floor will include the hotel lobby, a signature restaurant at the corner of 3rd and Ford streets, with seasonal sidewalk dining, and small retail shop(s). The entire rooftop will be a mix of public uses, anchored by a small restaurant/bar opening onto a large terrace of seating and raised-bed landscaping. Though parking is not required in this location, a below-grade parking garage accommodating 68 (reduced to 67 parking spaces per supplemental materials provided on November 4, 2022) parking stalls is proposed. The garage ramp will be at the north end of the property, mid-block on Ford Street, to avoid interrupting the 3<sup>rd</sup> Street pedestrian experience.

(Application Narrative, page 3)

### Subject Property & Request

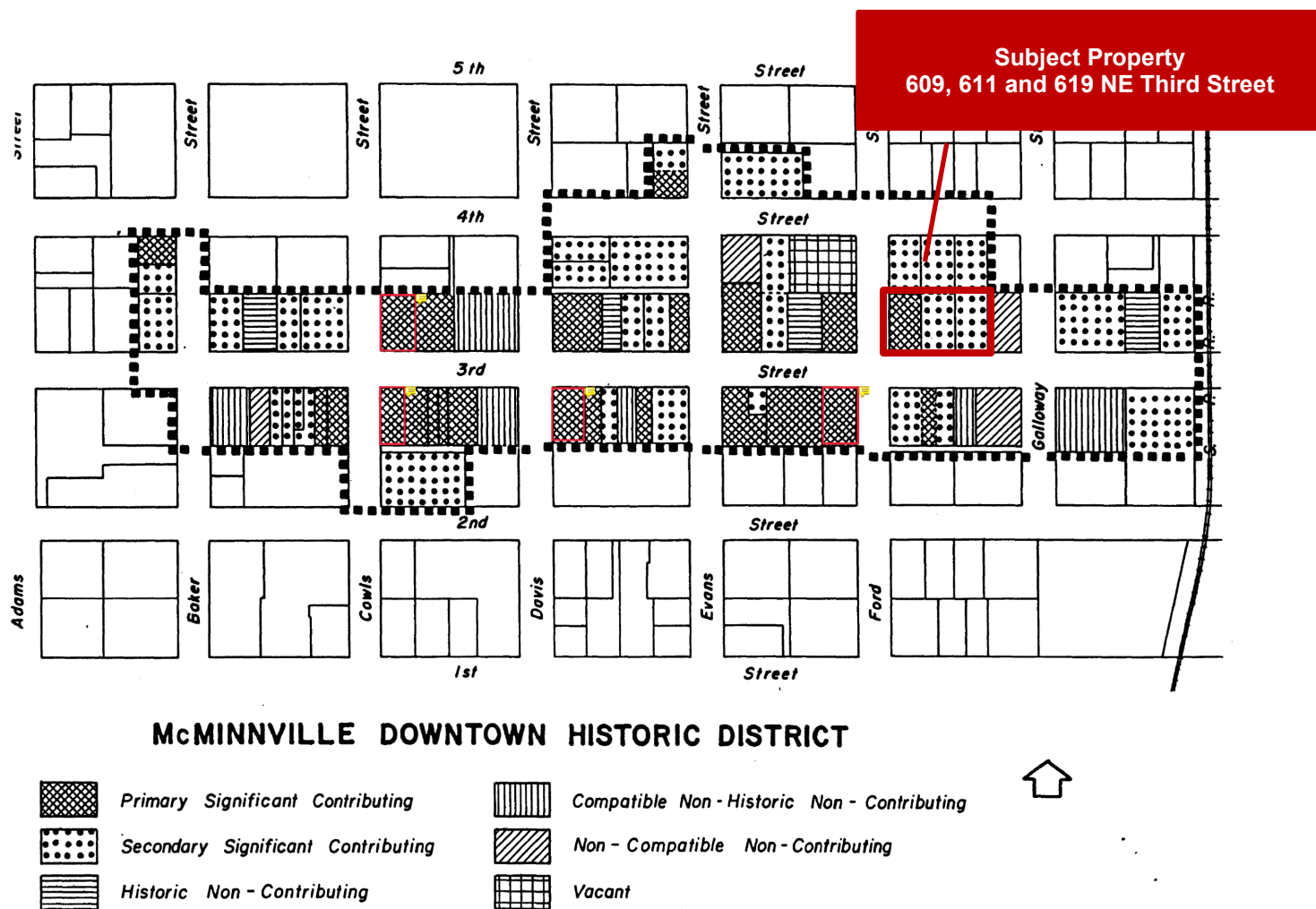
The subject property is located at 609, 611, and 619 NE Third Street. **See Vicinity Map (Figure 1) below, which identifies the approximate location of the buildings in question.**

Figure 1. Vicinity Map (Building Outline Approximate)



The existing buildings on the subject properties are listed as Primary Significant Contributing properties (609 NE Third Street) and Secondary Significant Contributing properties (611 and 619 NE Third Street) in the McMinnville Downtown Historic District on the National Register of Historic Places. **See McMinnville Downtown Historic District Map (Figure 2)**

**Figure 2. McMinnville Downtown Historic District Map**

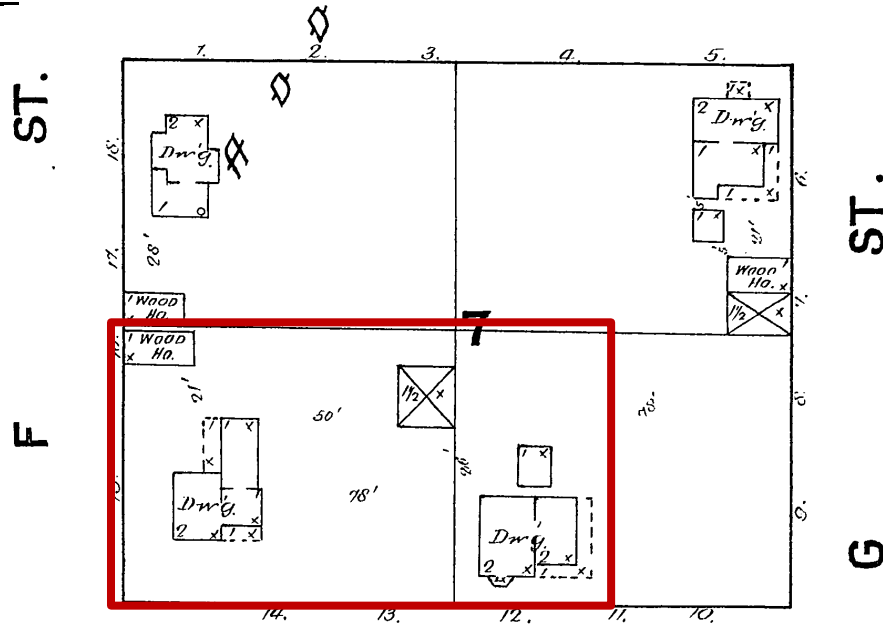




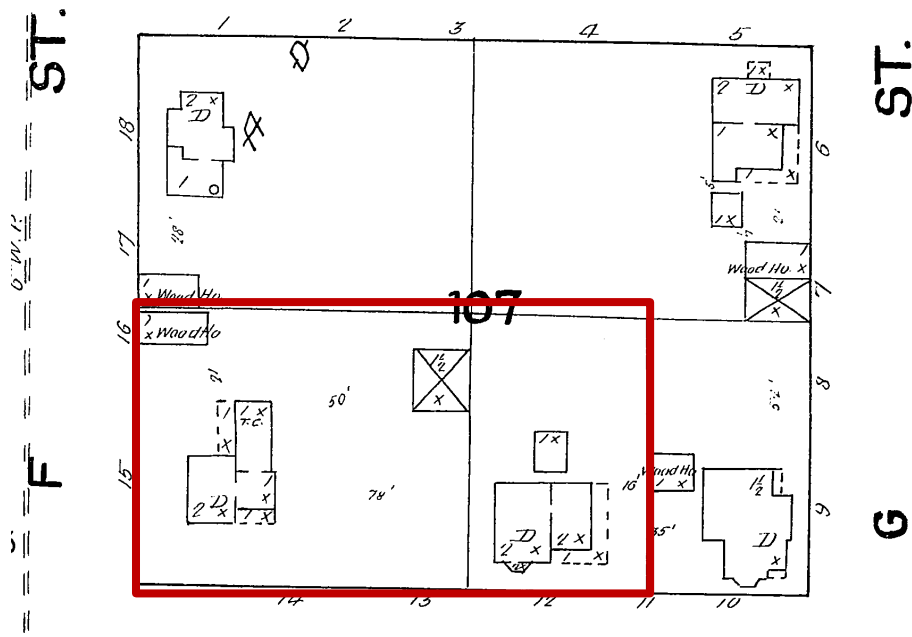
All three properties originally hosted structures associated with a dwelling on them prior to 1889, and then between 1902 and 1937 they were redeveloped into commercial buildings. **Please see Figure 3, Series of Sanborn Maps below.**

**Figure 3. Series of Sanborn Maps**

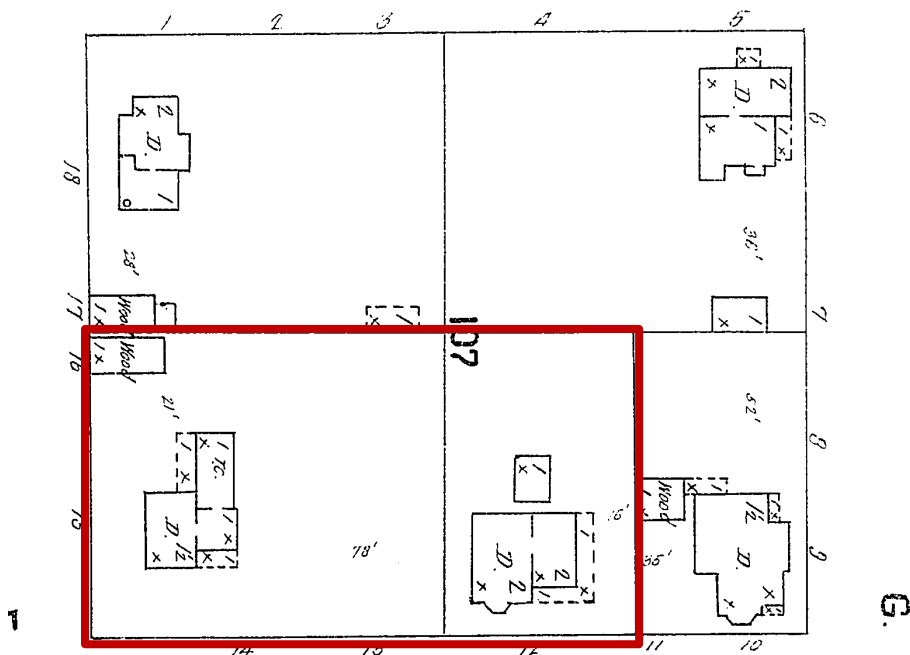
**Sanborn Map, 1889**



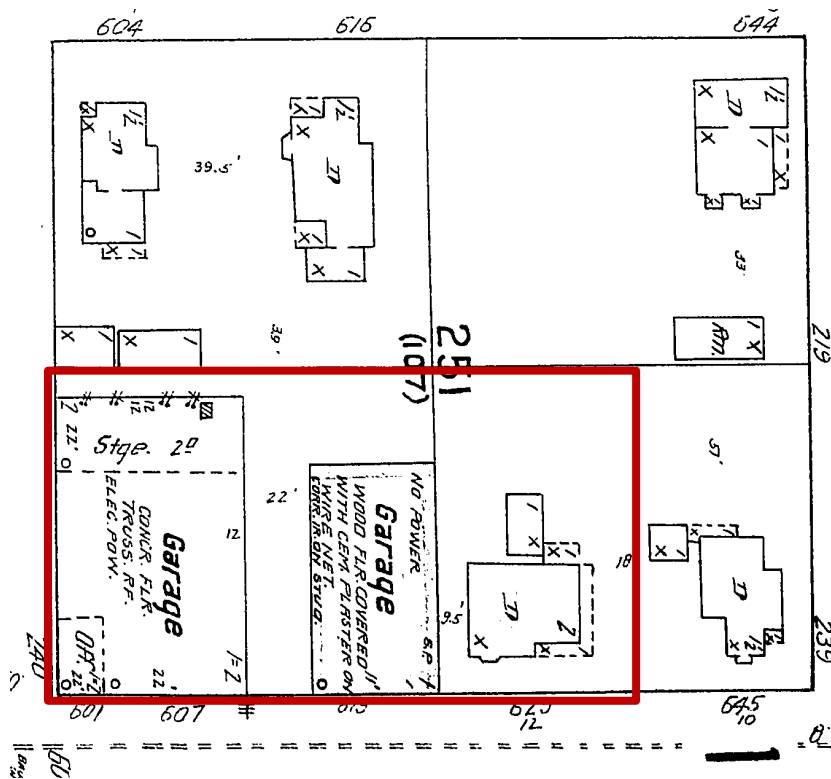
**Sanborn Map, 1892**

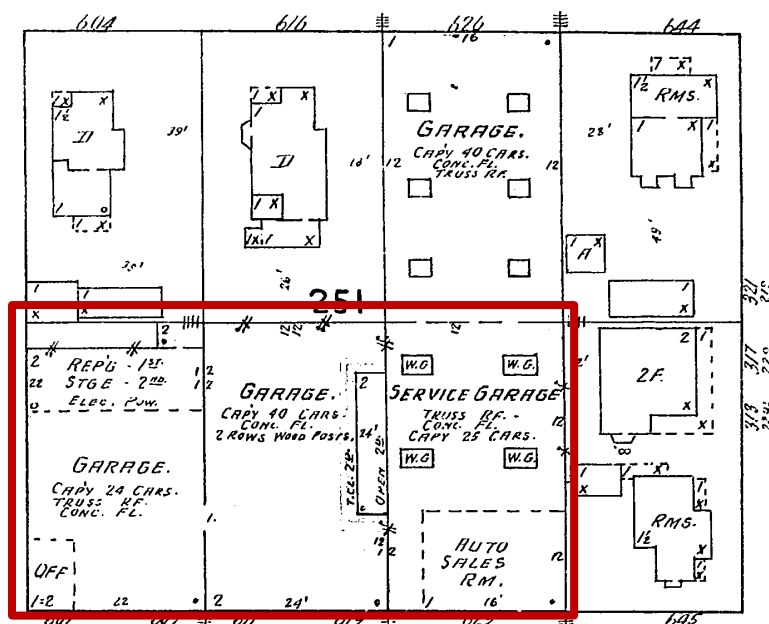
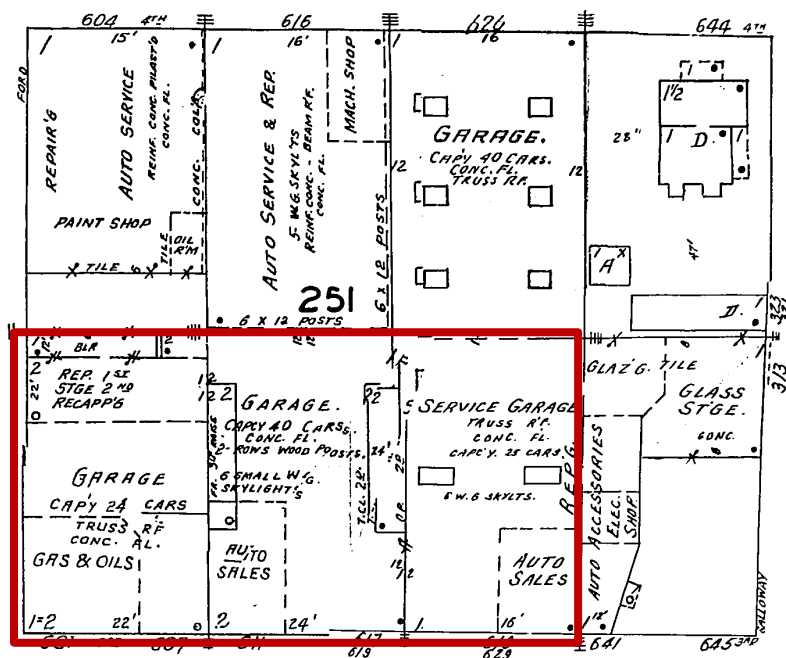


# Sanborn Map, 1902



# Sanborn Map, 1912

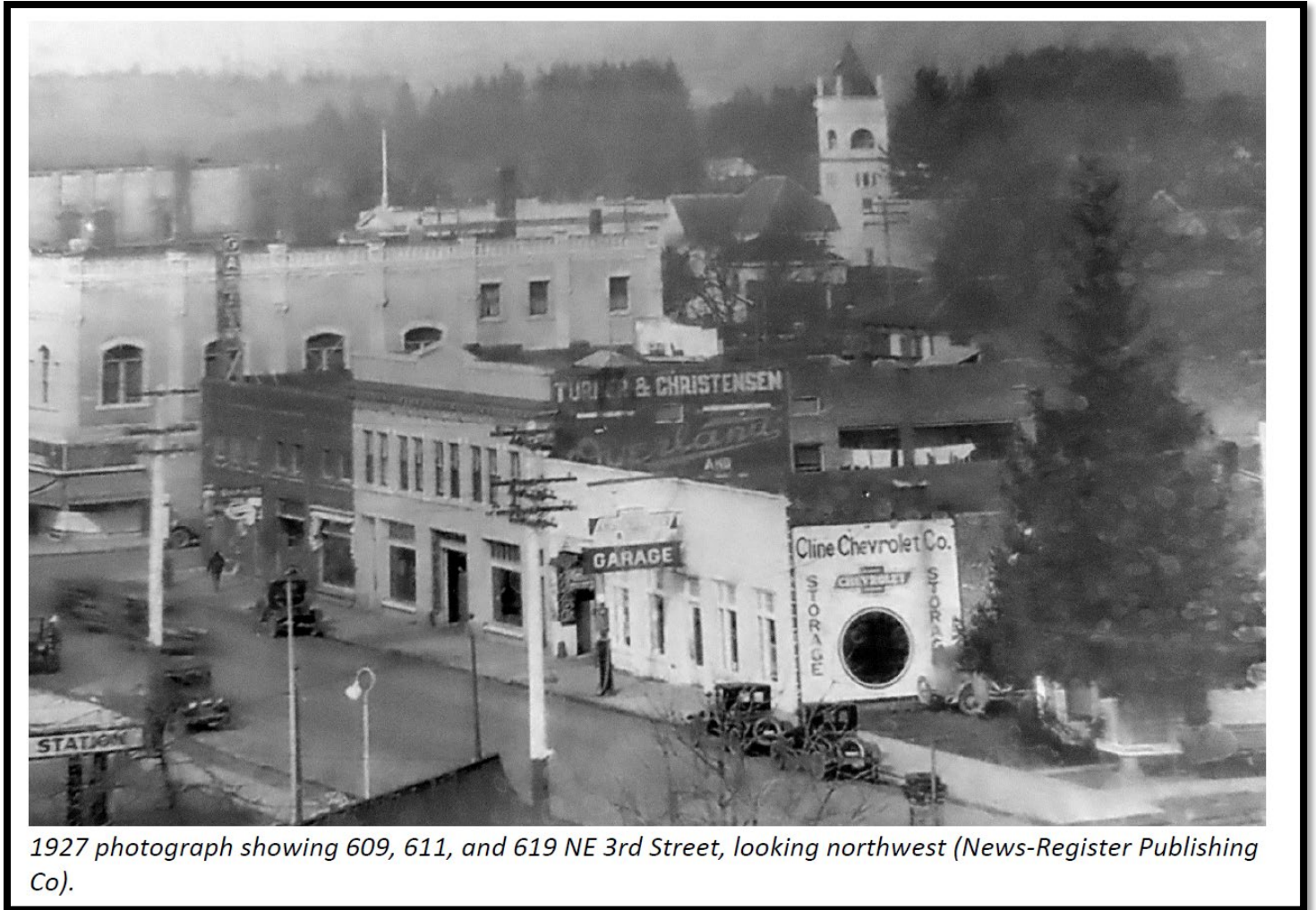


Sanborn Map, 1928Sanborn Map, 1948

Architecturally the subject properties have changed over time to accommodate new uses on the property. ***Please see Series of Photos, Figure 3 below.***

**Figure 3, Series of Photos Over Time**

**1927 Photo of 609, 611, and 619 NE Third Street  
(Yamhill County News Register)**





**1940 Photo of 609, 611, and 619 NE Third Street  
(Yamhill County News Register)**



**2022 Photo of 609, 611, and 619 NE Third Street  
(Provided by the Applicant)**



## Background

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

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

## Summary of Criteria & Issues

The applications (HL 6-22, HL 7-22, and HL 8-22) are subject to Certificate of Approval for Demolition review criteria in Section 17.65.050 of the Zoning Ordinance and Oregon Administrative Rule 660-203-0200 (Section 8(a)). The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions if there are not local codes adopted to implement the goals and policies.

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

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

Section 17.65.050 of the McMinnville Zoning Ordinance state that:

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

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



8. *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.*
- C. *If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, the Planning Director may approve the application without processing the request through the Historic Landmarks Committee.*
- D. *The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any resource listed on National Register consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.*
- E. *Any approval may be conditioned by the Planning Director or the Historic Landmarks Committee to secure interior and/or exterior documentation of the resource prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. The Historic Landmarks Committee may require documentation in another format or medium that is more suitable for the historic resource in question and the technology available at the time. Any approval may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings or other details.*
- F. *If any proposed new construction is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).*

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

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

### **City Council Appeal Materials**

- ❖ AP 5-23, AP 6-23, AP 7-23, and AP 8-23 Appeal Application and Attachments by Appellant Daniel Kiser, April 3, 2023
- Original Submittal (April 3, 2023)
- Addendum (April 17, 2023)
- ❖ Final Written Argument - Applicant (April 19, 2023)
- ❖ Public Testimony

### **Planning Commission Appeal Materials**

- ❖ AP 1-23, AP 2-23, AP 3-23, and AP 4-23, Application and Attachments by HD McMinnville LLC - Applicant
- Original Submittal (February 10, 2023)
  - Application Form
  - Notice of Appeal
  - Exhibit 1 – Notice of Historic Landmarks Committee Decision, January 27, 2023
  - Exhibit 2 – Staff Draft Decision Documents for HL 6-22, HL 7-22, HL 8-22 and DDR 2-22, dated January 5, 2023

#### Supplemental Submittal (February 27, 2023)

- Letter from Schwabe, Williamson and Wyatt, February 27, 2023
- Exhibit 1 – Applicant's Response from Schwabe Williamson and Wyatt, December 15, 2022

- Exhibit 2 – Historic Landmarks Committee Staff Report, January 5, 2023, and attached draft decision documents for HL 6-22, HL 7-22, HL 8-22, DDR 2-22

Supplemental Submittal (March 9, 2023)

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

Supplemental Submittal (March 13, 2023)

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

❖ Public Testimony

## Historic Landmarks Committee Application Materials Plus Supplemental Materials

❖ HL 6-22, HL 7-22, HL 8-22 and DDR 2-22 Application and Attachments  
by HD McMinnville LLC - Applicant

Original Submittal (August 9, 2022)

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

Supplemental Submittal (November 4, 2022)

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

Supplemental Submittal (December 15, 2022)

- Letter to City with Additional Findings
- Exhibit 1, Historic Resources Assessment, Architectural Resource Group, November 2022
- Exhibit 2, Existing Building Structural Summary, HHPR, November 6, 2022
- Exhibit 3, Documentation of Existing Building Structures, HHPR, July 29, 2022
- Exhibit 4, Contaminated Media Management Plan (Draft)
- Exhibit 5, Economic Value of Structures in Downtown McMinnville, Oregon, Johnson Economics, November 2, 2022
- Exhibit 6, Construction Cost Estimate and Financial Model for Re-Use of Historic Buildings, Hugh Construction, November 2022
- Exhibit 7, McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022

- Exhibit 8, Memorandum Regarding Historic Preservation Incentives, Otak, October 31, 2022.
- Exhibit 9, 2022 Tax Statements
- Exhibit 10, The Gwendolyn Financial Pro-Forma, December 15, 2022

❖ Department/Agency Comments

❖ Public Testimony

### **III. COMMENTS:**

#### **Agency Comments**

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

#### **McMinnville Engineering Department**

##### **TRANSPORTATION**

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

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

##### **SANITARY SEWER**

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

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

##### **MISCELLANEOUS**

Additional comments and/or suggested conditions of approval:

1. In the narrative, Part 4. B. Chapter 17.54.050 Yards part F. Response (Page 23) – 3<sup>rd</sup> St is listed as a Local Street. It is a Major Collector, please change to reflect the correct street classification.

2. Provide detailed plans for the parking structure, email correspondence has been provided by the developers engineer mentioning a possible encroachment into the city right-of-way for the structure of the underground parking. This needs to be reviewed prior to permit issuance.
3. Provide details for valet parking so the City can review the location and the size of the parking for approval prior to building permit issuance.
4. The engineering department will need to review building permit submittals that show in detail items that could be missing in the applications provided. These reviews will be prior to any issuance of building permits.
5. The Contaminated Media Management Plan dated July 20, 2022, is not included in this application. This is a key point of discussion and should be included in the application.
6. CPP (Comprehensive Plan Policy): 2.00 “The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristics, and natural hazards.”
  - a. The Applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city’s right of ways.
7. CPP 8.00 “The City of McMinnville shall continue to seek the retention of high water quality standards as defined by federal, state, and local water quality codes, for all the water resources within the planning area.”
  - a. The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City’s Right of Way and downstream users and properties.
8. CPP 132.40.05 Conditions of Approval–In accordance with the City’s TSP and capital improvements plan (CIP), and based on the level of impact generated by a proposed development, conditions of approval applicable to a development application should include:
  - a. Improvement of on-site transportation facilities,
  - b. Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards.
9. The Applicant shall demonstrate its demolition, excavation and onsite construction activities do not create safety concerns related to the DEQ LUST matter and its site and known polluted soil and water. Additionally, the Applicant shall demonstrate how its demolition and construction activities will improve the use of the city’s off-site transportation facility, including but not limited to underground facility uses.
10. CPP 132.46.00 Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010).
  - a. The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.
11. CPP 142.00 The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to the municipal storm drainage system, or to natural drainage ways, where required.

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

### McMinnville Building Department

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

### McMinnville Water and Light

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

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

## **Public Comments**

### City Council Appeal

Notice of this appeal was mailed on February 9, 2023, to property owners located within 300 feet of the subject site, and notice of the public hearing was published in the News Register on Friday, April 14, 2023. The following testimony was received by the Planning Department or provided at the public hearing on April 18, 2023.

- Email from Dean P. Grisvold, 04.09.23
- Letter from Carol Paddock, 04.10.23
- Letter from Ernie Munch, MAP Architecture, 04.10.23
- Letter from Jeb Bladine, 04.10.23
- Letter from Jennifer Morrow, 04.10.23
- Email from Nathan Coopridier, 04.10.23
- Email from Alden Skinner, 04.3.23
- Email from Dee La Rocca, 04.13.23
- Email from Jenny Wilson, 04.13.23
- Email from Klaus and Barb Martin, 04.13.23
- Letter from Mark Borrayo, 04.13.23
- Email from Pamela Berkery, 04.13.23
- Email from William Price, 04.13.23
- Email from Don Cummings, 04.14.23
- Email from Jessica Smith, 04.14.23
- Email from Linda Leavitt, 04.14.23
- Email from Matt Lazzeri, 04.14.23
- Email from Patricia Demsky, 04.14.23

- Letter from Mark Davis, 04.16.23
- Email from Susan Marrant, 04.16.23
- Email from Alex Toevs, 04.17.23
- Letter from Amy Wessellman, 04.17.23
- Email from Andrea Long, 04.17.23
- Letter from Brian Branch, 04.16.23
- Letter from Beth Caster, 04.17.23
- Letter from Camron Settlemier, 04.17.23
- Letter from Carol Paddock, 04.17.23
- Email from Christine Kirk, 04.17.23
- Email from Erin Kendrick, 04.17.23
- Letter from Ernie Munch, 04.17.23
- Email from Jason Lett, 04.17.23
- Letter from Jeb Bladine, 04.17.23
- Email from Jocela Mae, 04.17.23
- Email from Jody Hildebrant, 04.17.23
- Email from Joseph Hicke, 04.17.23
- Email from Linda Hays, 04.17.23
- Email from Loretta Johnson, 04.17.23
- Letter from Margaret Cross, 04.17.23
- Email from Pam Gosling, 04.17.23
- Letter from Peter Kircher, 04.17.23
- Email from Rachel Streng, 04.17.23
- Email from Rebecca Kiser, 04.17.23
- Letter from Restore Oregon, 04.17.23
- Email from Stephen Long, 04.17.23
- Letter from Susan Watkins, 04.17.23
- Email from Tim Gilman, 04.17.23
- Letter from Ilsa Perse, 04.17.23
- Email from Julius Northington, 04.17.23
- Letter from Katherine Huit, 04.17.23
- Letter from Nathan Coopridier, 04.17.23
- Email from Laura Brockman, 04.17.23
- Email from Linda Peterson, 04.18.23
- Email from Mike Lipke, 04.18.23
- Letter from Walt Gowell, 04.18.23
- Written Testimony Handed out at Public Hearing, Ernie Munch, 04.18.23
- Written Testimony Handed out at Public Hearing, Carol Paddock, 04.18.23
- Written Testimony Handed out at Public Hearing, McMinnville Downtown Association Committee for Public Art (MCPDA), 04.18.23
- Written Testimony Handed out at Public Hearing, Unknown Author, 04.18.23
- Written Testimony Handed out at Public Hearing, Scott and Courtney Cunningham – Pizza Capo, Cindy Lorenzen – The Sage Restaurant, Patrick Bruce – Thistle, Diana Riggs and Kari Kihara – Mac Market, Kathy Stoler – La Rambla, Carmen Pierano – Nick's Italian Café, Kristen Schofield – Harvest Fresh, Michelle Grannis, Travis Bird and Henry Kibit – Cypress Restaurant, 04.18.23
- Written Testimony Handed out at Public Hearing, Katherine Huit, 04.18.23
- Written Testimony Handed out at Public Hearing, Amy Wesselman, 04.18.23
- Written Testimony Handed out at Public Hearing, Linda Leavitt, 04.18.23
- Written Testimony Handed out at Public Hearing, Daniel Kiser, 04.18.23
- Written Testimony Handed out at Public Hearing, Nathan Coopridier, 04.18.23



### Planning Commission Appeal

Notice of this appeal was mailed on March 18, 2023, to property owners located within 300 feet of the subject site and all participants in the Historic Landmarks Committee public hearing who provided contact information for the public record, and notice of the public hearing was published in the News Register on Tuesday, February 21, 2023. The following testimony was received by the Planning Department or provided at the public hearings on March 2 and March 16, 2023.

- Letter from Oregon Restaurant and Lodging Association, 02.17.23
- Email from Phyllice Bradner, 02.20.23
- Letter from Ernie Munch, MAP Architecture, 02.21.23
- Letter from Nathan Coopridner, 02.21.23
- Email from Marilyn Kosel, 02.22.23
- Email from Daniel Kiser, 02.25.23
- Email from Jenny Wilson, 02.26.23
- Email from Alex Sokol Blosser, 02.27.23
- Email from Janice Weiser, 02.27.23
- Letter from Katherine Huit, 02.27.23
- Email from Beth Caster, 02.28.23
- Email from Karen Milton, 02.28.23
- Email from Marie Fruga, 02.28.23
- Email from Carol Paddock, 03.01.23
- Email from Margaret Cross, 03.01.23
- Letter from Restore Oregon, 03.01.23
- Letter from Peter Kircher, 03.02.23
- Presentation at March 2, 2023 Public Hearing, Daniel Kiser
- Testimony Handout at March 2, 2023 Public Hearing, Ernie Munch
- Testimony Handout at March 2, 2023 Public Hearing, Jeb Bladine
- Testimony Handout at March 2, 2023 Public Hearing, Nathan Coopridner
- Email from Susan Marrant, 03.06.23
- Letter from Mike Colvin, 03.10.23
- Email from Jeb Bladine, 03.12.23
- Letter from Brian Libby, 03.13.23
- Carole Ray, 03.13.23
- Email from Frank Lisciandro, 03.13.23
- Email from Marie Frugia, 03.13.23
- Email from Mike Goins, 03.13.23
- Email from Carol Paddock, 03.14.23
- Email from Loretta Johnson, 03.14.23
- Email from Carol Paddock, 03.15.23
- Letter from Nathan Coopridner, 03.15.23
- Letter from Ernie Munch, 03.15.23
- Letter from Katherine Huit, 03.15.23
- Letter from Ilsa Perse, 03.15.23
- Letter from Marilyn Kosel, 03.15.23
- Testimony Presentation at March 16, 2023 Public Hearing, Marilyn Kosel
- Testimony Handout at March 16, 2023 Public Hearing, Nathan Coopridner

Historic Landmarks Committee Application

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

- Email from Kira Barsotti, 09.16.22
- Email from Shanna Dixon, 09.16.22
- Email from Marianne Mills, 09.18.22
- Email from Megan McCrossin, 09.18.22
- Email from Courtney Cunningham, 09.20.22
- Email from Jordan Robinson, 09.20.22
- Email from Phyllice Bradner, 09.20.22
- Email from Victoria Anderson, 09.20.22
- Letter from Marilyn Kosel, 09.20.22
- Letter from Patti Webb, 09.20.22
- Email from Sylla McClellan, 09.21.22
- Email from Meg and Zach Hixson, 09.22.22
- Email from Sharon Julin, 09.25.22
- Email from Daniel Kiser, 09.27.22
- Letter from Carol Dinger, 09.28.22
- Letter from Carol Paddock, 09.28.22
- Letter from Katherine Huit, 09.28.22
- Letter from Jeb Bladine, 09.28.22
- Letter from Practice Hospitality, 09.28.22
- Email from Kellie Peterson, 09.28.22
- Letter from JP and Ames Bierly, 09.28.22
- Memo from Nathan Coopriders, 09.28.22
- Email from Elizabeth Goings, 09.29.22
- Email from Abigail Neilan, 09.29.22
- Letter from Ilsa Perse, 09.29.22
- Email from The Scott Family, 09.29.22
- Email from Mande Tatum, 10.05.22
- Email from Crystal55dreams, 10.25.22
- Email from Peter and Linda Enticknap, 11.22.22
- Letter from Karen Saxberg, 11.17.22
- Letter from Jeb Bladine, 11.29.22
- Letter from Nathan Coopriders, 11.29.22
- Letter from Ernie Munch, 11.30.22
- Letter from Marilyn Kosel, 11.30.22\
- Letter from Nathan Coopriders, 1.3.23
- Letter from Carol Paddock, 1.3.23
- Email from Daniel Kiser, 1.3.23
- Email from Michael Kofford, 1.3.23
- Email from Paul Lusignan, National Park Service, 1.3.23
- Email from Ernie Munch, 1.3.23
- Email from Beth Caster, 1.4.23
- Letter from Ernie Munch, 1.5.23

**IV. FINDINGS OF FACT - PROCEDURAL FINDINGS**

1. The applicant, Mark Vuong, on behalf of HD McMinnville LLC submitted the Certificate of Approval applications (HL 6-22, HL 7-22, and HL 8-22) on August 9, 2022.
2. The applications were deemed complete on September 7, 2022. Based on that date, the 120-day land use decision time limit expires on January 5, 2023.
3. Notice of the applications were referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and the Oregon State Historic Preservation Office on September 7, 2022.

Comments received from agencies are addressed in the Decision Document.

4. Notice of the application and the September 29, 2022, Historic Landmarks Committee public hearing was mailed to property owners within 300 feet of the subject property in accordance with Section 17.65.070(C) of the Zoning Ordinance on Thursday, September 8, 2021.
5. A public hearing notice was published in the News Register on Tuesday, September 20, 2022, and Friday, September 23, 2022.
6. On September 29, 2022, the Historic Landmarks Committee held a duly noticed public hearing to consider the request.
7. At the public hearing on September 29, 2022, the Historic Landmarks Committee chose to continue the public hearing to December 8, 2022. The applicant requested to extend the 120-day decision deadline by 70 days.
8. On November 4, 2022, the applicant provided supplemental application materials based on the requests from the Historic Landmarks Committee.
9. On December 1, 2022, the applicant requested, with the concurrence of city staff, to continue the public hearing from December 8, 2022, to January 5, 2023, and to extend the 120-day decision deadline by an additional 30 days for a total extension of 100 days.
10. On December 8, the Historic Landmarks Committee continued the public hearing to January 5, 2023.
11. On December 15, 2022, and December 19, 2022, the applicant provided supplemental materials per the request of city staff.
12. On January 5, 2023, the Historic Landmarks Committee continued and closed the public hearing, deliberated and directed staff to write findings for a decision of denial.
13. On January 26, 2023, the Historic Landmarks Committee voted 3-2 to deny the application.
14. On January 27, 2023, a notice of denial was emailed to the applicant and all of the participants in the public hearing process.

15. On February 10, 2023, the applicant appealed the decision of the Historic Landmarks Committee to the McMinnville Planning Commission.
16. Notice of the anticipated appeal application and the March 2, 2023, Planning Commission public hearing was mailed to property owners within 300 feet of the subject property and all participants in the Historic Landmarks Committee public hearing process on February 9, 2023. Confirmation was emailed on February 13, 2023.
17. A public hearing notice was published in the News Register on Tuesday, February 21, 2023.
18. On March 2, 2023, the Planning Commission held a duly noticed public hearing to consider the request and continued the public hearing to March 16, 2023.
19. On March 16, 2023, the Planning Commission continued the public hearing, closed the public hearing, deliberated, and voted 5 – 3 in favor of the applicant approving the application.
20. On March 18, 2023, a letter of decision was emailed to the applicant and all participants that provided their name and address on the record as part of the process.
21. On April 3, 2023, Daniel Kiser appealed all three Planning Commission land-use decisions.
22. Notice of this appeal was mailed on April 9, 2023, to property owners located within 300 feet of the subject site.
23. Notice of the public hearing was published in the News Register on Friday, April 14, 2023.
24. The City Council held a public hearing on April 18, 2023, to consider the appeal. They heard the staff report, applicant presentation, appellant presentation, and public testimony. They then closed the public record to additional testimony and continued the hearing to April 19, 2023.
25. On April 19, 2023, the City Council heard the applicant rebuttal, closed the public hearing, and deliberated, directing city staff to write findings for a denial.
26. On May 5, 2023, the City Council considered Ordinance No. 5131 to adopt the findings and voted on a first reading of the ordinance.
27. On May 8, 2023, the City Council considered Ordinance No. 5131 to adopt the findings and voted on a second reading of the ordinance adopting the findings.
28. The letter of decision was mailed to the applicant, appellant and all that participated in the City Council proceedings that provided their name and address for the record on May 9, 2023.

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

### **1. Location:**

609 NE Third Street. The resource is located at the property that is identified as Tax Lot 4500, Section 21BC, T. 4 S., R. 4 W., W.M.

611 NE Third Street. The resource is located at the property that is identified as Tax Lot 4300, Section 21BC, T. 4 S., R. 4 W., W.M. This is a property that spans the block north to south from Fourth Street to Third Street. Only the structure that is facing Third Street is recommended for demolition.

619 NE Third Street. The resource is located at the property that is identified as Tax Lot 4201, Section 21BC, T. 4 S., R. 4 W., W.M.

2. **Size:**

609 NE Third Street - The subject site and property is approximately 6,000 square feet.

611 NE Third Street - The subject site is approximately 6,500 sf, the property is approximately 20,000 square feet.

619 NE Third Street - The subject site and property is approximately 6,000 square feet.

3. **Comprehensive Plan Map Designation:** Commercial

4. **Zoning:** C-3, General Commercial

5. **Overlay Zones/Special Districts:** Downtown Overlay District, Section 17.59 of the McMinnville Municipal Code.

6. **Current Use:** Office

7. **Inventoried Significant Resources:**

a. **Historic Resources:**

609 NE Third Street - Historic Resources Inventory – Resource Number B865.

611 NE Third Street - Historic Resources Inventory – Resource Number B872.

619 NE Third Street - Historic Resources Inventory – Resource Number D876.

b. **Other:**

609 NE Third Street - Primary Significant Contributing resource, McMinnville National Register of Historic Places Downtown Historic District

611 NE Third Street - Primary Significant Contributing resource, McMinnville National Register of Historic Places Downtown Historic District

619 NE Third Street - Secondary Significant Contributing resource, McMinnville National Register of Historic Places Downtown Historic District

8. **Other Features:** The building is property tight with no setbacks, two stories, unreinforced brick with a stucco finish.

9. **Utilities:**

a. **Water:** Water service is available to the subject site.

b. **Electric:** Power service is available to the subject site.

c. **Sewer:** Sanitary sewer service is available to the subject site.

10. **Transportation:** The site is located on the northeast corner of Ford Street and Third Street. Third Street is a major collector in the McMinnville Transportation System Plan.

## **VI. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Certificate of Approval for Demolition are specified in Oregon Administrative Rule, Chapter 660 Division 23: Procedures and Requirements for Complying with Goal 5. and Section 17.65.050 of the McMinnville Municipal Code and, in addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. “Proposals” specified in Volume II are not mandated but are to be undertaken in relation to all applicable land use requests.

Before turning to the findings on the applicable criteria, the Council wants to note the difficulty in reaching this decision, acknowledge the efforts of the applicant, and recognize the position of those who would support a different result. The criteria at issue requires the Council to weigh and balance multiple competing policy concerns that could support multiple different outcomes. Although, as explained below, the Council found that, on balance, the application is not consistent with those criteria, it was a close and difficult decision.

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

#### ***OAR Chapter 660, Division 23, Section 0200 – Procedures and Requirements for Complying with Goal 5 – Historic Resources:***

OAR Division 660-023 sets out a comprehensive program for complying with Statewide Planning Goal 5, which addresses natural resources, scenic and historic areas, and open spaces. In particular, OAR 660-023-0200 provides the requirements for a local jurisdiction’s historic resources program and subsection (8) of that section identifies the criteria that must be used in considering a proposed demolition of an historic resource that is designated on the National Register. That subsection provides as follows:

*(8) National Register Resources are significant historic resources. For these resources, local governments are not required to follow the process described in [OAR 660-023-0030 \(Inventory Process\)](#) through [660-023-0050 \(Programs to Achieve Goal 5\)](#) or sections (4) through (6). Instead, a local government:*

*(a) Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;*

**FINDING:** Oregon Administrative Rule (OAR) 660-023-0200(1)(g) defines districts listed in the National Register of Historic Places as a National Register Resource, therefore this state rule applies to the contribution that these buildings make to the significance of the district as a whole, in addition to the contribution offered by individual resources on their own. Although the rule lists “factors” that must be considered, the purpose of considering those factors is to ensure that National Register Resources are “protected.” As the Applicant noted in its final written argument, OAR 660-023-0200(8) contains “factors [that] are of a nature that necessitates the City to undertake a weighing of the evidence in the record as to each factor, and then to weigh all of the factors in the aggregate.” The following is the Council’s weighing of the factors found in OAR 660-023-200(8).

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

**FINDING:** The structural analysis provided by the Applicant on the three buildings did not indicate any structural issues that pose a significant or imminent public safety hazard. The Structural Report, provided by Harper Houf



Peterson Righellis Inc. (HHPR) dated July 29, 2022, provides an existing condition report of 609, 611, and 619 Third Street. It points out observed structural issues and concludes with emergent concerns as detailed in the staff reports and the Planning Commission's decisions. The report also examined three options for preserving the historic resources, including retaining and maintaining the existing buildings, which would require investment in general maintenance, repair, and remediation of the spaces as well as repair of the emergent concerns.

The structural analysis provided by the applicant does not suggest that remediating existing conditions is unreasonable or otherwise infeasible. Instead, it focuses on maintenance issues that are compromising the structural integrity of the building and the overall structural integrity of all historic unreinforced masonry buildings. This would assume that all historic unreinforced masonry buildings that have not been maintained adequately are justification for demolition of historic resources. The Council finds that the applicant's identification of concerns in their Structural Report are not physical conditions that are uncommon to historic buildings or circumstances that are so extreme as to justify demolition rather than restoration. Further, the record does not reflect what steps the owners have taken to protect the buildings and avoid demolition by neglect, which the Council finds is directly relevant to evaluating how a building's poor physical condition might serve as a basis for demolition. Moreover, the Council was disturbed by the testimony of one of the property owners who testified that, should this application not be granted, that he would invest nothing further into the building that he owns, furthering the Council's concerns regarding demolition by neglect. Finally, the Council rejects the proposition that historic masonry buildings are not structurally sound simply by virtue of being unreinforced. This would assume that all historic unreinforced masonry buildings that have not been maintained adequately are justification for demolition of historic resources. The Council found the testimony from the City's Building Official explaining that seismic upgrading was not necessarily a requirement to utilize the building and that the structural building codes are applied on a case-by-case basis based on the type and intensity of use persuasive on this point.

In short, the Council finds that the condition of the property does not support demolition of the historic structures. Although there are issues with the buildings, these issues are not uncommon in historic structures and there is no imminent threat to public safety.

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

**FINDING:** "Historic integrity" is generally defined as the ability for a property or resource to convey its significance. Historic properties either retain integrity (that is, convey their significance) or they do not. Within the concept of integrity, the National Register criteria recognize seven aspects or qualities that, in various combinations, define integrity. These seven aspects include location, setting, design, materials, workmanship, feeling, and association. To retain historic integrity a property will always possess several, and usually most, of the aspects. OAR 660-0230-0200(8)(a) opens by noting that local governments have an obligation to protect National Register Resources, without regard to local designation. As a result, in addition to relying on the HRI report which served as the basis for local designation, the National Register nomination identifies the relevant periods of significance and an evaluation of structural integrity. Historic structures were given the Primary Significant Contributing designation when they were built before 1912 during a time when railroad service prompted new development in the downtown area. In addition to the date of construction, common features distinguishing buildings of Primary Significance include their density, scale, materials, and overall design elements, particularly with respect to the second floors. The Secondary Significant Contributing designation applies to buildings built between 1913 and 1937 that reflect the impact that the automobile had on the growth and development of McMinnville.

Considered together, these three buildings were part of the first auto row in McMinnville. The Council agrees with testimony from the Appellant and others indicating that notwithstanding modifications, the buildings are distinctive for their typology as garages. The massing of these structures, coupled with the retained design elements, provides visual continuity and cohesiveness of the district as well. The Appellant pointed out that the "continuous fabric of architectural character" is one of Third Street's greatest asset and the Council agrees.

For 609 NE Third Street, the HRI was classified as a primary contributing structure and there are several elements that are original to the building (several wood windows on the second floor Third Street elevation and

the storefronts on the ground floor of the NE Ford Street elevation and some on the Third Street elevation, with respect to the overall form and the massing.) All of these elements work to reinforce the two-story commercial store front character that signifies the District. The two-story scale, the overall form, the longstanding commercial use and its association with a prominent McMinnville attorney are the basis for finding that 609 NE Third Street retains historic integrity and contributes to the primary period of significance. Substantial alterations to the ground floor including removal of the two westernmost storefront bays to accommodate a drive drive-through service station in 1928 and in 1948, and the installation of stucco over the masonry façade, did not impact the appearance of the building so as to undermine its integrity at the time of designation. It is important to note that there are other buildings within the District boundaries that were so altered that they no longer contributed to the integrity of the District suggesting that the modifications to the structure were not so significant to warrant exclusion of this building.

For 611 NE Third Street, the HRI identified the building as a secondary significant contributing structure based primarily on the estimated age of the structure and not the historic integrity of the extant structure. The structure underwent significant modifications with the ground floor storefront modification (See Figure 2, Series of Sanborn Maps and Figure 3, Series of Photos in this decision document), however the second floor is still, for the most part, intact per the original building. The HRA report clearly states that all three properties are important in terms of historic significance as they represent the time period of the McMinnville National Register of Historic Places Historic District context statement relative to the emergence of automobile transportation in McMinnville. It then describes that a building's historic integrity is different from its historic significance and is reflective of the materials, form and massing that are original to the building from the time period of its significance. For 611 NE Third Street, the first floor has been significantly modified and the second floor appears to remain intact, including original wood windows, original brick and cast concrete elements, and original pressed metal cornice. Per the HRA Report they are in generally in good condition.

For 619 NE Third Street, the HRI indicates that the building was constructed between 1912 and 1928, and was therefore classified as a Secondary Significant Contributing structure. The Oregon Historic Sites Database notes the date of construction as 1923 with a secondary construction date of 1975. The HRA report states that all three properties are important in terms of historic significance as they represent the time period of the McMinnville National Register of Historic Places Historic District context statement relative to the emergence of automobile transportation in McMinnville. It then describes that a building's historic integrity is different from its historic significance and is reflective of the materials, form and massing that are original to the building from the time period of its significance. For 619 NE Third Street, little remains at the ground floor of the original materials and configuration, but the parapet remains intact and the sign on the side has been restored/replicated.

The Council finds that the historic integrity of the properties does not support demolition. Although there have been some modifications to the buildings over the years, and some of the buildings have more significant changes, overall the three buildings retain significant integrity, given the definition of "integrity" discussed above and the reasons for the creation of the district.

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

**FINDING:** The date range for a "primary contributing resource" is from 1881-1912; as discussed above, that means one of the three buildings (609 NE Third Street) is a primary contributing resource. Although the Applicant suggests that those buildings were constructed later in that date range, the National Register evaluation factors do not place greater importance on resources constructed early in the period of significance over those that may have been created later. Demolishing this primary contributing building, along with the two Secondary Contributing buildings to the east, would have the effect of eliminating all of the significant historic buildings on the north side of 3<sup>rd</sup> Street between Ford and Galloway, creating the only block along 3<sup>rd</sup> where there are no contributing structures. As noted above, this building does not show any greater "signs of its age" than any other historic building within the District. The Council finds that this factor does not support demolition.

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

**FINDING:** Both the National Register of Historic Places and the City of McMinnville have adopted provisions that identify the properties as historically significant. Under the National Register, the district was deemed to qualify under Criteria A and C per the National “Register of Historic Places McMinnville Historic District nomination.

It is possible that, if these properties were reviewed now, they could be classified differently, but that does not negate the policy action that has already occurred and that found these structures to be significant. With that said, the assigned historic significance is not a stand-alone factor for preservation or demolition. Rather, all of the factors must be considered

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

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

The McMinnville Historic Preservation Plan has the following language for the historic context of McMinnville's historic resources for the time period that most influenced the buildings at issue:

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

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

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

*(McMinnville Historic Preservation Plan, page 16)*

Based on the methodology at the time, one property was listed as a “Primary Significant Contributing” and the two other properties were listed as “Secondary Significant Contributing” properties in the McMinnville Downtown Historic District National Register of Historic Places nomination and identified as a “Significant” resource on the McMinnville Historic Resources Inventory.

As discussed above, although the buildings have been significantly modified since their original construction, the properties were deemed to contribute to the overall commercial character of the district. However, many of those

modifications were present when the district was created, signifying that those modifications did not detract from the historic significance of the properties. Accordingly, the Council finds that the buildings retain historic significance and that this factor does not support demolition of the properties.

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

**FINDING:** The City received testimony from dozens of city residents expressing concern over the loss of these buildings. The testimony from Ernie Munch, an architect, provided evidence suggesting that the value of these buildings to the community is not just in its post-railroad two-story, storefront commercial design as set forth in the National Register documentation but also its conversion to a service-station early on to serve the burgeoning auto-focused culture of the late 1920s and 1930s. Several people also testified that the height, mass, and form of the building contributed to the overall sense of place of Third Street, which as McMinnville’s award winning Main Street, is the heart and soul of the community.

The applicant provided a cost analysis in their application that indicates that the cost of rehabilitating the structures on the three properties and the return yield on the square footage of the rehabilitated space would not be financed as the project would not yield a positive return for 40 years.

The applicant argues that the under-utilization of the buildings for revenue-generating commercial uses undercuts the value of the building to the community. Although this might be true in the abstract, the Council concludes that the buildings are only financially infeasible to rehabilitate because the applicant assumes that the only viable economic solution includes either doing nothing, restoring the building including full seismic upgrades, or the most intense development that might be allowed in the zone. The Council concludes that there are other options that the applicant did not fully explore that would retain the preservation value of this building and also allow for a greater return on investment.

Further, just as preservation protections may constrain the revenue-generating options for the applicant, the Council finds that these same protections have served as an economic boon to owners of historic district buildings who have made choices in reliance on regulations that protect the district. Allowing demolition that will compromise the integrity and significance of the district is likely to have negative economic impacts to owners who have made investments in restoring and reusing their historic structures. The City’s approach is consistent with LUBA’s opinion in *King v. Clackamas County*, where LUBA said that local governments must do what they can to support those owners who make the significant investment necessary to conserve historic resources.

Accordingly, the value to the community also does not support demolition of the properties.

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

**FINDING:** The replacement plan for a multi-story hotel and ground floor retail may benefit McMinnville economically but the Council also finds that it is the historic district, its historic charm and coziness, that have made the City’s downtown an economic success. The Council agrees with the Historic Landmarks Commission’s finding that other similarly situated buildings are not similarly suffering the economic challenges identified by the applicant suggesting that the property owner’s choices have led to the underutilized condition of the property. Due to the property owner’s long-term disinvestment in the second story of the properties, the costs of stabilizing the buildings and providing Class A office space is more than the market will bear which would lead to continued disinvestment in the second story and no office vitality outside of the ground floor. Goal 5 defines “conserve” to mean “[t]o manage in a manner that avoids wasteful or destructive uses and provides for future availability.” The evidence in the record, including photographs of the current conditions suggest that the economic conditions impacting the district have been favorable in allowing for the restoration of historic buildings. As a result, the property owner’s disinvestment over time cannot be used as a basis to claim economic hardship and, therefore, this factor also does not support demolition of the building.

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

**FINDING:** Each of the buildings is fairly utilitarian in design and are not identified as examples of rare design or construction in the HRI or the National Register nomination. They are modest, functional structures that have been significantly altered over the years. However, there are some features that are distinctive, such as the interior structural design of 609 NE Third Street and the corbelling on 611 NE Third Street's second floor exterior façade.

Although the structures are historically significant, they do contain some elements of design or construction rarity. The Council concludes that although this factor does not support retaining the buildings, it also does not support their demolition in light of the other factors.

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

**FINDING:** Please see below for a more extensive discussion of compliance with the applicable portions of the City of McMinnville's Comprehensive Plan policies. To summarize the discussion below, the proposed demolition of the three historic structures does not meet the City's Comprehensive Plan goals for preservation of historic resources; however, the demolition of the subject structures coupled with the redevelopment of the site does meet several of the City's economic development comprehensive plan policies. That said, the Council finds that these goals are not mutually exclusive and, in fact, it is the historic protections offered by the Downtown Historic District, that have contributed to its economic success. The historic structures at issue have been occupied with numerous different uses since construction, all resulting in neighborhood-serving uses and there is no reason to believe that either these uses, or new uses other than a 6-story hotel, could not be pursued in the future. Accordingly, the Council finds that, on balance, the other policy objectives in the City's Comprehensive Plan supports retaining the historic structures and denying the requested demolition permit.

**OVERALL FINDING FOR CONSIDERATION OF THE FACTORS IN OAR 660-023-0020(8)(a):** OAR 660-023-0200(8)(a) states that the following factors must be considered when making a decision to approve, approve with conditions or deny an application for a historic resource on the National Register of Historic Places: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. OAR 660-023-0200, Section 8(a) does not provide clear and objective criteria as to how to consider the factors and how many factors need to support an approval, approval with conditions or denial. As acknowledged by the Applicant in its final written argument dated April 19, 2023, the factors are "of a nature that necessitates the City to undertake a weighing of the evidence in the record as to each factor, and then to weigh all of the factors in the aggregate."

Based on the discussion of the required factors above, the structures do not appear to be in bad structural condition and appear to retain some historic integrity, architectural elements that are still extant from their original condition or historic significance. The applicant has tried to make the case that the economic value realized from a new 6-story luxury hotel outweighs what they have identified as limited historic integrity. The Council finds that this presents a false choice with respect to both the economic value and the historic integrity. The Historic District enjoys economic vitality today because of the choices made to preserve it. These building have generated a reasonable economic return for generations, as evidenced by the variety of uses they have fostered, and the evidence supports that such a return can continue into the future, notwithstanding at least one of the owner's assertion that he intends to forego continued maintenance of his property.

The value to the community could be described in two ways – historic value and overall value. The applicant has argued that the historic value of any particular structure has been compromised, but this determination fails to consider the contribution the three buildings together make to the overall McMinnville downtown historic district and building fabric. When considering all of the factors in OAR 660-023-0200(8)(a) together, the Council finds that demolition of the three structures is not appropriate.

**Comprehensive Plan Volume II:**

As noted above, one of the factors identified in OAR 660-023-0200(8)(a) requires the City to consider the proposed demolition of historic structures and its “consistency with and consideration of other policy objectives in the acknowledged comprehensive plan.” Although the implementation of most goals, policies, and proposals as they apply to these applications are accomplished through the provisions, procedures, and standards in the city codes and master plans, the following policies are nonetheless made applicable through OAR 660-0230-0200(8)(a) and the following additional findings are made relating to specific Goals and Policies:

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

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

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

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

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

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

Although the re-development should result in further remediation of the identified petroleum contamination, there may also be additional potential exposure created by that activity. On balance, this Policy neither supports or contradicts the demolition of the historic structure.

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

**FINDING:** This policy is also implicated by the Contaminated Media Management Plan (CMMP) prepared for Oregon Lithoprint, Inc. and raises the same concern.

*10.00 The City of McMinnville shall cooperate with the Oregon Department of Environmental Quality, the Mid-Willamette Valley Council of Governments, and other appropriate agencies and interests to maintain water quality and to implement agreed upon programs for management of the water resources within the planning area.*

**FINDING:** This policy is also implicated by the Contaminated Media Management Plan (CMMP) prepared for Oregon Lithoprint, Inc. and raises the same concern.

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

**FINDING:** The focus of this comprehensive plan goal is to preserve and protect structures that have special historical or architectural significance – a demolition clearly does not meet that intent. The City Council, after reviewing the application materials and receiving testimony, concludes that the value and significance of the buildings, their condition, the owners' failure to maintain their buildings commensurate with other owners and contributing to any modest economic returns, and their overall contribution to the significance to the District all work against approving this request for demolition. Findings for those other applicable review criteria are provided below.

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

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

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

**FINDING:** The proposed development would provide short-term lodging and retail services for the downtown McMinnville community. These services will both meet an identified demand and provide employment to local residents. The current businesses on the site employ approximately 20 people; the proposed development would be expected to employ approximately 60 people. These employment opportunities will include hospitality, service industry, and management positions. The Council acknowledges that the proposed development would assist in meeting this Goal; however, retaining the historic structures at issue would allow them to continue to fulfill their



role as flexible workspaces that can be utilized for a variety of businesses, as demonstrated by the history of uses that have occurred on the sites. This Goal neither supports nor contradicts the demolition of the historic structures.

## **COMMERCIAL DEVELOPMENT**

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

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

### Infrastructure Improvements

The Plan includes reconstruction of the 3<sup>rd</sup> Street Streetscape, which is currently in the conceptual design phase. However, the reconstruction will take place whether the historic structures are demolished or not, so this neither supports or contradicts the demolition of the historic structures.

### Economic Opportunities

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

### Hospitality and Tourism

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

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

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

**FINDING:** The proposed project maximizes the existing commercially designated lands by building a higher density commercial program on the site. This policy also supports the project as whole, which would require demolishing the historic structures.

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

**FINDING:** Higher density commercial development in the city center utilizes existing infrastructure efficiencies. This policy also supports the project as whole, which would require demolishing the historic structures.

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

**FINDING:** The replacement plan project will be located in the Central Business District. The Transportation Impact Analysis provided as part of the application indicates that all intersections studied perform within mobility standards with the project as developed. Parking in the core downtown area is limited, but a utilization study conducted in 2017 identified that parking on Ford Street between 3<sup>rd</sup> and 4<sup>th</sup> Streets was maximized at the peak hour of a weekday. Although the McMinnville Municipal Code does not require the provision of off-street parking for new developments on this site, the replacement project is providing 67 off-street parking stalls in an underground parking structure. This policy would support either the retention of the existing historic structures or the new project and, accordingly, does not support or contradict demolition of the historic structures.

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

*Downtown Development Policies:*

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

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

**FINDING:** This policy would support either the retention of the existing historic structures or the new project and, accordingly, does not support or contradict demolition of the historic structures.

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

**FINDING:** This policy explicitly supports renovating and rehabilitating existing buildings and, accordingly, this policy contradicts the demolition of the historic structures.

## **McMinnville Municipal Code**

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

### **Chapter 17.65 – Historic Preservation**

As noted below, the criteria for demolition of a historic structure found in MCC 17.65.050(B)(1) include an analysis of the proposal's consistency with the purposes of the historic preservation chapter. Accordingly, the first step in analyzing those criteria will consist of reviewing the proposed demolition of the three historic structures with the purpose section of the ordinance.

**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;*

**FINDING:** This application is for a demolition permit and not a restoration project and, as such, allowing demolition of the historic structures would not be consistent with this purpose.

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

**FINDING:** This purpose is linked with other aspects of the City's historic preservation program and is difficult to apply to a particular proposed demolition. Nonetheless, to the extent is applicable, retention and continued use of historic structures would better satisfy this purpose by demonstrating that that historic preservation is possible and the experience of a thriving downtown with historic structures would be the best example to demonstrate the benefits of an active historic preservation program. Although the Applicant has proposed a program that would incorporate components of the original buildings into the new building that could serve some education purposes, that is a second-best approach. The better approach is to preserve the historic structures.

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

**FINDING:** The Applicant suggests that the existing buildings are utilitarian and were originally developed as functional structures and that it can incorporate components of the original buildings into the new building as appropriate and as determined through coordination with community members and groups. However, preserving the existing historic structures would better meet this purpose. Even if the existing buildings are utilitarian and functional structures, the details as described in the HRI do provide additional beauty and the buildings themselves help to provide context for the past accomplishments as McMinnville grew and developed. Demolition of the historic structures would not serve this purpose either.

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

**FINDING:** The Applicant suggests that the Gwendolyn is intended to advance the City's economic development goals by expanding the lodging options in downtown McMinnville. The proposed building is intended to establish a gateway effect at NE 3<sup>rd</sup> and Ford streets and complement the three-story buildings on each corner. However, as discussed further elsewhere, the new construction fails to be compatible with the nearby buildings with respect to massing and overall building width. As such, it does not enhance the overall historic sense of place of downtown McMinnville by replicating the form and design of the building stock on Third Street.

*E. Strengthen the economy of the City.*

**FINDING:** The Applicant states that the proposed development is intended to enhance the City's attractions for tourists and visitors by providing space for new specialty retail and commercial services, creating a destination for visitors to nearby wineries, and providing employment opportunities for up to 60 employees. The proposed hotel will provide a luxury boutique lodging option along with a meeting/conference room that will serve guests and community members. The demolition of the historic structures would provide the opportunity to do so and, therefore, the proposed demolitions are consistent with this purpose.

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

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:*

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

**FINDING:** As identified above in the Findings regarding the City's Comprehensive Plan, most of the City's historic policies in the comprehensive plan focus on the establishment of the Historic Landmarks Committee, public awareness of historic preservation, and other activities for the City to pursue to increase documentation of historic resources. However, the goal most specifically related to historic preservation is as follows:

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

This is a demolition project and not a preservation/rehabilitation/restoration project and therefore, does not satisfy the Comprehensive Plan policies directed at protecting historic resources.

As far as the purpose of the historic preservation ordinance itself, its primary purpose is to preserve structures that have special historical or architectural significance through restoration efforts. The City, by adopting the HRI has already determined that the historic structures at issue do have special historical significance and deserve protection. A demolition clearly does not meet that intent. The Council, after reviewing the evidence and hearing the public testimony, concludes that the historic structures at issue in this appeal retain historic integrity, contribute to the significance of the District, and have an economic use that favors continued preservation and protection.

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

**FINDING:** The focus of this criterion is on the "economic use of the historic resource", the proposed action, and "their relationship to the historic resource preservation or renovation." Nothing about this criterion contemplates ensuring the property owner the highest and best use or the greatest economic anticipated return on their property. Rather, the focus is on whether the proposed demolition is "reasonable" given the current and projected economic use. Although it would not be "reasonable" to put money into improvements that are unlikely to realize a return, the Council disagrees with the Applicant's assumptions that serve to foreclose other preservation options. For example, in their current condition, the buildings are safe to occupy, function and are able to generate an economic use just as they have for generations. The applicant's and owners' desire for greater profit does not make the existing economic use in its historic condition unreasonable.

The Council disagrees with the Applicant's premise that restoration, including a full seismic upgrade, is the only reasonable alternative for preservation or that the "do nothing" option necessarily means making no capital

improvements or changing the use in order to generate greater revenue. All parties agree that the popularity of NE Third Street in attracting and accommodating tourists has transformed this area in recent years, making these properties more valuable. It is likely that this popularity is a direct result of preserving the unique character of an intact historic district, and will continue. This natural pace of development suggests that rents in this area will continue to increase. The fact that other owners are making choices to rehabilitate their Third Street historic structures, particularly properties that are adjacent to this property, suggests that such restoration is profitable and therefore, “reasonable.” The Council also notes that there are likely alternative uses or less expensive design changes that may alter the profit margins that should be considered before concluding that the historic resources have no economic use.

Further, although there may be some cost in building out the space and converting from office to tourist-focused uses, those same costs affect any building owner within the Historic District equally and do not justify demolition in this particular case. The deficiencies noted by the applicant’s expert can be repaired and it is not clear how much of the \$11 million dollars relates to the identified repairs over other restoration expenses. Moreover, the Applicant’s expert economics analysis does not disclose how much the applicant expended on building maintenance and interior upgrades in the past so that the Council can determine how much of these repairs are the result of deferred maintenance. Evaluating economic reasonableness with respect to preservation alternatives requires some evaluation of the lengths to which a property owner tried to protect the value of its investment over time.

In conclusion, the Council is not convinced that the only reasonable economic choice was demolition. There may be less expensive and more profitable alternatives that would include preservation of the existing historic structures. For this reason, this criterion is not satisfied.

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

**FINDING:** 609 NE Third Street was designated on the City’s HRI and the National Register of Historic Places as a primary significant resource in its contribution to the Historic District. As explained above, this was based on the time of building construction but also its two-story scale, some original components on the second story and its association with Frank W. Fenton, a prominent attorney and well-known family within McMinnville. The primary period of significance between 1881 -1912, reflects the growth of the commercial main street, made possible by the railroad, to which this building contributes, notwithstanding major modifications to the ground floor. The building still conveys these historic circumstances, making it worthy of saving. T

The building at 611 NE 3rd Street (619 East Third Street at the time of the HRI) is located on Lot 6 of Block 7 of Rowland’s Addition and appears to be misaddressed as the description of the building is of 619 NE 3rd Street. It is identified by its Special Assessment Program number, B872(a Secondary Contributing Resource), in the City’s HRI. The HRI notes that the building was constructed between 1912 and 1928, and the Historic District nomination notes that moderate alterations occurred in 1976. The building was originally an automotive garage, and it is currently occupied by the News-Register offices. Per the HRI:

“This is a square brick two story structure situated middle block between Ford and Galloway facing south on Third Street. The façade is five bayed, the second story windows being one over one double hung sash, paired, each pair articulated by rows of stretchers. A prominent bracketed and mullioned cornice line stretches the length of the façade above these windows. A parapet wall with a central gable rises three feet above the cornice line. The façade is faced with common bond buff brick above the first floor. Extensively altered, the first story of the façade is faced with scored stucco and has been cutaway to expose two pillars. A stairwell opens onto the street at the extreme east end. The building has been joined to another at its rear which faces Fourth Street on the north. In 1928, the building housed a garage.”

The building at 619 NE 3rd Street (641 East Third Street at the time of the HRI) was previously known as the AAMCO Building and is now known as the Bennette Building. It is identified as Secondary Resource #436 in the HRI. Its original use was as a garage and the architect is unknown. The HRI estimates its date of construction at between 1912 and 1928; the Historic District nomination identifies the date of construction as ca. 1923 and

notes that moderate alterations occurred in 1975 and that the Bennette family had an auto agency in this building from 1936 to 1977. There is no information in either description about when the building was converted from garage to office uses. According to the HRI:

“This building is a one-story brick structure facing south on Third Street and extending north the entire depth of the block with a similar elevation on Fourth. A flat roof is concealed by parapet walls on either end and the facades each have seven stepped forward piers and corbelled cornice lines. The south façade has a large window and three doors. Two of them are large enough to accommodate automobiles. Three low gabled projection [sic] creating a partial second story, protrude from the roof toward the rear. The building has always accommodated garages.”

The historic structures retain their significance that caused them to be listed as primary and secondary contributing structures in the historic district. Perhaps more importantly, demolition of these buildings would create the first (and only) block along Third Avenue to have no contributing historic structures. Allowing demolition of this building would erode the historic integrity of the District as a whole.

For these reasons, the Council finds that the historic value and significance of the resources do not support demolition.

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

**FINDING:** The Applicant argues that the combination of structural issues associated with a lack of building maintenance and investment and the structural costs of reinforcing unreinforced masonry buildings is a significant cost burden for a one or two-story building to overcome. And the city concurs. However, unreinforced masonry buildings are rehabilitated all of the time and lack of maintenance should not be justification for demolition of a historic resource.

The Council finds that the structural and maintenance issues identified by the Applicant in the reports on the historic structures are not physical conditions that are uncommon to historic buildings or circumstances that are so extreme as to justify demolition rather than restoration. Further, the record does not reflect what steps the owner has taken to protect the building and avoid demolition by neglect, which the Council finds is directly relevant to evaluating how a building's poor physical condition might serve as a basis for demolition. The potential for demolition by neglect is especially troubling given the testimony from one of the owners of the properties, who testified at the City Council regarding his intent to provide no further investment into the building that he owns.

***17.65.050(B)(5). Whether the historic resource constitutes a hazard to the safety of the public or its occupants;***

**FINDING:** Each of the buildings is currently occupied and is assumed to not constitute a hazard to the safety of the public or its occupants. The historic resources are not a hazard to the safety of the public or its occupants and, therefore, this criteria does not support demolition of the structures.

***17.65.050(B)(6). Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;***

**FINDING:** The Council finds that, although the Gwendolyn Hotel would further some of the economic development interests identified in the Comprehensive Plan, the subject property is not the only location in which to accomplish these objectives. There are several locations with non-contributing and/or non-historic structures or that are located outside of the historic district, but very close to the proposed location of this development. Further, there are other uses that could be accomplished within the existing structures that would move the needle in attracting tourists and greater businesses downtown. The Council notes that it received dozens of

statements from residents expressing a desire to see these buildings preserved which serves as substantial evidence that there is a strong interest in seeing these buildings preserved and the significance of retaining the historic integrity of the district.

For these reasons, the Council finds that denying this demolition request is not a deterrent to achieving other public interest objectives.

***17.65.050(B)(7). Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and***

**FINDING:** The Council first notes that there is a significant public interest in preserving the City's historic resources, such as the structures proposed to be demolished. First, Comprehensive Plan Goal III 2 requires that the City "preserve and protect...structures...of historical, [or] architectural...significance to the City of McMinnville." This significance is established by the HRI and the National Register designation documentation set forth in the record. The Council rejects any suggestion that the public interest is not served in protecting the historic structures for their contribution to the Historic District. While the denial of the requested demolition would have financial implications for the property owners, as discussed above, there is no requirement to allow the owners to maximize their potential return and, as demonstrated by the renovation and rehabilitation of other buildings along Third Street and in the historic district, there is a more than adequate return on investment in these buildings and any hardship is not significant enough to outweigh the public interest in preserving the historic structures.

***17.65.050(B)(8). Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.***

**FINDING:** The Council finds that determining what is the "best interests of a majority of the citizens of the City" is best represented by the testimony of those who testified which overwhelmingly favored denying this application. It is because these buildings retain the historic integrity that made them suitable for designation, communicate a historic significance of automobile culture that is not reflected in those designations and the claimed economic hardship particular to this owner is not established, the Commission finds that demolition is not in the best interests of the citizens.

**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*

**FINDING: SATISFIED.** Notice of the City Council's consideration of the Certificate of Approval application was mailed to property owners located within 300 feet of the historic resource. A copy of the written notice provided to property owners is on file with the Planning Department.

**17.72.020 Application Submittal Requirements.**

*Applications shall be filed on forms provided by the Planning Department and shall be accompanied by the following;*

- A. A scalable site plan of the property for which action is requested. The site plan shall show existing and proposed features, such as access, lot and street lines with dimensions in feet, distances from property lines, existing and proposed buildings and significant features (slope, vegetation, adjacent development, drainage etc.)*
- B. An explanation of intent, nature and proposed use of the development, and any pertinent background information.*
- C. Property description and assessor map parcel numbers(s).*
- D. A legal description of the property when necessary.*
- E. Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.*
- F. Materials required by other sections of the McMinnville Zoning Ordinance specific to the land use application.*
- G. Other materials deemed necessary by the Planning Director to illustrate compliance with applicable review criteria, or to explain the details of the requested land use action.*

**FINDING: SATISFIED.**

**17.72.095 Neighborhood Meetings.**

- A. A neighborhood meeting shall be required for:
 
  - 1. All applications that require a public hearing as described in Section 17.72.120, except that neighborhood meetings are not required for the following applications:
 
    - a. Comprehensive plan text amendment; or*
    - b. Zoning ordinance text amendment; or*
    - c. Appeal of a Planning Director's decision; or*
    - d. Application with Director's decision for which a public hearing is requested.**
  - 2. Tentative Subdivisions (up to 10 lots)*
  - 3. Short Term Rental**
- B. Schedule of Meeting.
 
  - 1. The applicant is required to hold one neighborhood meeting prior to submitting a land use application for a specific site. Additional meetings may be held at the applicant's discretion.*
  - 2. Land use applications shall be submitted to the City within 180 calendar days of the neighborhood meeting. If an application is not submitted in this time frame, the applicant shall be required to hold a new neighborhood meeting.**
- C. Meeting Location and Time.
 
  - 1. Neighborhood meetings shall be held at a location within the city limits of the City of McMinnville.*
  - 2. The meeting shall be held at a location that is open to the public and must be ADA accessible.*
  - 3. An 8 ½ x 11" sign shall be posted at the entry of the building before the meeting. The sign will announce the meeting, state that the meeting is open to the public and that interested persons are invited to attend.*
  - 4. The starting time for the meeting shall be limited to weekday evenings between the hours of 6 pm and 8 pm or Saturdays between the hours of 10 am and 4 pm. Neighborhood meetings shall not be held on national holidays. If no one arrives within 30 minutes after the scheduled starting time for the neighborhood meeting, the applicant may leave.**
- D. Mailed Notice.
 
  - 1. The applicant shall mail written notice of the neighborhood meeting to surrounding property owners. The notices shall be mailed to property owners within certain distances of the exterior boundary of the subject property. The notification distances shall be the same as the distances used for the property owner notices for the specific land use application that will eventually be applied for, as described in Section 17.72.110 and Section 17.72.120.**



2. Notice shall be mailed not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.
  3. An official list for the mailed notice may be obtained from the City of McMinnville for an applicable fee and within 5 business days. A mailing list may also be obtained from other sources such as a title company, provided that the list shall be based on the most recent tax assessment rolls of the Yamhill County Department of Assessment and Taxation. A mailing list is valid for use up to 45 calendar days from the date the mailing list was generated.
  4. The mailed notice shall:
    - a. State the date, time and location of the neighborhood meeting and invite people for a conversation on the proposal.
    - b. Briefly describe the nature of the proposal (i.e., approximate number of lots or units, housing types, approximate building dimensions and heights, and proposed land use request).
    - c. Include a copy of the tax map or a GIS map that clearly identifies the location of the proposed development.
    - d. Include a conceptual site plan.
  5. The City of McMinnville Planning Department shall be included as a recipient of the mailed notice of the neighborhood meeting.
  6. Failure of a property owner to receive mailed notice shall not invalidate the neighborhood meeting proceedings.
- E. Posted Notice.
1. The applicant shall also provide notice of the meeting by posting one 18 x 24" waterproof sign on each frontage of the subject property not fewer than 20 calendar days nor more than 30 calendar days prior to the date of the neighborhood meeting.
  2. The sign(s) shall be posted within 20 feet of the adjacent right-of-way and must be easily viewable and readable from the right-of-way.
  3. It is the applicant's responsibility to post the sign, to ensure that the sign remains posted until the meeting, and to remove it following the meeting.
  4. If the posted sign is inadvertently removed (i.e., by weather, vandals, etc.), that shall not invalidate the neighborhood meeting proceedings.
- F. Meeting Agenda.
1. The overall format of the neighborhood meeting shall be at the discretion of the applicant.
  2. At a minimum, the applicant shall include the following components in the neighborhood meeting agenda:
    - a. An opportunity for attendees to view the conceptual site plan;
    - b. A description of the major elements of the proposal. Depending on the type and scale of the particular application, the applicant should be prepared to discuss proposed land uses and densities, proposed building size and height, proposed access and parking, and proposed landscaping, buffering, and/or protection of natural resources;
    - c. An opportunity for attendees to speak at the meeting and ask questions of the applicant. The applicant shall allow attendees to identify any issues that they believe should be addressed.
- G. Evidence of Compliance. In order for a land use application that requires a neighborhood meeting to be deemed complete, the following evidence shall be submitted with the land use application:
1. A copy of the meeting notice mailed to surrounding property owners;
  2. A copy of the mailing list used to send the meeting notices;
  3. One photograph for each waterproof sign posted on the subject site, taken from the adjacent right-of-way;
  4. One 8 ½ x 11" copy of the materials presented by the applicant at the neighborhood meeting; and
  5. Notes of the meeting, which shall include:
    - a. Meeting date;
    - b. Meeting time and location;
    - c. The names and addresses of those attending;
    - d. A summary of oral and written comments received; and

- e. *A summary of any revisions made to the proposal based on comments received at the meeting. (Ord. 5047, §2, 2018, Ord. 5045 §2, 2017).*

**FINDING: SATISFIED.**

HR