

DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS OF THE MCMINNVILLE HISTORIC LANDMARKS COMMITTEE FOR THE APPROVAL OF A DEMOLITION OF THE HISTORIC LANDMARK LOCATED AT 619 NE THIRD STREET

DOCKET: HL 8-22 (Certificate of Approval for Demolition)

REQUEST: Approval of the demolition of an existing historic landmark and building that is listed on the McMinnville Historic Resources Inventory as a “Environmental” historic resource (resource number D876). This building is also listed on the National Register of Historic Places as a Secondary Significant Contributing building in the McMinnville Downtown Historic District.

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

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

APPLICANT: Mark Vuong, HD McMinnville LLC

PROPERTY OWNER: Phillip Frischmuth, Wild Haven, LLC.

STAFF: Heather Richards, Community Development Director

DATE DEEMED COMPLETE: September 7, 2022

HEARINGS BODY & ACTION: McMinnville Historic Landmarks Committee

HEARING DATE & LOCATION: First evidentiary hearing, September 29, 2022, 3:00 PM. In person at Kent Taylor Civic Hall 200 NE 2nd 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 2nd St and online via Zoom. Zoom Online Meeting ID: 892 5565 1124, Meeting Password: 257277

Attachments: (Located at [Gwendolyn Hotel \(HL 6-22, HL 7-22, HL 8-22, and DDR 2-22\) - 609, 611 and 619 NE Third Street | McMinnville Oregon](#) and on file with the Planning Department)

*Attachment 1: Application and Attachments (Provided August 9, 2022)
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Hearing continued to January 5, 2023, 4:00 PM. In person at Kent Taylor Civic Hall 200 NE 2nd St and online via Zoom. Zoom Online Meeting ID: 831 7965 5545, Meeting Password: 725658. At the conclusion of this meeting, the record was closed to further testimony.

Meeting continued to January 26, 4:00 PM for Historic Landmarks Committee deliberation, a decision and adoption of written findings. In person at Kent Taylor Civic Hall 200 NE 2nd 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. The City's final decision is subject to a 120 day processing timeline, including resolution of any local appeal. The original 120-day deadline was 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. As a result, the 120 deadline was extended to 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 current deadline for taking final action on the application is April 15, 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.

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Based on the findings and conclusionary findings, the Historic Landmarks Committee finds the applicable criteria are **SATISFIED / NOT SATISFIED** and **APPROVES / APPROVES WITH CONDITIONS / DENIES** the Certificate of Approval for the demolition of the structure at 619 NE Third Street (HL 8-22).

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DECISION: **APPROVAL** **APPROVAL WITH CONDITIONS** **DENIAL**
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Historic Landmarks Committee: 
John Mead, Chair

Date: 1/20/23

Planning Department: 
Heather Richards, Community Development Director

Date: 1.26.23

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I. APPLICATION SUMMARY:

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

Proposed Project

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

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

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

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

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

The proposal is to replace the three underutilized buildings at 609, 611, and 619 NE 3rd Street with a 90-95 room boutique hotel. The ground floor will include the hotel lobby, a signature restaurant at the corner of 3rd and Ford streets, with seasonal sidewalk dining, and small retail shop(s). The entire rooftop will be a mix of public uses, anchored by a small restaurant/bar opening onto a large terrace of seating and raised-bed landscaping. Though parking is not required in this location, a below-grade parking garage accommodating 68 (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 3rd Street pedestrian experience.

(Application Narrative, page 3)

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Subject Property & Request

The subject property is located at 619 NE Third Street. The property is identified as Tax Lot 4201, Section 21BC, T. 4 S., R. 4 W., W.M. **See Vicinity Map (Figure 1) below, which identifies the approximate location of the building in question.**

Figure 1. Vicinity Map (Building Outline Approximate)

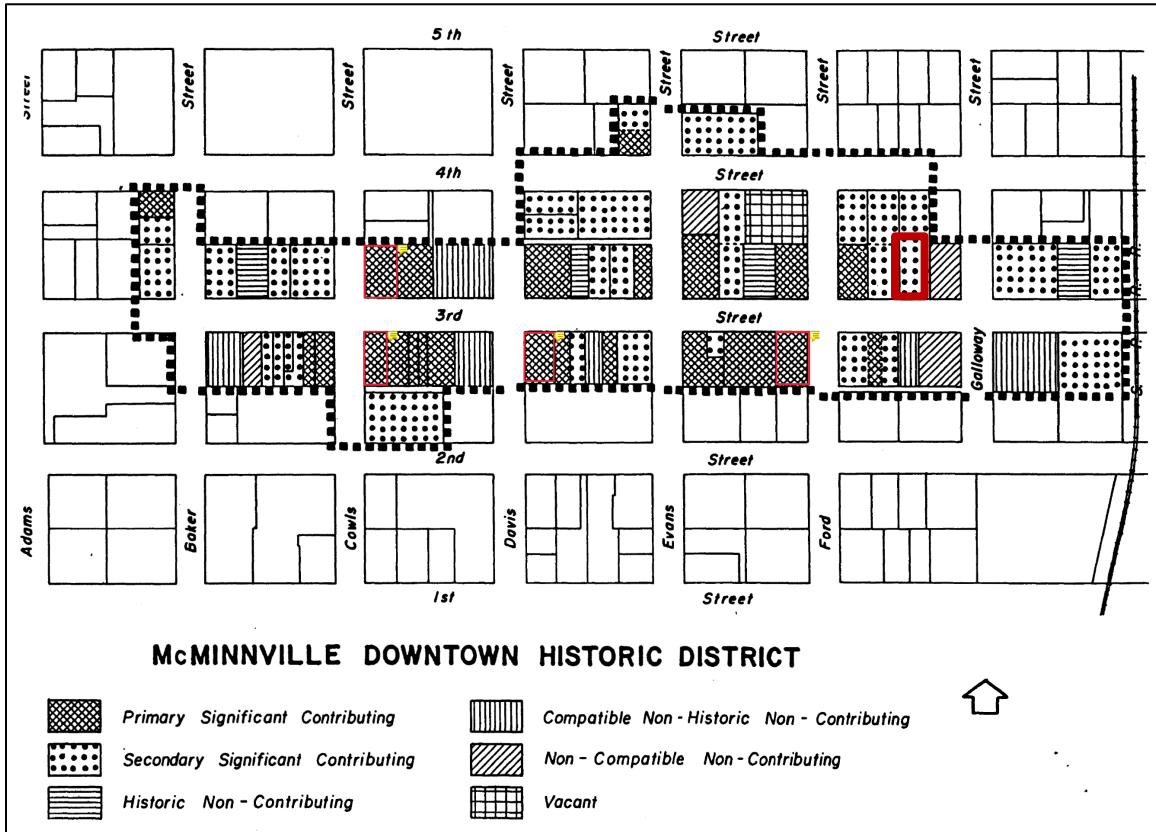


The existing building on the subject property is listed as a Secondary Significant Contributing property in the McMinnville Downtown Historic District on the National Register of Historic Places. **See McMinnville Downtown Historic District Map (Figure 2) and Description of 619 NE Third Street in the McMinnville Downtown Historic District National Register of Historic Places Nomination (Figure 3) below.**

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Figure 2. McMinnville Downtown Historic District Map



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Figure 3. Description of 619 (misabeled as 641) East Third Street in the McMinnville Downtown Historic District National Register of Historic Places Nomination (Section 7, Page 22-23) (1987)

29 ADDRESS: 641 East Third Street
 CLASSIFICATION: Secondary Significant Contributing
 OWNER: Joyce and Robert Morton
 ASSESSOR MAP: 4421 BC TAX LOT: 4200
 PLAT: Rowland's Addition LOT: 2, 7 BLOCK: 7
 YEAR BUILT: ca. 1923 STYLE: Modernistic
 ALTERATIONS: 1975 (moderate) USE: Commercial

DESCRIPTION: This rectangular one-story painted brick structure has a flat parapet with a corbelled cornice and six bays articulated by seven pilasters. Five pilasters extend to the ground and two end at the transom level. The storefront is divided into four bays with the western bay containing a large garage door. The next bay to the east has a wood frame plate glass window with plywood covered transom and bulkhead. The next bay contains a wood frame glass door with sidelights and a transom which has been painted out. The bay to the east has a wood frame plate glass window with painted out transom. The sill and bulkhead are brick.

The Bennette family had an auto agency in this building from 1936–1977. The building does not show on the Sanborn Fire Insurance Company maps until 1928. Yamhill County Tax Assessor records show 1923 for the date of construction.

The existing building on the subject property is listed on the McMinnville Historic Resources Inventory as a “Environmental” resource (resource number D876). **Please see “Statement of Historical Significance and Description of the Property”, Figure 4 below.**

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

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

Bennette family (John, then Richard) operated auto agency from 1936-1977

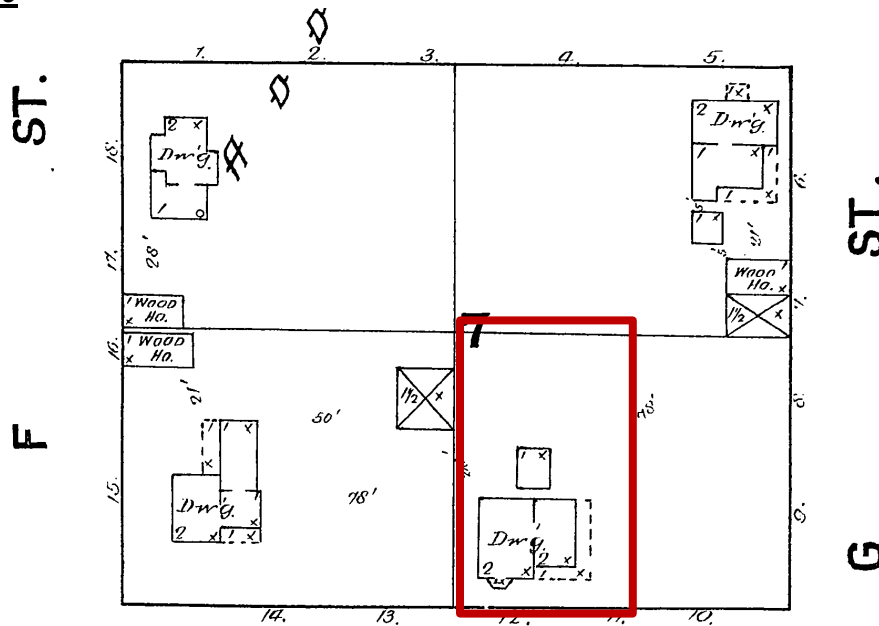
The property originally started off as an dwelling structure, prior to 1889, and between 1912 and 1928 it was redeveloped into an automobile garage. **Please see Figure 5, Series of Sanborn Maps below.**

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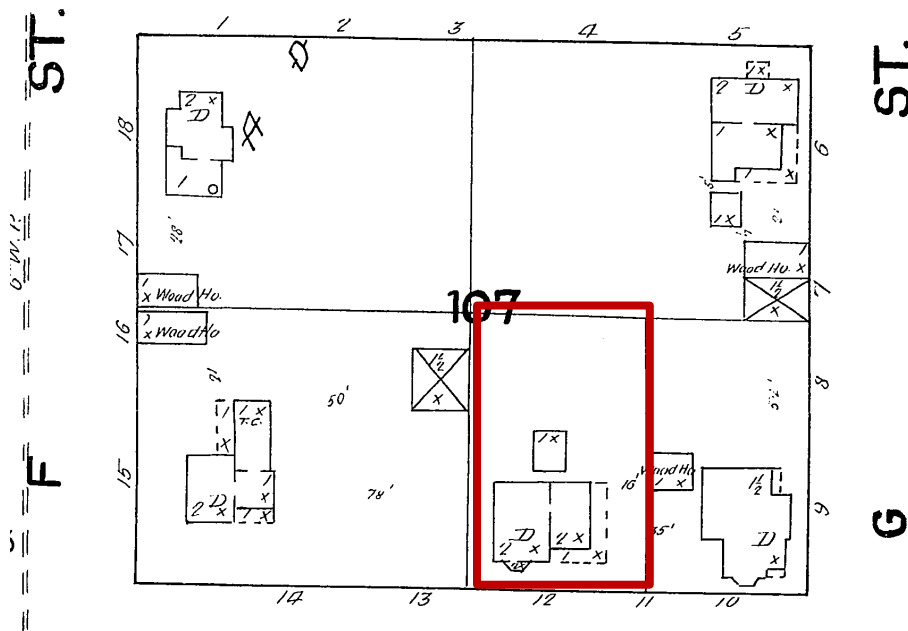
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Figure 5. Series of Sanborn Maps

Sanborn Map, 1889



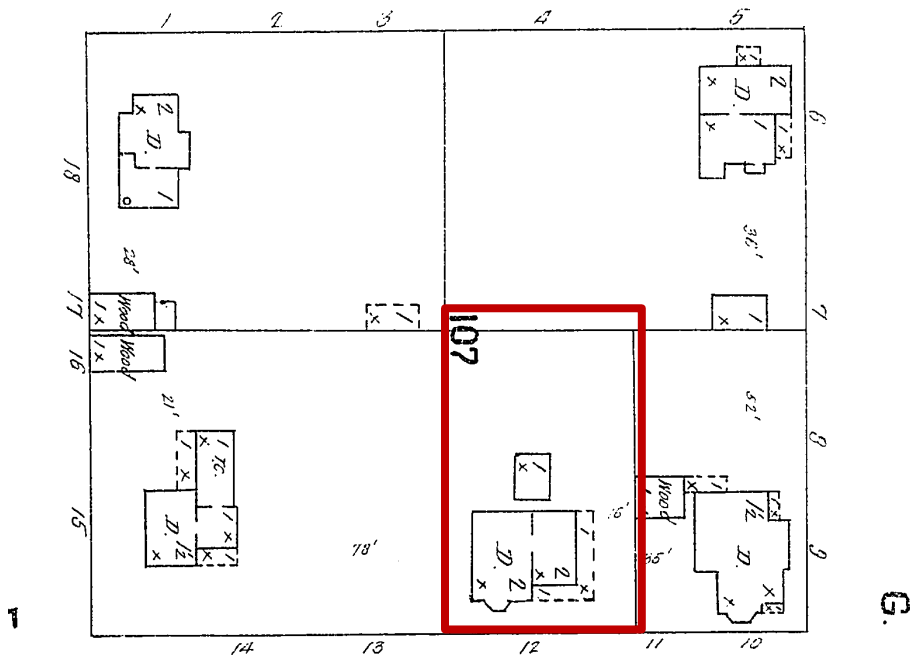
Sanborn Map, 1892



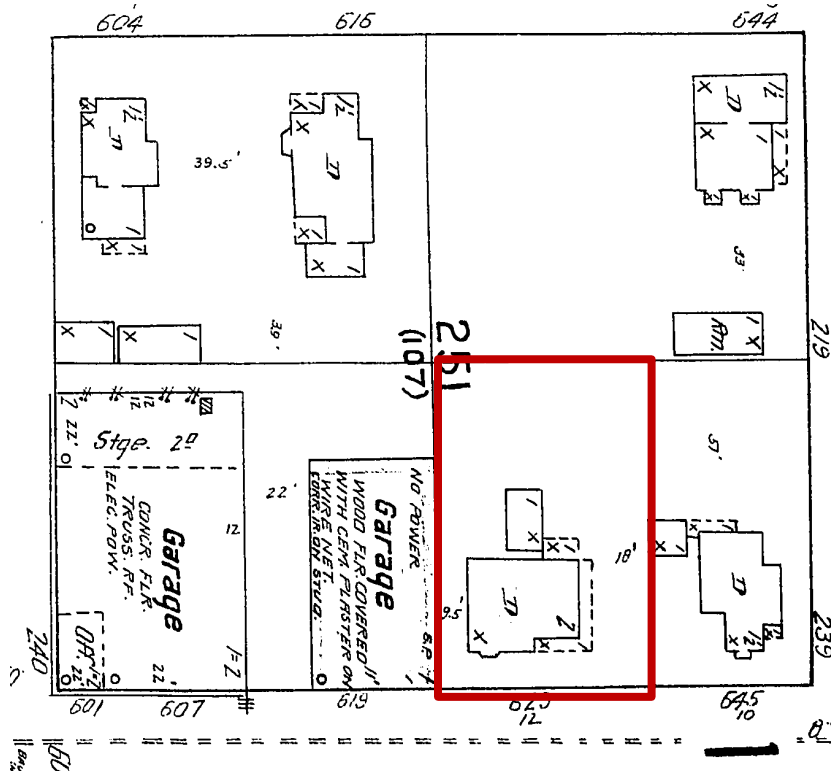
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Sanborn Map, 1902



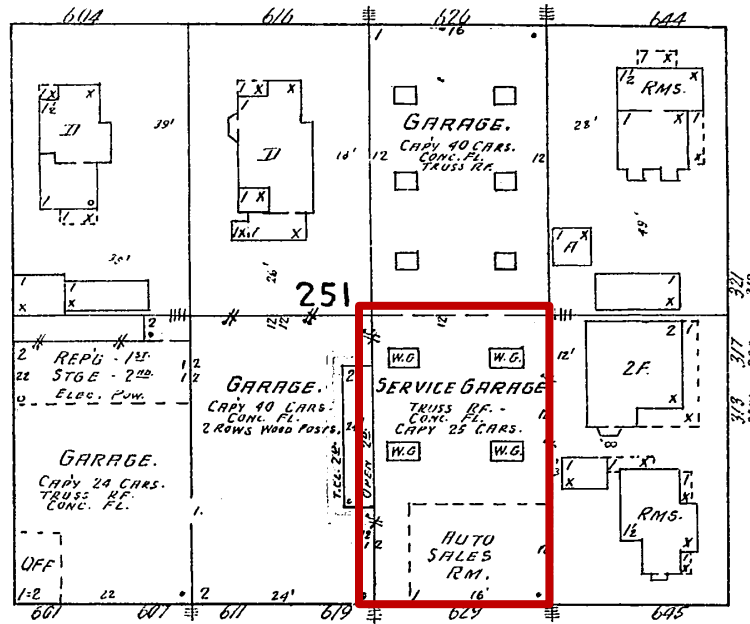
Sanborn Map, 1912



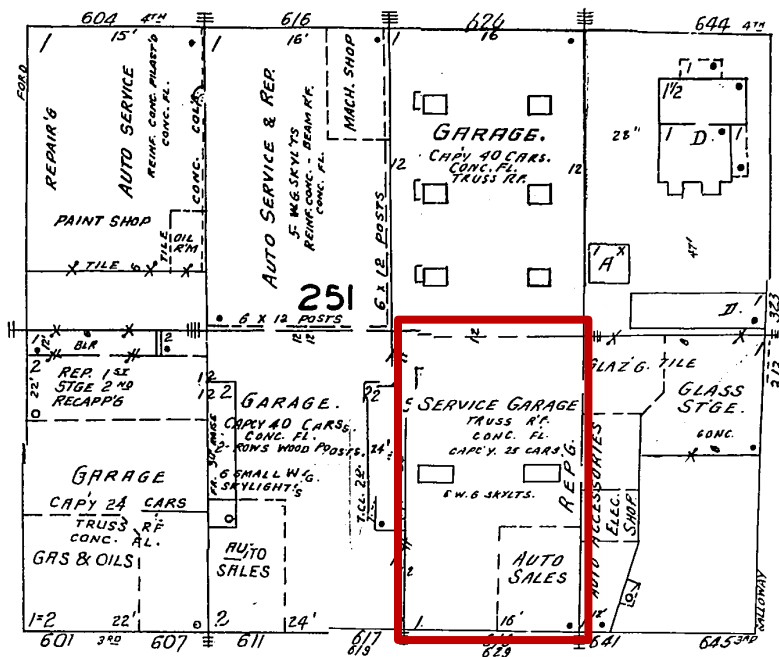
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Sanborn Map, 1928



Sanborn Map, 1948



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

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Figure 6, Series of Photos Over Time

**1969 Photo of 619 NE Third Street depicting the automobile bays.
(Yamhill County News Register)**



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**1983 photo of the property shows the modified automobile bays and decorative brick work.
(Historic Resources Survey, City of McMinnville, Yamhill County, Oregon)**



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2018, Photo of 619 NE Third Street, the automobile bays have been modified into storefronts, and the brick is painted but the subtle brick decoration is still visible.



Background

The property was originally surveyed in 1983 and 1984, which are the dates that the “Statement of Historical Significance and Property Description” were drafted and included on the Historic Resources Inventory sheet (resource number (D876) for the subject property. This survey work led to the inclusion of the property on the Historic Resources Inventory, and the Historic Resources Inventory was adopted by the McMinnville City Council on April 14, 1987 by Ordinance 4401. The Historic Resources Inventory has since been incorporated into the McMinnville Municipal Code (MMC) through its adoption and reference in MMC Section 17.65.030(A).

The McMinnville Downtown Historic District was entered in the National Register of Historic Places on September 14, 1987. The McMinnville Downtown Historic district was designated for meeting Criteria A (“association with events that have made a significant contribution to the broad patterns of our history”) and C (“distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction”) and is “most noteworthy as the place where the community’s largest, best preserved and most noteworthy historic commercial buildings are concentrated.” (Nomination p 51). Although the nomination acknowledges the alteration of a number of the ground story storefronts including the addition of stucco, the nomination emphasizes the “density, common scale, materials and overall design elements” as providing visual continuity conveying the evolution of the downtown commercial core.

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Summary of Criteria & Issues

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

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

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

Section 17.65.050 of the McMinnville Zoning Ordinance state that:

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

- A. *The Historic Landmarks Committee may approve, approve with conditions, or deny the application.*
- B. *The Historic Landmarks Committee shall base its decision on the following criteria:*
1. *The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;*
 2. *The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;*
 3. *The value and significance of the historic resource;*
 4. *The physical condition of the historic resource;*
 5. *Whether the historic resource constitutes a hazard to the safety of the public or its occupants;*
 6. *Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;*
 7. *Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and*
 8. *Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.*
- C. *If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, the Planning Director may approve the application without processing the request through the Historic Landmarks Committee.*
- D. *The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or*

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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 and the HLC heard testimony from the public regarding the same. These will be discussed in detail in Section VI (Conclusionary Findings) below.

II. ATTACHMENTS:

❖ HL 8-22 Application and Attachments

Original Submittal (August 9, 2022)

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

Supplemental Submittal (November 4, 2022)

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

Supplemental Submittal (December 15, 2022)

- Letter to City with Additional Findings
- Exhibit 1, Historic Resources Assessment, Architectural Resource Group, November 2022
- Exhibit 2, Existing Building Structural Summary, HHPR, November 6, 2022

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- 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 2nd 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 & 3rd 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

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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) – 3rd 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,

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- 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.

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Public Comments

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 has been received by the Planning Department.

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

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- 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 application (HL 8-22) on August 9, 2022.
2. The application was deemed complete on September 7, 2022. Based on that date, the 120 -day land use decision time limit expires on January 5, 2023. The applicant twice extended the 120-day deadline and the new deadline is April 15, 2023.
3. Notice of the application was referred to the following public agencies for comment in accordance with Section 17.72.120 of the Zoning Ordinance: McMinnville Fire Department, Police Department, Parks and Recreation Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Recology Western Oregon, Frontier Communications, Comcast, Northwest Natural Gas, Oregon Department of Transportation and the Oregon State Historic Preservation Office on September 7, 2022.

Comments received from agencies are addressed in the Decision Document.

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

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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 hosted a public hearing, closed the public hearing, deliberated, and rendered a decision.
13. On January 26, the Historic Landmarks Committee voted to deny this application based on the following written findings.

VI. FINDINGS OF FACT – GENERAL FINDINGS

1. **Location:** 619 NE Third Street. The resource is located at the property that is identified as Tax Lot 4201, Section 21BC, T. 4 S., R. 4 W., W.M.
2. **Size:** The subject site and property is approximately 6,000 square feet.
3. **Comprehensive Plan Map Designation:** Commercial
4. **Zoning:** C-3, General Commercial
5. **Overlay Zones/Special Districts:** Downtown Overlay District, Section 17.59 of the McMinnville Municipal Code.
6. **Current Use:** Office
7. **Inventoried Significant Resources:**
 - a. **Historic Resources:** Historic Resources Inventory – Resource Number D876.
 - b. **Other:** Secondary Significant Contributing resource, McMinnville National Register of Historic Places Downtown Historic District
8. **Other Features:** The building is property tight with no setbacks, one story, unreinforced brick.
9. **Utilities:**
 - a. **Water:** Water service is available to the subject site.
 - b. **Electric:** Power service is available to the subject site.
 - c. **Sewer:** Sanitary sewer service is available to the subject site.
10. **Transportation:** The site is located on the northern side of Third Street in the middle of the block between Ford and Galloway Streets. Third Street is a major collector in the McMinnville Transportation System Plan.

VII. CONCLUSIONARY FINDINGS:

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

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

Compliance with Oregon State Land Use Goals:

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

(1) For purposes of this rule, the following definitions apply:

- (a) “Demolition” means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition.
- (b) “Designation” is a decision by a local government to include a significant resource on the resource list.
- (c) “Historic context statement” is an element of a comprehensive plan that describes the important broad patterns of historical development in a community and its region during a specified time period. It also identifies historic resources that are representative of the important broad patterns of historical development.
- (d) “Historic preservation plan” is an element of a comprehensive plan that contains the local government’s goals and policies for historic resource preservation and the processes for creating and amending the program to achieve the goal.
- (e) “Historic resources” are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.
- (f) “Locally significant historic resource” means a building, structure, object, site, or district deemed by a local government to be a significant resource according to the requirements of this division and criteria in the comprehensive plan.
- (g) “National Register Resource” means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).
- (h) “Owner”:
 - (A) Means the owner of fee title to the property as shown in the deed records of the county where the property is located; or
 - (B) Means the purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
 - (C) Means, if the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner; and
 - (D) Does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature; or
 - (E) Means, for a locally significant historic resource with multiple owners, including a district, a simple majority of owners as defined in (A)-(D).
 - (F) Means, for National Register Resources, the same as defined in 36 CFR 60.3(k).
- (i) “Protect” means to require local government review of applications for demolition, relocation, or major exterior alteration of a historic resource, or to delay approval of, or deny, permits for these actions in order to provide opportunities for continued preservation.
- (j) “Significant historic resource” means a locally significant historic resource or a National Register Resource.

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- (2) *Relationship of Historic Resource Protection to the Standard Goal 5 Process.*
- (a) *Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories, resource lists or programs regarding historic resources, except as specified in section (8). Local governments are encouraged to inventory and designate historic resources and must adopt historic preservation regulations to protect significant historic resources.*
 - (b) *The requirements of the standard Goal 5 process in [OAR 660-023-0030 \(Inventory Process\)](#) through [660-023-0050 \(Programs to Achieve Goal 5\)](#), in conjunction with the requirements of this rule, apply when local governments choose to amend acknowledged historic preservation plans and regulations.*
 - (c) *Local governments are not required to apply the ESEE process pursuant to [OAR 660-023-0040 \(ESEE Decision Process\)](#) in order to determine a program to protect historic resources.*

APPLICANT’S RESPONSE: None.

FINDING: NOT APPLICABLE.

- (3) *Comprehensive Plan Contents. Local comprehensive plans should foster and encourage the preservation, management, and enhancement of significant historic resources within the jurisdiction in a manner conforming with, but not limited by, the provisions of [ORS 358.605 \(Legislative findings\)](#). In developing local historic preservation programs, local governments should follow the recommendations in the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, produced by the National Park Service. Local governments should develop a local historic context statement and adopt a historic preservation plan and a historic preservation ordinance in conjunction with inventorying historic resources.*
- (4) *Inventorying Historic Resources. When a local government chooses to inventory historic resources, it must do so pursuant to [OAR 660-023-0030 \(Inventory Process\)](#), this section, and sections*
- (5) *through (7). Local governments are encouraged to provide opportunities for community-wide participation as part of the inventory process. Local governments are encouraged to complete the inventory in a manner that satisfies the requirements for such studies published by the Oregon State Historic Preservation Office and provide the inventory to that office in a format compatible with the Oregon Historic Sites Database.*
- (5) *Evaluating and Determining Significance. After a local government completes an inventory of historic resources, it should evaluate which resources on the inventory are significant pursuant to [OAR 660-023-0030 \(Inventory Process\)](#)(4) and this section.*
- (a) *The evaluation of significance should be based on the National Register Criteria for Evaluation, historic context statement and historic preservation plan. Criteria may include, but are not limited to, consideration of whether the resource has:*
 - (A) *Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;*
 - (B) *Significant association with the lives of persons significant to local, regional, state, or national history;*
 - (C) *Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;*
 - (D) *A high likelihood that, if preserved, would yield information important in prehistory or history; or*
 - (E) *Relevance within the local historic context and priorities described in the historic preservation plan.*

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- (b) *Local governments may delegate the determination of locally significant historic resources to a local planning commission or historic resources commission.*
- (6) *Designating Locally Significant Historic Resources. After inventorying and evaluating the significance of historic resources, if a local government chooses to protect a historic resource, it must adopt or amend a resource list (i.e., “designate” such resources) pursuant to [OAR 660-023-0030 \(Inventory Process\)](#)(5) and this section.*
- (a) *The resource list must be adopted or amended as a land use decision.*
- (b) *Local governments must allow owners of inventoried historic resources to refuse historic resource designation at any time during the designation process in subsection (a) and must not include a site on a resource list if the owner of the property objects to its designation on the public record. A local government is not required to remove a historic resource from an inventory because an owner refuses to consent to designation.*
- (7) *Historic Resource Protection Ordinances. Local governments must adopt land use regulations to protect locally significant historic resources designated under section (6). This section replaces [OAR 660-023-0050 \(Programs to Achieve Goal 5\)](#). Historic protection ordinances should be consistent with standards and guidelines recommended in the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior, produced by the National Park Service.*

APPLICANT’S RESPONSE: None.

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

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

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

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

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 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." Just giving "consideration" to these factors but not using those considerations when making decisions about demolition of National Register Resources, as the applicant advocates, would not achieve the preservation objective provided. Rather, it is only through the weighing and consideration of the listed factors that the Commission can determine if demolition can occur without sacrificing protection. Per Figure 2 of this decision document, 619 NE Third Street is considered a Primary Significant Contributing resource in the McMinnville Downtown Historic District.

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

APPLICANT RESPONSE: All three of the buildings are constructed of unreinforced brick. The buildings at 611 and 619 NE 3rd Street have more significant challenges, including interior water damage, a shared wall between the two, and deterioration of the exterior wall.

As noted in the structural report included as Appendix C, the building at 619 NE 3rd Street has rotting bearing points at the roof trusses.

The applicant is not requesting demolition of the property due to significant structural issues or imminent public safety hazards. However, additional information from the structural engineer has been provided in response to HLC requests. See Attachment 1.

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

The property at 619 NE 3rd Street is classified as a "Secondary Significant Contributing" building in the Downtown Historic District. Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) explains that the property was developed as an automobile garage in 1923. At all times within the secondary historic period, the property was used as an automobile garage and by 1940 was used as a car dealership. At that time, ground floor building openings included an entry at the westernmost bay, with five windows to the east. Each of these six bays has been modified, including substantial reconfiguration of masonry openings. There were not then, and are not now, any upper-floor windows. According to Exhibit 1, the ground floor has been significantly modified.

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Condition. The HRA notes that the roof and signage are in good condition, but identifies a number of issues:

- o The original white brick of the attic story/parapet remains, although it has been painted. Original unpainted white brick remains visible at the corner of the east elevation. Significant areas of brick cracking and displacement were observed in the attic story at the southeast corner of the building.
- o Little remains of the original building materials at the ground floor. The original brick moulding at the westernmost opening remains, although the opening has been infilled with a new door.

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

"The bearing points of the trusses are deteriorated along the west wall and supplemental support has been framed under the trusses. This condition exists at the connection to the 611 Building and is the result of water penetration along the north south valley between the buildings."

Exhibit 2 also notes that there is cracking in the brick facade along the south exterior elevation.

HPR's initial structural review of the building, dated July 29, 2022 (Exhibit 3), identified the following issues:

- o "The bearing points of the trusses are deteriorated (rotten) along the west wall and supplemental support has been framed under the trusses.
- o This condition exists at the connection to the 611 Building and is the result of water penetration along the north south valley between the buildings.
- o The brick and mortar at south elevation show signs of deterioration and diagonal cracks along the mortar lines.
- o The east wall exterior has significant deterioration and is exposed due to the separation between the 619 Building and the recently constructed building to the east."

FINDING: The structural analysis does not indicate any structural issues that pose a significant or imminent public safety hazard. The structural analysis provided by the applicant does not suggest that remediating existing conditions, including the rotten bearing condition at the truss, is unreasonable or otherwise infeasible. The Historic Landmarks Committee views this concern as one that, not only should be alleviated through routine maintenance, this condition does not offer any indication that the structure is in a physical condition that is so deteriorated as to require demolition. Further, the Historic Landmarks Committee 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.

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

APPLICANT RESPONSE: According to the HRI, the building at 619 NE 3rd Street (referred to as 641 East Third Street in the HRI and the National Register nomination) was constructed between 1912 and 1928, and was therefore classified as a Secondary Significant Contributing structure. The Oregon Historic Sites Database notes the date of construction as 1923 with a secondary construction date of 1975.

The HRI statement indicated that the building was constructed to house hardware and farm implements, but also notes that it has always accommodated garages. The HRI image shows a large garage entrance on the left side of the building and an enclosed storefront on the east side of the building.

619 NE 3rd Street in 1983

Source: City of McMinnville Historic Resources Survey, 1983.

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Since 1983, the left side garage entrance has been enclosed to create another storefront. An awning has been added to the entrance, and the façade has been painted. According to the 1987 National Register nomination, the transom windows have been painted.

619 NE 3rd Street in 2014



Source: Google Maps

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

In this context, the "Historic Integrity" of the building refers to features that existed within the date range of secondary significance. While the building is largely in the same configuration as it was in 1983 when the Historic District was established, the Historic District Nominating Form did not identify any period after 1937 as historically significant; therefore, features added after that date are not considered historically significant.

As explained in Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) and the Staff Report, the historic integrity of the building has been substantially compromised since it was originally constructed, principally due to:

- o Insertion of paired doors with wood trim elements in westernmost bay.

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- o Removal of all five windows and window openings that were originally east of the westernmost bay (four have been replaced with two double-wide storefront windows and one has been replaced with a door with sidelights and awning).
- o White brick has been painted.

Exhibit I (Historic Resources Assessment, Architectural Resource Group, November 2022) goes on to identify the following "character defining features" confirmed to be remaining with the building¹ include the following:

- o Brick cladding.
- o Flat parapet with corbelled cornice and six bays articulated by seven pilasters.
- o Metal flue at southeast corner of building.
- o The original wood brick molding and protective bollards at the westernmost opening (wood posts, entry and transom at this location are not original).
- o Wood trusses spanning east-west over the width of the interior space.

Note that the report, while helpful, does not address "historic integrity" specifically but only "character defining features."

The photo and caption from the HRA is illustrative of the magnitude of the alterations of the building from its characteristics during the period of significance:

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

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By the time of this 1983 historic survey photograph, the window to the east of the double-wide opening had been converted to an entry and the windows in the two easternmost bays had been replaced with a storefront window spanning both bays (Historic Resources Survey, City of McMinnville, Yamhill County, Oregon).

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, rather than rely 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 Secondary Significant Contributing designation when they were built between 1913 and 1937 during a secondary period of construction encouraged by the proliferation of the automobile. Of the three buildings considered for demolition, the level of historic integrity is the lowest for 619 NE Third Street. As the applicant notes, not much of the automobile-related elements remain to convey this history, although the 5, Series of Sanborn Maps and Figure 6, Series of Photos in this decision document), however the parapet is still, for the most part, intact per the original building.

The sign on the side has been restored/replicated.

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The Historic Landmarks Committee finds that although this building lacks the historic integrity on its own, the massing, height, materials and parapet design contribute to the integrity of the district as a whole. For this reason, the structure at 619 NE Third Street warrants preservation for the community.



1927 photograph showing the original configuration of 619 NE 3rd Street (News-Register Publishing Co).

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

APPLICANT RESPONSE: As noted, the building at 609 NE 3rd Street was constructed in 1904 and is 118 years old. The building at 619 NE 3rd Street was constructed in 1920 and is 102 years old. The building at 619 NE 3rd Street was constructed in 1923 and is 99 years old.

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

The Historic District Nominating Form identifies its construction year as 1923.

FINDING: 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 three contributing, would have the effect of eliminating all of the significant historic buildings on the north

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side of 3rd Street between Ford and Galloway, creating the only block along 3rd 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.



Photo: 1927, 4 years after construction



Current Structure

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

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

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

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

The National Register nomination describes the categories as such:

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

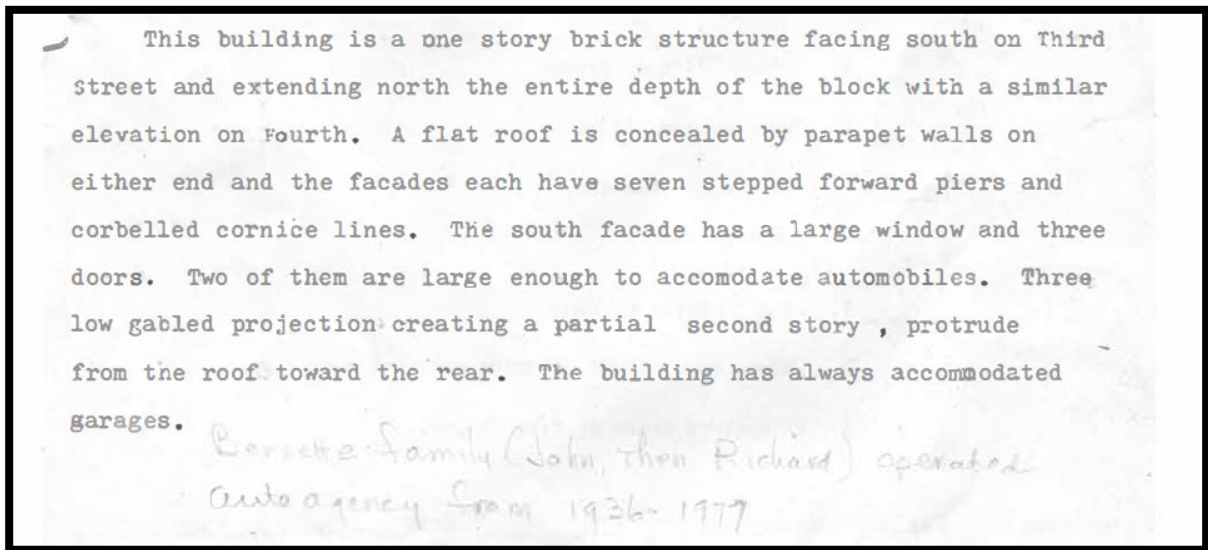
The HRI statements of historical significance do not provide any detail about why the buildings were classified as Primary or Secondary resources, aside from the date of construction, so it is difficult to determine what features of the buildings warranted their classification. Arguably, as described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

The building at 619 NE 3rd Street has been substantially altered since its HRI designation. The applicant was unable to locate earlier photos of the building, perhaps because this end of 3rd Street consists of more modest and utilitarian structures than the more detailed Italianate buildings north of Ford Street. The 1940 News-Register photo appears to show an open garage entrance on the left side of the building and a storefront with transom windows on the east side of the building, with the entrance in the center. At some point after 1983, the garage bay was enclosed and converted to storefront/office area and faux transom windows were installed. While the renovation has resulted in an attractive and functional building, it has fully altered the façade.

The City's Historic District's 1983 statement of historic significance is as follows:

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"Historic Significance" is not defined in OAR 660-033-023. However, OAR 660-033-023(5)(a) explains that the "evaluation of significance" should be based on the following²:

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

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

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

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

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

With respect to (A), the Historic District's significance statement does not connect the building with any significant events. With respect to (B), the building is not noted as being associated with any particular person significant to local, regional, state, or national history. With respect to (C), there is no evidence that the building possessed a particularly distinctive or notable design, artistic values, "or represents a significant and distinguishable entity whose components may lack individual distinction." With respect to (D), given the substantial changes to the building significant and its historic use as an automobile garage and car dealership, it does not "yield information important in prehistory or history."

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

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

"Structures are classified as Secondary-Significant if they were built in or between 1913 and 1937. These buildings represent the secondary period of construction and development from the increase of city improvements and auto traffic."

All that is required to qualify a building as Secondary-Significant is construction within the date range above. According to its nomination form, the building was included because it was built in 1923.

FINDING: Both the National Register of Historic Places and the City of McMinnville have adopted provisions that identify the property as historically significant. Under the National Register, the district was deemed to qualify under Criteria A and C. The City of McMinnville's classification of the property as a "D" (Environmental) historic resource on the McMinnville Historic Landmarks Inventory. Albeit the local "D" classification is the lowest classification of resources on the McMinnville Historic Landmarks Inventory.

Although, if reviewed now, the property could be classified differently, that does not negate the policy action that has occurred. With that said, the assigned historic significance is not a stand-alone factor for preservation or demolition. 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. Descendants of many of the community's early settlers are owners of property or businesses within the district today.

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

The McMinnville Historic Preservation Plan has the following language for the historic context of McMinnville's historic resources for the time period that most influenced the building at 619 NE Third Street:

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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.⁵

Population growth continued between 1910 and 1940, increasing from 2,767 in 1920 to 3,706 in 1940.⁶ 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)

However, based on the methodology at the time, the subject property was listed as a “Secondary Significant Contributing” property in the McMinnville Downtown Historic District National Register of Historic Places nomination and identified as an “Environmental” resource on the McMinnville Historic Resources Inventory, the lowest level of historic significance.

As discussed above, the historic integrity of the building has been significantly modified since its original construction but it continues to contribute to the overall character of the district.

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

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

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

Within living memory, the building has been used as an automotive repair shop, car dealership, and small retail spaces. The building is not associated with any particularly meaningful community history, has never been used as a community gathering place, and does not appear to have any value to the community beyond its inclusion in the Historic District.

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

619 NE Third Street does not appear to have the historic integrity or historic significance that many believe that it has due to the amount of modifications that have occurred. The City has received several letters from the public asking to save the historic properties. 619 NE Third Street is part of the historic building fabric of Third Street in McMinnville, a built environment which collectively has a lot of value to the community. Any replacement project would need to be able to become an asset to that built environment and not a disrupter. Presumably the downtown overlay district design standards was developed to ensure that infill on Third Street would compliment the existing built environment. And any replacement project would need to comply with those design standards (Section 17.59 of the McMinnville Municipal Code).

FINDING: The HLC 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 this building was in the fact that it is a further extension of McMinnville's first auto row.

Several people also testified that the height, mass, and form of the building contributed to the overall sense of plan 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 structure and the return yield on the square footage of the rehabilitated space would not be financed as the project would not yield a positive return for 40 years.

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

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

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

(Application Narrative, page 3)

The applicant argues that the underutilization of the building for revenue-generating commercial uses undercuts the value of the building to the community. Although this might be true in the abstract, the HLC did not hear this concern voiced in the testimony it received. Further, the Historic Landmarks Commission concludes that the building is 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

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development that might be allowed in the zone. The Historic Landmarks Commission believes that there may be 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.

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

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

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

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

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

FINDING: The replacement plan for a multi-story hotel and ground floor retail may benefit McMinnville economically but the Historic Landmarks Committee also finds that it is the historic district, its historic charm and coziness, that have made this downtown an economic success. McMinnville needs more Class A office space, especially in its city center. However, due to long-term disinvestment in the second story of this building the costs of stabilizing the building and providing Class A office space is more than the market will bear which would lead to continued disinvestment in the second story and no office vitality outside of the ground floor. This long-time disinvestment cannot be used as a basis to claim economic hardship.

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

APPLICANT RESPONSE: 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.

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According to the McMinnville Historic Preservation Plan (Ord. 5068), as of May 2018 there were 558 properties listed on the HRI at the top three levels (Distinctive, Significant, and Contributing). Sixty-nine (or 12 percent) were classified as Distinctive; 200³ (or 36 percent) were listed as Significant and 289 (or 52 percent) were listed as Contributory. Therefore, as none of the buildings proposed for demolition are listed as Distinctive, they are not rare structures within the City.

The building is not identified as being rare at all in terms of design or construction.

FINDING: 619 NE Third Street does not possess any specific design or construction standard that would be described as rare or significant for McMinnville.

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

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

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

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

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

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

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

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

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

The relevant energy policies of Comprehensive Plan Chapter VIII include:

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

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

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

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

[...]

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

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

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

FINDING: Please see below for a discussion of compliance with the City of McMinnville's Comprehensive Plan policies. In summary, the proposed demolition of 619 NE Third Street does not meet the City's Comprehensive Plan goals for preservation of historic resources, however the demolition of the subject structure coupled with the redevelopment of the site does meet many of the City's economic development comprehensive plan policies. That said, the Historic Landmarks Committee 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. Existing commercial land exists in the downtown area, both within and outside of the Historic District, to accommodate a luxury hotel, including many of the amenities identified by the applicant. This building has 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.

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

OVERALL FINDING,: OAR 660-023-0200, Section 8(a) states that the following factors must be considered when making a decision to approve, approve with conditions or deny an application for a historic resource on the National Register of Historic Places: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. But OAR 660-023-0200, Section 8(a) does not provide clear and objective criteria as to how to consider the factors and how many factors need to support an approval, approval with conditions or denial. Per the analysis above, 619 NE Third Street does not appear to

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be in bad structural condition and has not lost all of its historic integrity as the second floor and roofline appear to be historically original to the building. 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 Landmarks Commission finds that this presents a false choice with respect to both the economic value and the historic integrity. The District enjoys economic vitality today because of the choices made to preserve it. This building has generated a reasonable economic return for generations, as evidenced by its variety of uses, and there is no evidence to believe such return would be foreclosed in the future, but for this long-standing owner's failure to maintain the building in a state commensurate with other owners along NE Third Ave.

The value to the community could be described in two ways – historic value and overall value. The applicant has argued that the historic value has been compromised as an individual structure but this determination fails to consider the contribution this building, in conjunction with the other two, makes 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 Historic Landmarks Commission finds that demolition of 619 E Third Street is not appropriate.

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

APPLICANT'S RESPONSE: None.

FINDING: NOT APPLICABLE. In adopting the criteria for demolition in 17.65.050, the City adopted protection measures as provided by this requirement.

OAR 660-023-0200, Section 8

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

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

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

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

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

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- (A) Has retained ownership since the time of the designation, and
 - (B) Can demonstrate that the owner objected to the designation on the public record, or
 - (C) Was not provided an opportunity to object to the designation, and
 - (D) Requests that the local government remove the property from the resource list.
- (b) Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist.
- (A) The resource has lost the qualities for which it was originally recognized;
 - (B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing;
 - (C) The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.

APPLICANT’S RESPONSE: None.

FINDING: As explained in these findings, the demolition request is not approved and the building will remain on the McMinnville Historic Resources Inventory.

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

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

APPLICANT’S RESPONSE: None.

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

Comprehensive Plan Volume II:

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

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

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

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

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

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

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

FINDING: SATISFIED WITH CONDITION OF APPROVAL

If approved, the following condition of approval would be necessary: The applicant must demonstrate how construction activities regarding known pollutants residing under the structures onsite will not negatively affect development onsite, and not negatively affect the adjoining properties, including the city's right of ways.

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

APPLICANT RESPONSE: None

FINDING: SATISFIED WITH CONDITION OF APPROVAL.

If approved, the following condition of approval would be necessary: The Applicant must demonstrate that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City's Right of Way and downstream users and properties.

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

APPLICANT RESPONSE: None

FINDING: SATISFIED WITH CONDITION OF APPROVAL.

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If approved, the following condition of approval would be necessary: The Applicant must demonstrate compliance with the Department of Environmental Quality and other appropriate agencies that its onsite excavation and building demolition activities do not degrade water quality in the area of the site, adjoining properties, the LUST site, the City’s Right of Way and downstream users and properties.

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

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

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

FINDING: NOT SATISFIED. The focus of this comprehensive plan goal is to preserve and protect structures that have special historical or architectural significance. A demolition clearly does not meet that intent. The Historic Landmarks Committee, after reviewing the application materials and receiving testimony, decided that the value and significance of the building to the district, its condition, the owner’s failure to maintain the building commensurate with other owners and contributing to any modest economic returns, 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: SATISFIED. The City is supportive of all of these programs to aid historic preservation.

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

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

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

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

1. There are sites, structures, objects, and areas that are of importance to McMinnville because of their historical, cultural, architectural archeological significance at the local, state, or national level. Some of the sites and structures are (or are in the process of being) designated to state and national historical lists.
2. There may be pressure to destroy or alter historically significant sites and structures in the future. There is no active historical, or preservation program in McMinnville at this time to resolve conflicts between historical resources and developmental proposals.

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3. Completion of Phase I of the inventory of the historic resources in McMinnville has been completed. Approximately 0.9 of a square mile of the McMinnville core (the area bounded by Fifteenth Street on the north, Fellows Street on the south, Elmwood Avenue on the west, and Kirby Street on the east) has been surveyed and some 500 potential historic resources have been identified. The survey, under the direction of Janice Rutherford, involved the efforts of some 30 volunteers, who, after attending training sessions by professional preservationists, conducted the field work and research necessary to identify the resources. Completion of this survey for the remainder of the city should be a priority concern in the historic preservation program established by the City.
4. Historical structures should be recognized as underutilized resources that could potentially be restored and/or adapted for beneficial urban uses. Preservation techniques applicable to the historical structures identified in the core area of the city could assist in the continued redevelopment of the central business district.
5. The historical designation of sites and structures within the core business area could involve large economic ramifications for the city and property owners. A variety of incentives for rehabilitation of historically designated properties does exist. A feasibility analysis of the economic advantages and disadvantages of establishing historical sites and/or districts downtown needs to be made.
6. Preservation of historical sites and structures will necessarily involve procedures that regulate the alteration, and/or demolition of historically designated properties. The cooperation of owners of potential historical sites and structures will, therefore, be necessary for a viable preservation program.
7. A number of local groups and citizens, including the Chamber of Commerce, Committee on Redevelopment, various civic and social groups, and local historical groups, have expressed interest in an historical preservation program. Enlistment of volunteers for the completion of the comprehensive inventory of historical resources and other preservation projects should be explored.

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8. There are a number of state and federal antiquity codes that may assist in the preservation of the historical resources in our city, and provide some financial incentives for preserving our heritage. Those codes are noted in the background information for the comprehensive plan.
9. The involvement of the private sector of the city is of paramount importance to the development of a preservation program. The primary initiative for setting up such a program will come from the governmental sector. However, it is only through the cooperation of property owners, volunteer workers, knowledgeable citizens, and governmental leaders that such a program will be made workable.
10. A program involving creation of an Historical Landmark Committee, a local Historical Landmarks Register, and an Historical Ordinance is being proposed by the City to establish a historical presentation program. Implementation of the program is expected to take a considerable amount of study, discussion, and therefore, time. Interim preservation measures shall be enforced until formal adoption and implementation of a preservation program.

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

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

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

COMMERCIAL DEVELOPMENT

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

APPLICANT RESPONSE: This Comprehensive Plan policy is supplemented by several documents including the 2013 Urban Renewal Area Plan (Area Plan), the 2013 Economic Opportunities Analysis (EOA), the 2019 MAC-Town 2032 Economic Development Strategic Plan⁷ (MAC-Town 2032), and the 2020 McMinnville Growth Management and Urbanization Plan (MGMUP). The site is within the McMinnville Urban Renewal Area and downtown McMinnville is the focus of MAC-Town 2032.

Infrastructure Improvements

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

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Economic Opportunities

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

Hospitality and Tourism

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

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

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

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

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

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

FINDING: SATISFIED. The proposed project maximizes the existing commercially designated lands by building a higher density commercial program on the site, which will also serve to revitalize the east

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side of Third Street that was identified as a redevelopment area in the adopted 2000 Downtown Improvement Plan.

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

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

If approved, the following condition of approval would be necessary: 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.

If approved, the following condition of approval would be necessary: Prior to submittal for building demo permit provide Engineering with detailed demolition plans for review and approval.

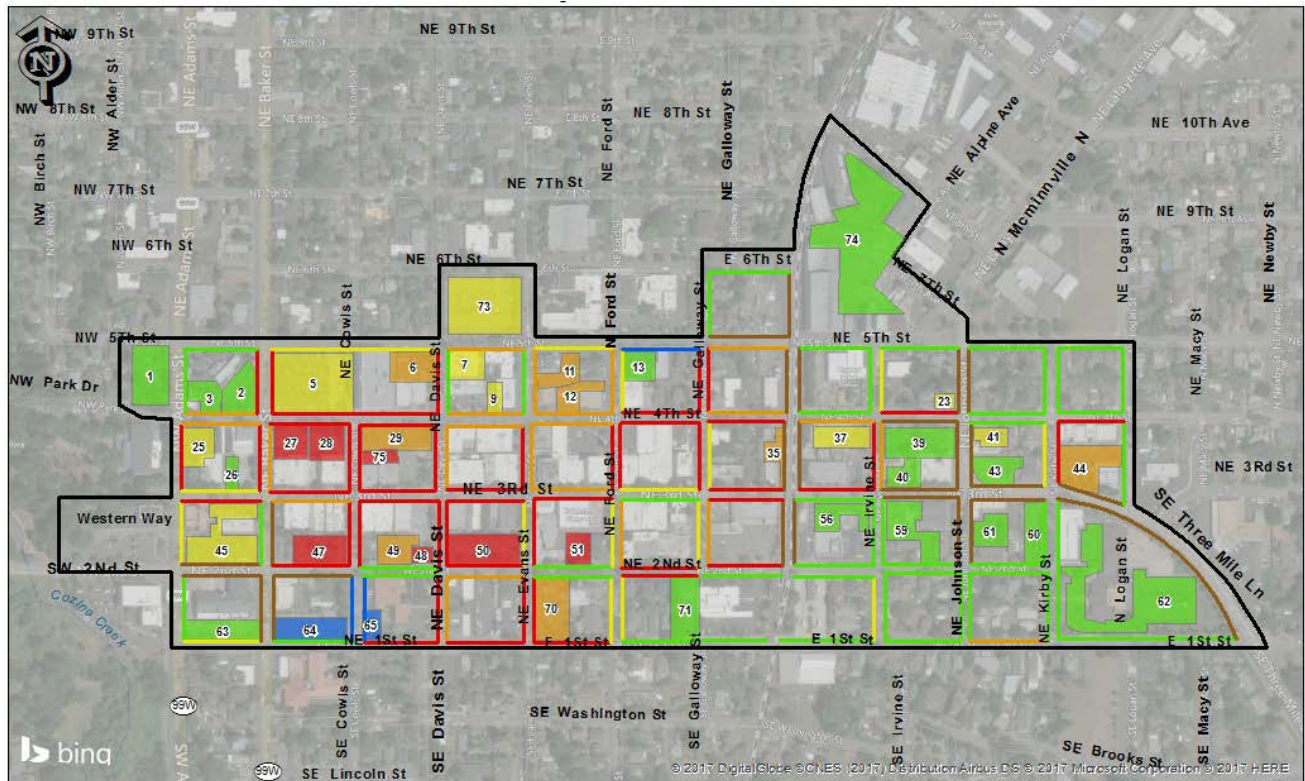
- 26.00 *The size of, scale of, and market for commercial uses shall guide their locations. Large-scale, regional shopping facilities, and heavy traffic-generating uses shall be located on arterials or in the central business district, and shall be located where sufficient land for internal traffic circulation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

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

Parking in the core downtown area is limited. However, a utilization study conducted in 2017 identified that parking on Ford Street between 3rd and 4th 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.

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Combined Parking Utilization - Weekday
 Rick Williams Consulting
 Parking & Transportation
 Thursday, June 8, 2017
 1:00 - 2:00 PM
 Peak Hour
 0 90 180 360 540 720 Feet

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

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

Downtown Development Policies:

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

1. *Integrates residential, commercial, and governmental activities in and around the core of the city;*
2. *Provides expansion room for commercial establishments and allows dense residential development;*
3. *Provides efficient use of land for adequate parking areas;*
4. *Encourages vertical mixed commercial and residential uses; and,*

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5. *Provides for a safe and convenient auto-pedestrian traffic circulation pattern. (Ord.4796, October 14, 2003)*

FINDING: SATISFIED.

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

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

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

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

The extant structure at 619 NE Third Street is not of historical significance or unique design when considered on its own but it does contribute to the district as a whole.

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

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

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

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

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

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

1. *Improvement of on-site transportation facilities,*
2. *Improvement of off-site transportation facilities (as conditions of development approval), including those that create safety concerns, or those that increase a facility’s operations beyond the City’s mobility standards; and*

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3. *Transportation Demand Management strategies. (Ord. 4922, February 23, 2010)*

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

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

FINDING: SATISFIED WITH CONDITION OF APPROVAL:

If approved, the following condition of approval would be necessary: The Applicant shall demonstrate its design and construction methods will avoid, and then minimize negative impacts related to water and air quality given the onsite and off-site hazards caused by the known hazardous spills associated with the site.

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

FINDING: SATISFIED WITH CONDITION OF APPROVAL:

If approved, the following condition of approval would be necessary: The Applicant shall demonstrate that storm water collection, detention, and drainage is constructed and maintained to restrict negative consequences and minimize adverse effects from the known underground pollution onsite and off-site areas caused by the owner of the site.

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

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

Attachments: (Located at [Gwendolyn Hotel \(HL 6-22, HL 7-22, HL 8-22, and DDR 2-22\) - 609, 611 and 619 NE Third Street | McMinnville Oregon](#) and on file with the Planning Department)

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FINDING: SATISFIED WITH CONDITION OF APPROVAL:

If approved, the following condition of approval would be necessary: The Applicant shall demonstrate how it will comply with all federal, state and local water and wastewater quality standards, given the DEQ LUST case regarding a hazardous gasoline spill on the site and the deficiencies noted in the Record.

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

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

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

APPLICANT'S RESPONSE: None.

FINDING: SATISFIED. The process for a Certificate of Approval for Demolition provides an opportunity for citizen involvement throughout the process through the public notice and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public meeting(s). All members of the public have access to provide testimony and ask questions during the public review and meeting process.

McMinnville Municipal Code

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

Chapter 17.03. General Provisions

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

APPLICANT'S RESPONSE: None.

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

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

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

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

Table 2 2021 Assessed and Market Value of Buildings

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

Source: Yamhill County Assessor

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

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

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

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

APPLICANT RESPONSE: The proposed development will attempt to incorporate significant components of the existing building at 619 NE 3rd Street. The applicant team intends to promote the history of the site and its importance to the development of McMinnville. The specific approach is to be determined and will be defined in coordination with community members and groups.

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

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If approved, the following condition of approval would be necessary: Prior to the approval of a demolition permit, the applicant will need to meet with the McMinnville Downtown Association to develop a program that will educate local citizens on the benefits associated with an active historic preservation program, that will then be approved by the Planning Director.

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

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

FINDING: SATISFIED.

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

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

FINDING: NOT SATISFIED. As the findings for the replacement plan project explain, 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.

APPLICANT RESPONSE: The proposed development is intended to enhance the City's attractions for tourists and visitors by providing space for new specialty retail and commercial services, creating a destination for visitors to nearby wineries, and providing employment opportunities for up to 60 employees. The proposed hotel will provide a luxury boutique lodging option along with a meeting/conference room that will serve guests and community members.

FINDING: SATISFIED

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

- A. The alteration, demolition, or moving of any historic landmark, or any resource that is listed on the National Register for Historic Places;*

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

APPLICANT RESPONSE: The proposal includes the demolition of a historic landmark (619 NE 3rd Street) and two contributing buildings within the McMinnville Downtown Historic District, and replacement of all three structures with a new building. As such, the provisions of this section are applicable.

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

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

APPLICANT’S RESPONSE: None.

FINDING: SATISFIED. The applicant filed an application and request to demolish 619 NE Third Street that is designated as a Significant resource on the Historic Resources Inventory. The application was reviewed by the Historic Landmarks Committee within 30 days of the application being deemed complete.

17.65.050 Demolition, Moving, or New Construction.

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

APPLICANT’S RESPONSE: None.

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

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

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

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

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

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

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

The focus of the comprehensive plan goal and the purpose of the Historic Preservation chapter are to preserve structures that have special historical or architectural significance through restoration efforts. A demolition clearly does not meet that intent. The Historic Landmarks Committee, after reviewing the evidence and hearing the public testimony, decided that the structure at 619 NE Third Street contributes to the significance of the District, and has an economic use that favors continued preservation and protection. Therefore, the demolition is denied.

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

APPLICANT’S RESPONSE: There are three potential approaches to using or repurposing the site:

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

Each approach is described in more detail below.

Do Nothing

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

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

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Renovation/Change of Use

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

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

Redevelopment

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

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

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

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

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

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

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

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

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

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

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

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

"The Current Market Valuation excludes any debt service, excludes tenant improvements, excludes any cost to bring the buildings up to current occupancy standards/ code compliance,

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with the addition of these line items the [net operating income] would shrink significantly below lender underwriting standards for OCR/ Debt Coverage Ratios for income to payments."

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

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

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

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

Upgrading the buildings to a different use would almost certainly require seismic upgrades. To explore an alternative use case that would preserve but reuse the buildings for a hotel, the Applicant engaged its subsidiary Hugh Construction Company to prepare a financial pro-forma for re-use of the buildings as a hotel with ground-floor retail.³ This is enclosed as Exhibit 6 (Construction Cost Estimate and Financial

³ While no other contractors could provide an estimate without a more developed renovation plan set, the contractors Hugh consulted confirmed that Hugh Construction's estimate was reasonable.

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Model for Re-Use of Historic Buildings, Hugh Construction, November 2022). The key findings are as follows:

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

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

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

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

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

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

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

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 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 Historic Landmarks Commission disagrees with the applicant's assumptions that serve to foreclose other preservation options. For example, in its current condition, the building is safe to occupy, functions and is able to generate an economic use just as it has

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for generations. The applicant's desire for greater profit does not make the existing economic use in its historic condition unreasonable.

The Historic Landmarks Committee also 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 as a reasonable commercial owner might do. 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, as a direct result of preserving the unique character of an intact historic district, will continue. This natural pace of development suggests that rents in this area will continue to increase. The fact that 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 Committee also notes that there are likely alternative uses or less expensive design changes that may alter the profit margins that should be considered before concluded that the historic resource has no economic use.

Further, although there may be some cost in building out the space 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 rehabilitation cost includes seismic retrofitting, which the Committee finds is not a necessary cost to rehabilitation. The only structural deficiency noted by the applicant's expert, including rotten ends of roof or support trusses, can be repaired and it is not clear how much of the \$11 million dollars relates to that particular repair 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 Committee 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 Historic Landmarks Committee was 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 structure. For this reason, this criterion is not satisfied.

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

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

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

As described in the McMinnville HRI and the Historic District nomination, the greatest period of downtown

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

The proposal requests demolition of 3 buildings within the McMinnville Downtown Historic District. The building at 619 NE 3rd Street is listed as a Primary Significant Contributing resource on the City's HRI, and is defined by that designation as a Historic Landmark. The applicant is requesting the demolition of these 3 buildings for a replacement building that will implement and advance the future vision for Downtown McMinnville.

Building Descriptions

619 NE Third Street

The building at 619 NE 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.”

FINDING: 619 NE Third Street was designated on the City's HRI and the National Register of Historic Places as a secondary significant resource for its contribution to the Historic District. As explained above, this was based on the time of building construction, its contribution as a garage as well as the largely intact parapet. Although the first floor has been remodeled, the building still conveys these historic circumstances, making it worthy of saving.

Demolition of this building alone, and when coupled with the other two proposed for removal, 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 Historic Landmarks Committee finds that the historic value and significance of the resource does not support demolition.

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

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

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

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

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

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

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

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

The costs of such upgrades are likely infeasible for these buildings in their current occupancy; as explained by the Western States Seismic Policy Council, "upgrading existing buildings to resist

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earthquake forces is more expensive than meeting code requirements for new construction." <https://www.wsspc.org/public-policy/legislation/oregon/>. This is also demonstrated by the memorandum provided by Mr. Higgins (Exhibit 7, McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022), which demonstrates that such improvements are not financially feasible.

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

619 NE Third Street: Exhibit 1 (Historic Resources Assessment, Architectural Resource Group, November 2022) notes that the roof and signage are in good condition, but identifies a number of issues:

- o "The original white brick of the attic story/parapet remains, although it has been painted. Original unpainted white brick remains visible at the corner of the east elevation. Significant areas of brick cracking and displacement were observed in the attic story at the southeast corner of the building.
- o Little remains of the original building materials at the ground floor. The original brick mould at the westernmost opening remains, although the opening has been infilled with a new door."

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

"The bearing points of the trusses are deteriorated along the west wall and supplemental support has been framed under the trusses. This condition exists at the connection to the 611 Building and is the result of water penetration along the north south valley between the building."

Exhibit 2 also notes that there is cracking in the brick facade along the south exterior elevation.

HPR 's initial structural review of the building, dated July 29, 2022 (Exhibit 3), identified the following issues:

- o "The bearing points of the trusses are deteriorated (rotten) along the west wall and supplemental support has been framed under the trusses.
- o This condition exists at the connection to the 611 Building and is the result of water penetration along the north south valley between the building.
- o The brick and mortar at south elevation show signs of deterioration and diagonal cracks along the mortar lines.
- o The east wall exterior has significant deterioration and is exposed due to the separation between the 619 Building and the recently constructed building to the east."

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The July 29, 2022 HHPR report describes the general condition of the buildings as follows:

- o "Each of the three buildings has portions of brick wall that are in poor condition that would require significant work to remediate including new mortar and the replacement of bricks.
- o Each of the three buildings has portions of the roof structure that are rotting and are in poor condition. While it may be that the roofing has been repaired, it does not appear that in certain areas the supporting structure has been repaired. These areas also coincide with areas of the brick wall that are in poor condition
- o The most southern roof truss in the 609 Building has a top chord node that is out of plane by over 6 inches. This represents a significant structural concern and should be evaluated further with possible remedial actions should the building remain. The remedial action includes installing a new girder and columns to support the truss thereby removing mezzanine and roof loading from the truss
- o The removed floor beams distributing roof load in the 611 Building represent a significant structural concern and should be evaluated further with possible remedial actions should the building remain.
- o The rotting bearing points of the roof trusses in the 619 Building represent a significant structural concern and should be evaluated further with possible remedial actions should the building remain."

Based on the information provided in Exhibits 1 (Historic Resources Assessment, Architectural Resource Group, November 2022), 2 (Existing Building Structural Summary, HHPR, November 6, 2022), and 3 (Documentation of Existing Building Structures, HHPR, July 29, 2022), the general condition of the buildings is best characterized as poor or marginal at best, depending on the proposed use case. While the buildings are not "dangerous" (which condition would require removal of the existing tenants), it is clear that significant work must be undertaken to ensure these buildings' future preservation, even if they are not seismically upgraded. Bear in mind that this is the requirement for continued use of the buildings for ground-floor retail or limited-occupancy offices; any more intensive uses will require substantially more structural upgrades. It is also important to note that, under both state and local criteria, the buildings need not be considered "dangerous" in order for their condition to be a major factor in allowing their demolition.

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 physical condition of the building is not a stand-alone reason to allow demolition of the property however it is part of a collective consideration. The Historic Landmarks Committee finds that the applicant's structural evaluation, including painted brick, mold and some deterioration at the bearing points of roof trusses, are not physical conditions that are uncommon to historic buildings or

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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 Committee finds is directly relevant to evaluating how a building's poor physical condition might serve as a basis for demolition.

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

APPLICANT'S RESPONSE: Each of the buildings is currently occupied and is assumed to not constitute a hazard to the safety of the public or its occupants.

FINDING: The historic resource is not a hazard to the safety of the public.

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

APPLICANT'S RESPONSE: The current structures are 1- and 2-stories in height and are occupied by office uses. The Gwendolyn Hotel development addresses many of the City's identified economic development needs. The applicant proposes a development program that includes numerous benefits to the City:

- 90-95 luxury hotel rooms designed to accommodate visitors to nearby wineries and tasting rooms
- A ground-floor restaurant
- Ground-floor commercial/retail spaces
- 67 vehicular parking spaces
- A ground-floor meeting room for use by guests and local groups
- A reservable rooftop bar and patio
- A luxury soaking pool on the level 6 roof terrace

On March 12, 2019, the Common Council of the City of McMinnville voted unanimously to adopt the MAC-Town 2032 Economic Development Strategic Plan. The plan established eight important goals. Goal 6 is "Be a leader in hospitality and place-based tourism," and includes a number of goals which are addressed below.

Goal 6.1: Make Downtown the best it can be.

- *Evaluate current zoning, historical districts and designations, and existing land use patterns, including underutilized parcels, to ensure that key downtown parcels offer the highest and best use for their location.*

As noted in Section 5 below, the MAC-Town 2032 plan further implements the Comprehensive Plan policies related to the economy. Following adoption of this plan, City staff presented zoning amendments to remove minimum parking requirements from downtown properties to allow new development to maximize the use of downtown parcels. Though not explicitly stated in the plan, allowing redevelopment of the subject site would also allow a key downtown parcel to offer the highest and best use for its location. The permitted height is 80 ft. and a broad range of commercial and residential uses are allowed, which indicates that the subject site was anticipated to be used more intensively in the future.

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Goal 6.2: Become the preferred destination for wine related tourism.

- *Connect hoteliers and other hospitality professionals in Oregon and elsewhere to local opportunities for high quality additions to McMinnville’s current hospitality offerings.*

The applicant intends to develop a luxury hotel on this site, which expands McMinnville’s current hospitality offerings and addresses this goal.

Goal 6.4: Market and promote McMinnville.

- *Work with visit McMinnville and local hoteliers to identify gaps in available conference space and to establish a plan to expand McMinnville’s offerings for small and large conferences.*

Though the hotel is not intended to be a conference hotel, it will provide a meeting room on the ground floor for hotel guests and members of the community. This addresses a gap in the existing offerings in downtown McMinnville.

In addition to moving the MAC-Town 2032 goals forward, the proposed development will significantly expand the assessed value of the site, which will result in additional tax income for the community and additional funding for the urban renewal area.

The hotel and supportive commercial spaces are anticipated to employ 60 community members, and visitors to the hotel will eat in nearby restaurants and shop in nearby stores. Wine enthusiasts are expected to use the Gwendolyn Hotel as a home base for weekend wine tasting trips in the surrounding areas and for visiting local tasting rooms. Though not required, the proposed development includes below-grade vehicular parking spaces for use by hotel guests.

The corner of NE 3rd and Ford streets is a key corner of downtown McMinnville. The Gwendolyn will provide additional downtown lodging opportunities for people seeking an urban wine country experience.

APPLICANT SUPPLEMENTAL RESPONSE (November 4, 2022): As noted in the land use application narrative dated August 6, 2022, the MAC-Town 2032 Economic Development Strategic Plan includes several relevant goals. The application to these goals focused on the potential of the proposed new Gwendolyn Hotel to implement the MAC-Town 2032 Plan.

Per staff’s request, these addition responses focus on how the existing buildings could, or could not, implement the Plan.

Goal 6 : Be a leader in hospitality and place-based tourism

Goal 6.1: Make downtown the best it can be.

Evaluate current zoning, historical districts and designations, and existing land use patterns, including underutilized parcels, to ensure that key downtown parcels offer the highest and best use for their location.

[...]

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Following the adoption of the MAC-Town 2032 plan, the City revised its off-street parking and site landscaping requirements to exempt large portions of downtown, allowing more efficient use of the limited area in the downtown core.

Staff does not dispute that the current 1- and 2-story buildings do not represent the highest and best use of the site. The C-3 zone is applied to downtown McMinnville and other commercial areas, and includes a height allowance of 80 ft. The zero setback requirements, off-street parking exemptions, and landscaping exemptions encourage buildings that occupy the entire site. The proposed development will intensify the use of the corner of NE Third and Ford streets and will offer the highest and best use for the site under current zoning regulations.

Goal 6.2: Become the preferred destination for wine-related tourism.

[...]

Connect hoteliers and other hospitality professionals in Oregon and elsewhere to local opportunities for high-quality additions to McMinnville’s current hospitality offerings.

“Hospitality” generally includes housing and entertaining visitors, including lodging, food and drink, and activities. Likewise, “local opportunities” typically refer to available properties with willing sellers.

The proposed development includes hotel, restaurant, and retail uses, as well as a rooftop deck and lap pool. The rooftop space will be available for rent for special events and gatherings, filling an identified need in downtown McMinnville.

The existing buildings are available for sale by willing sellers. They do not currently include hospitality uses and cannot be upgraded to accommodate them without triggering substantial seismic and building code upgrades.

As noted in Attachment 6, upgrading the buildings to add 13 hotel guestrooms would cost almost \$25 million, which is not financially feasible. The building could be converted to a wine tasting or food service use, which would trigger the same seismic and building code upgrades noted above and would provide even less income.

Goal 6.4: Market and promote McMinnville.

[...]

Work with Visit McMinnville and local hoteliers to identify gaps in available conference space and to establish a plan to expand McMinnville’s offerings for small and large conferences.

The current buildings include small meeting areas to serve the tenants. They do not include conference space or lodging for conference attendees. In order to accommodate conference space, the existing uses would need to be removed or downsized.

APPLICANT SUPPLEMENTAL RESPONSE (December 15, 2022): The HLC can find that this factor favors demolition for the following reasons.

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- As explained in detail in response to OAR 660-023-0200(8)(a), the buildings are listed as contributing to the district primarily due to their dates of construction. All appear to have been constructed (or at least re-constructed) for use as automobile garages and a car dealership and, in the case of the 609 Building, a gas station. The buildings were designed and adapted to this purpose. The buildings have each lost at least half of their historic facades (indeed, the 609 Building has lost its entire original facade), and the upper floors of the 609 and 611 Buildings are unoccupied and have few remaining interior historic finishes. Remaining historic features generally include some window casings on the 609 Building, the parapets on the 611 and 619 Buildings, and some interior features. Otherwise, their remaining characteristics are simply their masses and structural elements. For this reason, their historic value is low after having been substantially compromised prior to establishment of the Downtown Historic District.

There is no evidence that any of these buildings are connected with important historical events. While the 609 Building was built by McMinnville resident Frank W. Fenton, Mr. Fenton was a developer and built several buildings, and there is no evidence that he made personal use of the building for long, if at all. And, this building does not resemble at all its original exterior during the period in which Mr. Fenton might have made use of it. There is also no evidence that these buildings served as community gathering spaces during their periods of historic significance.

Based on the above, the public interest in preservation of these buildings is confined to the fact that they are listed as contributing structures within the Historic District. There are no other factors that reasonably weigh in favor of preservation. On the other hand, they are not remarkable in relation to the other contributing buildings within the Historic District and they retain very little of their respective historically-relevant features, most of which have been covered with stucco or removed. For all of the above reasons, the HLC can find that the public interest in their preservation is low.

- The buildings will require substantial structural repairs to continue to be used for the limited retail and office uses they have been used for since the establishment of the Historic District. Seismic retrofit of the buildings is unaffordable if their current configuration is maintained, and there is no positive return on investment if they were to be rehabilitated for use as a hotel.
- As explained in the HRA, the primary historical value of these buildings is their location, massing, and roof configuration. Assuming that the buildings' massing must be retained for that reason, no owner will be able to meaningfully intensify their uses. This is a further headwind against any substantial repair or seismic upgrade. Therefore, the economic value of the buildings to the City is represented by their current uses, with a Current Market Value of \$1,250,150 for all three buildings, collectively. Exhibit 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022). This is less than the combined assessed value of the buildings, noted below. Even excluding debt service obligations and tenant improvements, the collective market value of the buildings is only \$2,230,066. On the other hand, the projected market value of the Gwendolyn after construction and occupancy in FY 2025 is roughly \$64M after an

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investment of approximately \$61 M. Exhibit 10 (The Gwendolyn Financial Pro-Forma, December 15, 2022).

The combined assessed value of all three buildings in 2022 is \$1,793,470; at a combined rate of 16.4925 these collectively generate roughly \$29,500 in annual property tax revenue, with roughly \$10,670 of that amount going to the City of McMinnville. Exhibit 9 (2022 Tax Statements). Assuming a standard rate (non-historic) of 16.5854, property taxes after completion and occupancy of the Gwendolyn in 2025 would be \$327,917. Exhibit 10 (The Gwendolyn Financial Pro-Forma, December 15, 2022).

Construction of the Gwendolyn will be a significant draw to McMinnville's downtown, increasing traffic to businesses within the Historic District. Given that this will increase the value of the other buildings in the Historic District, construction of the hotel is likely not only a benefit to the City from a financial perspective, but also a long-term benefit to the district itself. According to the Nov. 2, 2022 Johnson Economics Report, "[t]he proposed new hotel would provide significant economic value on the site, supporting the ongoing positive investment patterns in downtown McMinnville. Keeping the existing structures would effectively preclude new investment on the site, and result in underutilization of the parcels while yielding no economic return.'

- For the above reasons, the HLC can find that the proposed Gwendolyn Hotel is an "an improvement program of substantial benefit to the City." Preservation of these buildings presents a substantial barrier to this program because these buildings must be removed to allow for construction of the Gwendolyn, because they have little to no economic viability for adaptive re-use, and because their value under their current use case is miniscule compared to the proposed development. It is also worth considering that the value of the buildings is likely to decline even in their current or similar tenancies unless structural repairs are made; as explained above, such repairs are likely not financially rational without a more intensive use case for the buildings, which itself may trigger seismic upgrades.

FINDING: The Historic Landmark Committee finds that, although the Gwendolyn Hotel would further the economic development interests identified in the Comprehensive Plan, the subject property is not the only location in which to accomplish these objectives. For example, there are non-contributing and/or non-historic structures on the corner of Galloway Street and NE Third Street that might be able to accommodate a hotel with many of the high-end luxury accommodations that the applicant seeks. 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 Historic Landmarks Committee 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 Committee finds that denying this demolition request is not a deterrent to achieving other public interest objectives.

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

APPLICANT'S RESPONSE: As noted in the response to 17.65.050.B.2 above, the cost to retain and renovate the existing buildings to current building code, including seismic upgrades, is significant and unlikely to be undertaken by any purchaser of the property. Retention of the buildings as-is will be unsustainable given the asking sale price, and the cost of renovation of the properties for new or different uses will take 40 years to recoup.

The public interest in the resource's preservation is not clearly articulated in any adopted document. However, the HLC can find that the public interest in preservation of these buildings is related to their ability to reflect their historical period of significance. As explained above, these buildings do so to only a limited degree because their facades have been largely replaced. Therefore, the public interest in their preservation should be viewed as reduced as compared to buildings that have not been substantially altered, and such interest is largely a factor of their year of construction.

The public interest in their preservation must necessarily include their ability to serve an economic function to McMinnville's historic Downtown. As explained above, the current economic viability of these buildings and their future prospects are poor. Adaptive re-use is not a realistic option because of the significant structural upgrades that would be required, and re-use of the buildings for the hotel use proposed by the Applicant is not economically feasible.

In view of both of these factors, the public's interest in these buildings' preservation seems limited at best, and low when compared to buildings in the District which have better future economic use prospects or better reflect their original appearance, or both.

The question posed by this criterion was directly evaluated in the Johnson Economics Report (Exhibit 5). This report concludes as follows:

"Keeping the buildings in their current use would negate the requirement to upgrade the structures but would also limit the amount of investment that could be made within triggering the requirement. The buildings have structural deficiencies and obvious deterioration that would need to be addressed prior to re-tenanting in any of the buildings.

Building the hotel above the existing structures would require a complete seismic upgrade of the structures, and new columns to support the hotel would need to penetrate the structures. The cost of this type of structure would be substantially higher than new construction and the resulting development would be significantly less efficient.

As a result of these myriad factors, the retention of the existing structures would cause substantial financial hardship to the owners. Based on our previous experience, the likely cost of the necessary improvements and upgrades would render the cost of space to likely be hundreds of dollars more per square foot than new construction. If the redevelopment was not done and the buildings were kept in their current use without significant upgrades, they would pose a life safety hazard and may not be insurable. The structures are depreciated to a point in which Investments in the structures would be unlikely over time as they would not yield an

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economic return. As a result the properties would be likely to face an extended period of declining condition and underutilization for the foreseeable future."

This conclusion is consistent with the other information discussed above, which generally demonstrates that the buildings are not likely to generate a meaningful return for Hugh Development with a current or similar tenant mix. This is reflected by the fact that the actual market value when accounting for debt service is actually less than the assessed value of the property. See Exhibits 7 (McMinnville Lease rates, 609, 611 and 619 NE Third, McMinnville, Phillip Higgins, November 2, 2022) and 9 (2022 Tax Statements).

For the above reasons, the HLC can find that retention of the buildings in their current configurations would not just be a financial hardship to the owner, but will likely result in the eventual degradation of the buildings to the point where demolition for safety reasons becomes increasingly likely. These practical headwinds against continued use of the buildings in their current configurations far outweigh the buildings' relative contribution to the objectives of the Historic District, as discussed above, and therefore outweighs the public's interest in preservation.

FINDING. The Historic Landmarks Committee disagrees with the applicant's premise in response to this criterion that "the public interest in the resource's preservation is not clearly articulated in any adopted document." First, Comprehensive Plan Goal III 2 requires that the "preserve and protect...structures...of historical, [or] architectural...significance to the City of McMinnville. This significance is well established by the HRI and the National Register designation documentation set forth in the record. This is not just the building's age, but its scale and roof in contributing to the overall district. The Historic Landmarks Committee further rejects the idea the public interest is not served in protecting this building, as well as the other two buildings for their contribution to the Historic District. Therefore, this criterion is not satisfied.

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

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

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

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

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

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

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

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

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

FINDING: Although the applicant relies on expert consultants to downplay the importance of the resource, the Commission findings 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*

APPLICANT’S RESPONSE: None.

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

17.72.020 Application Submittal Requirements.

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

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

APPLICANT’S RESPONSE: This submittal includes the required materials.

FINDING: SATISFIED.

17.72.095 Neighborhood Meetings.

- A. *A neighborhood meeting shall be required for:*
 1. *All applications that require a public hearing as described in Section 17.72.120, except that neighborhood meetings are not required for the following applications:*
 - a. *Comprehensive plan text amendment; or*
 - b. *Zoning ordinance text amendment; or*
 - c. *Appeal of a Planning Director’s decision; or*
 - d. *Application with Director’s decision for which a public hearing is requested.*
 2. *Tentative Subdivisions (up to 10 lots)*
 3. *Short Term Rental*
- B. *Schedule of Meeting.*
 1. *The applicant is required to hold one neighborhood meeting prior to submitting a land use application for a specific site. Additional meetings may be held at the applicant’s discretion.*
 2. *Land use applications shall be submitted to the City within 180 calendar days of the neighborhood meeting. If an application is not submitted in this time frame, the applicant shall be required to hold a new neighborhood meeting.*
- C. *Meeting Location and Time.*
 1. *Neighborhood meetings shall be held at a location within the city limits of the City of McMinnville.*
 2. *The meeting shall be held at a location that is open to the public and must be ADA accessible.*

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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;*

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- b. *A description of the major elements of the proposal. Depending on the type and scale of the particular application, the applicant should be prepared to discuss proposed land uses and densities, proposed building size and height, proposed access and parking, and proposed landscaping, buffering, and/or protection of natural resources;*
 - c. *An opportunity for attendees to speak at the meeting and ask questions of the applicant. The applicant shall allow attendees to identify any issues that they believe should be addressed.*
- G. *Evidence of Compliance. In order for a land use application that requires a neighborhood meeting to be deemed complete, the following evidence shall be submitted with the land use application:*
- 1. *A copy of the meeting notice mailed to surrounding property owners;*
 - 2. *A copy of the mailing list used to send the meeting notices;*
 - 3. *One photograph for each waterproof sign posted on the subject site, taken from the adjacent right-of-way;*
 - 4. *One 8 ½ x 11” copy of the materials presented by the applicant at the neighborhood meeting; and*
 - 5. *Notes of the meeting, which shall include:*
 - a. *Meeting date;*
 - b. *Meeting time and location;*
 - c. *The names and addresses of those attending;*
 - d. *A summary of oral and written comments received; and*
 - e. *A summary of any revisions made to the proposal based on comments received at the meeting. (Ord. 5047, §2, 2018, Ord. 5045 §2, 2017).*

APPLICANT’S RESPONSE: A virtual neighborhood meeting was held on April 25, 2022. The appropriate procedures were followed and the materials detailed in G above are included as Appendix A.

FINDING: SATISFIED.

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