



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT**
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

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DECISION, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS OF THE MCMINNVILLE HISTORIC LANDMARKS COMMITTEE FOR THE DELETION OF THE HISTORIC RESOURCE AT 1206 NE 10TH AVENUE FROM THE HISTORIC RESOURCES INVENTORY

- DOCKET:** HL 16-18
- REQUEST:** The applicant has submitted a written request to delete and remove an existing historic resource from the Historic Resources Inventory. The historic resource is a residential building that is listed on the McMinnville Historic Resources Inventory as an Environmental resource (Resource Number D1041).
- LOCATION:** The subject site is located at 1206 NE 10th Avenue, and is more specifically described as Tax Lot 1800, Section 21AB, T. 4 S., R. 4 W., W.M.
- ZONING:** The subject site is designated as Residential on the McMinnville Comprehensive Plan Map, and is zoned R-2 (Single Family Residential)
- APPLICANT:** Eric Wolff and Karl-Heinz Wolff, on behalf of property owners Roger and Cheri Pemberton
- STAFF:** Chuck Darnell, Senior Planner
- DATE DEEMED COMPLETE:** January 3, 2019
- DECISION-MAKING BODY:** McMinnville Historic Landmarks Committee
- DATE & TIME:** January 23, 2019. Meeting was held at the Community Development Center, 231 NE 5th Street, McMinnville, OR 97128.
- PROCEDURE:** The structure proposed to be altered is designated as an “Environmental” historic resource (Resource D1041), and is therefore subject to the Historic Resources Inventory review process required by Section 17.65.030 of the McMinnville City Code.
- CRITERIA:** The applicable criteria are in Section 17.65.030(E) and 17.65.030(F) of the McMinnville Municipal Code.
- APPEAL:** The decision may be appealed within 15 days of the date the decision is mailed as specified in Section 17.65.080(A) of the McMinnville Municipal Code.
- COMMENTS:** This matter was not referred to other public agencies for comment.

APPLICATION SUMMARY:

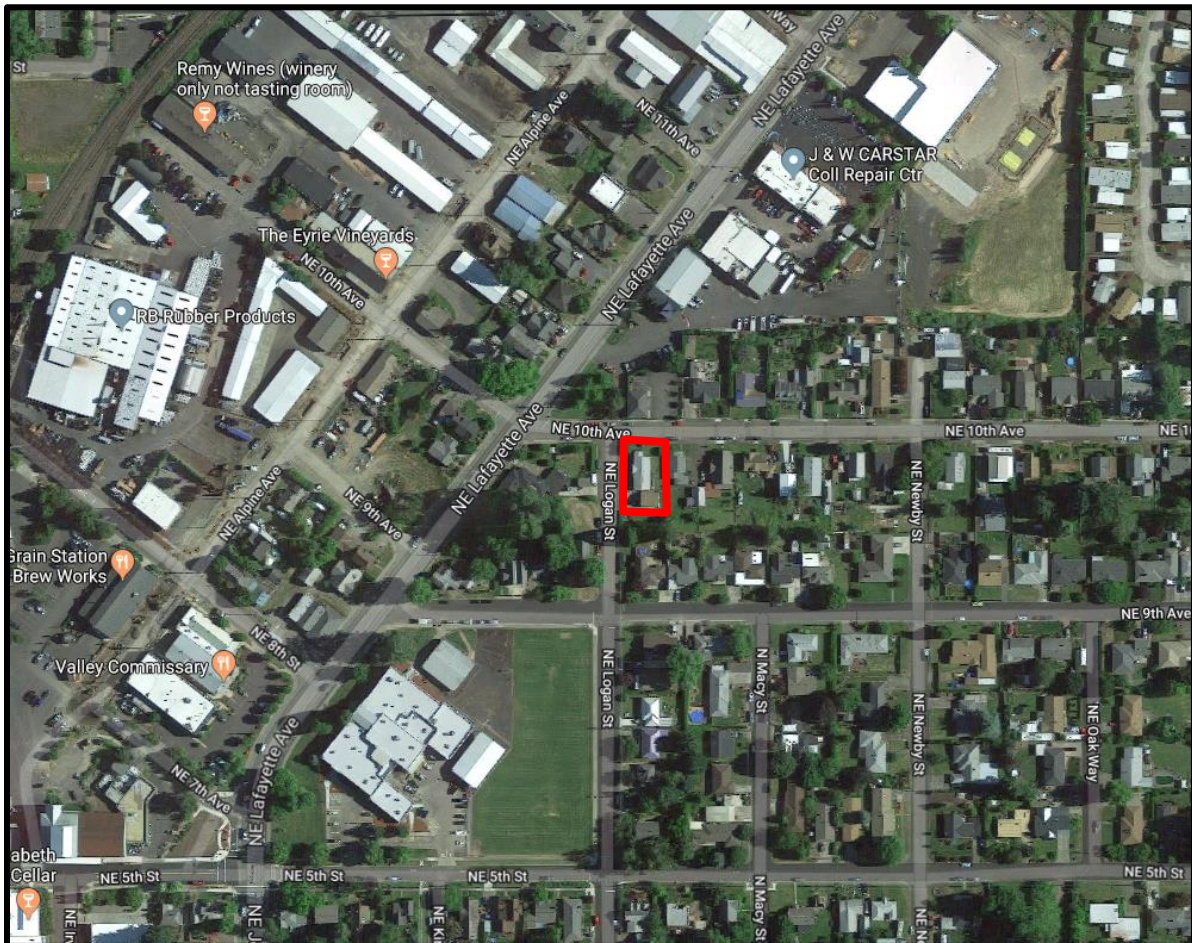
Eric Wolff and Karl-Heinz Wolff, on behalf of property owners Roger and Cheri Pemberton, submitted a written request to delete and remove an existing historic resource from the Historic Resources Inventory. The historic resource is a residential building that is listed on the McMinnville Historic Resources Inventory as an Environmental resource (Resource D1041). The subject property is located at 1206 NE 10th Avenue, and is more specifically described as Tax Lot 1800, Section 21AB, T. 4 S., R. 4 W., W.M.

The historic designation for this particular historic resource is associated with the structure on the property. The statement of historical significance and description of the property, as described in the Historic Resources Inventory sheet and as documented during the original survey of the property in December 1983, is as follows:

This low-gabled one-story bungalow has wide eaves with exposed rafters. The gabled porch is supported on square columns at its corners. The porch base is concrete. The north and west façade is resided in plywood while the east and portions of the north façade have asbestos shingle siding [sic] over the original horizontal siding. The windows are aluminum replacement.

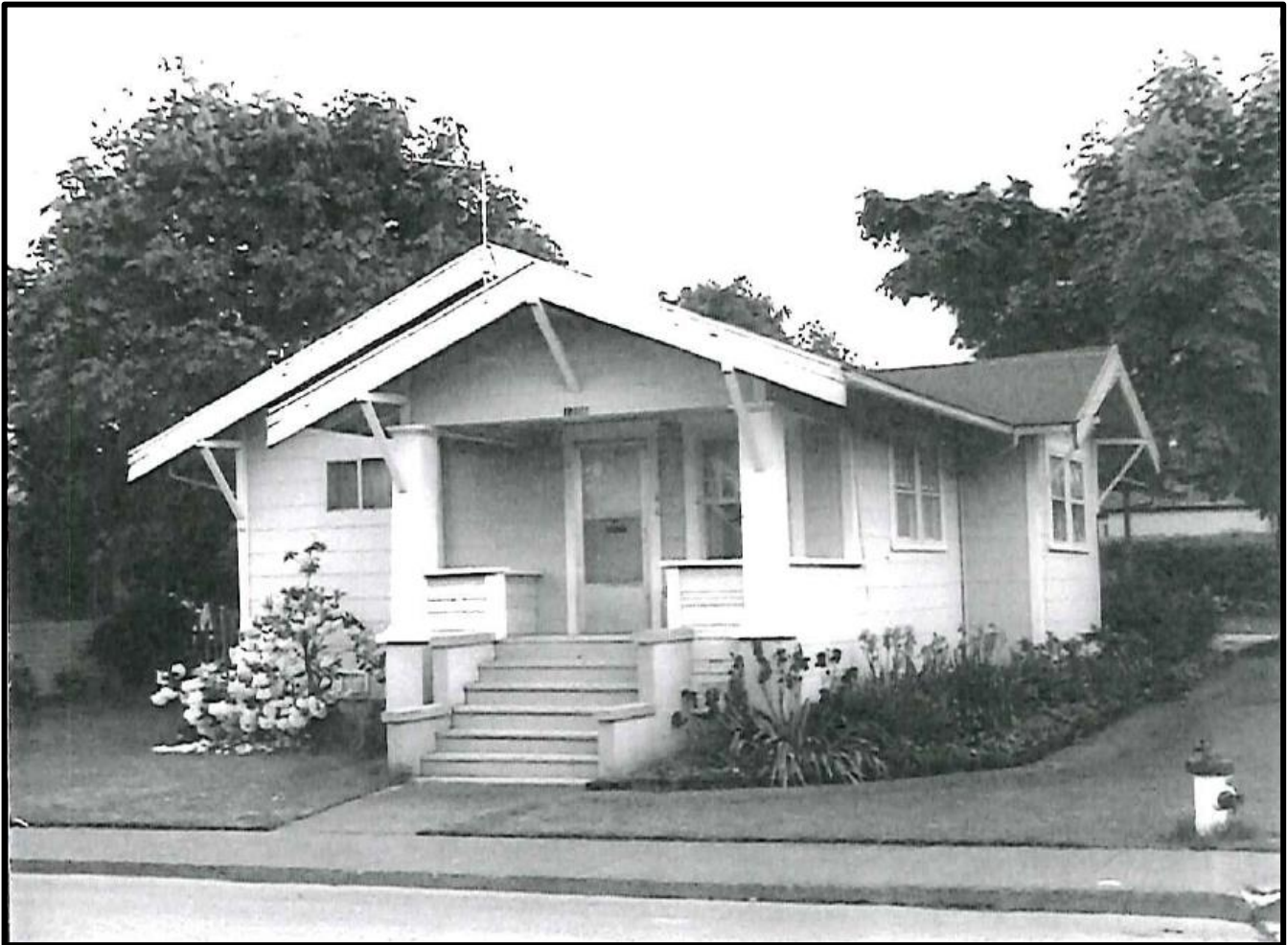
Section 17.65.030(B) of the MMC requires that the Historic Landmarks Committee review and approve any request for an addition, change, or deletion to the Historic Resources Inventory.

The current location of the historic resource is identified below (outline of property is approximate):



Discussion:

The photo from the time of the survey of the building that led to it being listed on the Historic Resources Inventory, as shown in the Historic Resources Inventory sheet, is provided below:



A more recent photo of the building as it exists today, taken from the same general location and angle as the original survey photo from 1983, can be seen below:



ATTACHMENTS

1. Certificate of Approval Application (on file with the Planning Department)

COMMENTS

Agency Comments

This matter was not referred to other public agencies for comment.

Public Comments

Public notice was mailed to owners of properties within 300 feet of the subject site, as required by Section 17.65.070(C) of the McMinnville City Code. The Planning Department has not received any public testimony prior to the public meeting.

FINDINGS OF FACT

1. Eric Wolff and Karl-Heinz Wolff, on behalf of property owners Roger and Cheri Pemberton, submitted a written request to delete and remove an existing historic resource from the Historic Resources Inventory. The subject property is located at 1206 NE 10th Avenue, and is more specifically described as Tax Lot 1800, Section 21AB, T. 4 S., R. 4 W., W.M.

2. The historic landmark is designated on the Historic Resources Inventory as an “Environmental” resource, and has the resource number of D1041.
3. The site is currently zoned R-2 (Single Family Residential), and is designated as Residential on the McMinnville Comprehensive Plan Map, 1980.
4. Notice of the alteration request was provided to property owners within 300 feet of the subject site. The Planning Department received no public testimony prior to the public meeting.
5. A public meeting was held by the Historic Landmarks Committee on January 23, 2019 to review the proposal.
6. The applicant has submitted findings (Attachment 1) in support of this application. Those findings are herein incorporated.

CONCLUSIONARY FINDINGS

McMinnville’s Comprehensive Plan:

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

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

Finding: **Goal III 2 is NOT satisfied by the proposal.**

The focus of the comprehensive plan goal and the purpose of the Historic Preservation chapter are to restore and preserve structures that have special historical or architectural significance. A removal of a historic resource from the Historic Resources Inventory clearly does not meet that intent. The Historic Landmarks Committee, after reviewing the testimony and materials provided by the applicant, decided that other criteria for the consideration of the deletion of the resource were being satisfied. Those will be described in more detail below.

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

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.

Finding: **Goal X 1 and Policy 188.00 are satisfied by the proposal.**

The City of McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Historic Landmarks Committee review of the request and recommendation at an advertised public meeting. All members of the public have access to provide testimony and ask questions during the public review and meeting process.

Attachments:

Attachment 1 – Certificate of Approval Application

McMinnville’s City Code:

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

17.65.030 Historic Resources Inventory. The McMinnville Historic Resources Inventory, compiled in 1983/84 and as subsequently updated, is hereby adopted and shall be maintained and updated as required. The inventory shall be used to identify historic districts, buildings, structures, sites, and objects for the purposes of this ordinance.

- A. The Historic Landmarks Committee shall be authorized to make all additions, deletions, and changes to the inventory. Any addition, deletion or change, including a reevaluation of the significance of any resource, shall conform to the requirements of this section.
- B. Any person may file an application with the Planning Director to amend the inventory by adding or deleting a resource or changing the level of significance of a resource. 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 act on such an application within thirty (30) days of the date the application was deemed complete by the Planning Department. The Committee may delay action on an application for up to thirty (30) days from the date of their meeting so that additional information needed for a decision can be obtained. The owner of the site which is under consideration and the applicant (if different) shall be notified of the time and place of the Historic Landmarks Committee review, although their presence shall not be necessary for action to be taken on the application.

Finding: The applicant provided a written request to delete the historic resource from the Historic Resources Inventory, and the Historic Landmarks Committee reviewed that request as authorized. The Committee reviewed the request within 30 days of the application and request being deemed complete.

- E. The Historic Landmarks Committee must remove a historic resource from the inventory if the designation was imposed on the property and the owner at the time of designation:
 1. Has retained ownership since the time of designation; and
 2. Can demonstrate that the owner objected to the designation on the public record; or
 3. Was not provided an opportunity to object to the designation; and
 4. Requests that the Historic Landmarks Committee remove the resource from the inventory.

Finding: **Section 17.65.030(E) is NOT satisfied by the proposal.**

The applicant, who provided notarized record that the current property owners have given authorization for the applicant to represent their requests, has claimed that the current owners are objecting to the historical designation of the building on the subject property. The written request states that the current owners have retained ownership since the time of designation, and that they believe that they were not allowed the opportunity to object to the designation of their property on the Historic Resources Inventory. The applicant and owners have now officially, as part of their written request, requested that the property be removed from the Historic Resources Inventory.

Staff completed research into the process that was undertaken in the 1980s during the initial inventories and adoption of historic preservation regulations that followed. From Planning Department records that were able to be obtained, there is evidence that the following actions were completed:

- November 23, 1982 – City Council adopted first Historic Preservation Ordinance
 - Historic Preservation regulations and procedures adopted by Ordinance 4228
- 1983 - 1984 – Further survey work was completed.

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- State Historic Preservation Office (SHPO) provided funding assistance in the completion of survey work. The City’s written request to the SHPO for funding assistance, written by then Planning Director Richard Highsmith and dated April 1, 1983, described the proposed process to be followed during the completion of the survey work. The work was proposed to be split into three phases, and the last item in Phase III was to “Prepare amendments to the McMinnville Historic Preservation Ordinance” and also to “Notify owners of properties included on list of sites and structures which are protected under the ordinance.”
- Additional funding was requested in another written request, dated December 15, 1983, to complete further notification of properties that were surveyed but that were not going to be protected by the City’s historic preservation ordinance. The properties that were surveyed and designated as Contributory or Environmental were not subject to design requirements at the time, and those may be the properties referred to for additional notification. Specifically, the letter states:

“The original contract failed to include funding for notification of property owners whose structures were surveyed, but will not be protected by the City historic preservation ordinance. Many of these structures contribute to the character of the city and an effort should be made to inform owners that preservation options are available. Additional funding is needed to send letters to these owners. It is estimated that approximately 225 property owners will need to be contacted.”
- 1987 – Updates made to Historic Preservation Ordinance
 - A revised version of the Historic Preservation Ordinance was adopted by Ordinance 4401.
 - Ordinance 4401 included reference to the “second phase” of survey work completed in 1983/1984. Ordinance 4401 also repealed Ordinance 4228.
 - Ordinance 4401 adopted the Historic Resources Inventory, which is specifically described as being “compiled in 1983/1984”.

While there is reference in the materials during the time of the 1983/1984 survey completion about the notification of property owners at the time of the survey, records were not able to be found for specific written letters provided to each individual property owner. However, there is a stated intent that the notifications would occur, thereby providing some level of notification and opportunity for objection. Because there is not clear evidence that the property owner was not made aware of the survey and eventual designation of their property on the Historic Resources Inventory, a clear burden of proof is not available to determine whether the criteria in Section 17.65.030(E) are satisfied. Therefore, there is no evidence to clearly show that the designation was imposed on the property and the owner at the time of designation.

- F. Except as provided in Section 17.65.030 (E), the Historic Landmarks Committee shall base each decision regarding deletions from the inventory on the following criteria:
1. The resource has lost the qualities for which it was originally recognized; or

Finding: **Section 17.65.030(F)(1) is satisfied by the proposal.**

The original designation of the residential building on the Historic Resources Inventory was related to the architecture and historic features that were in place on the structure at the time of survey in December 1983. Those architectural features are described in the statement of historical significance and description of the property, as described in the Historic Resources Inventory sheet and as documented during the original survey of the property in December 1983. The applicant has argued that the existing building no longer contains those features that led to it being designated on the Historic Resources Inventory due to alterations that have occurred since that time. Also, the resource was

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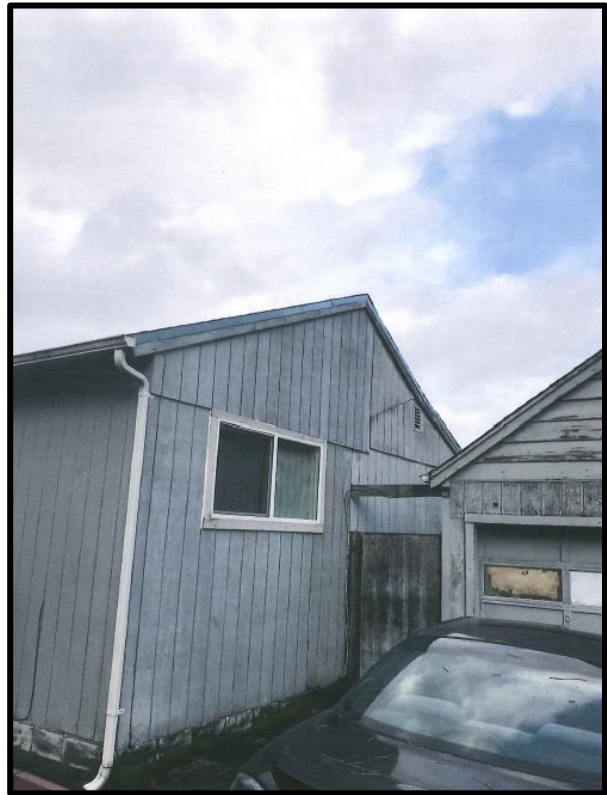
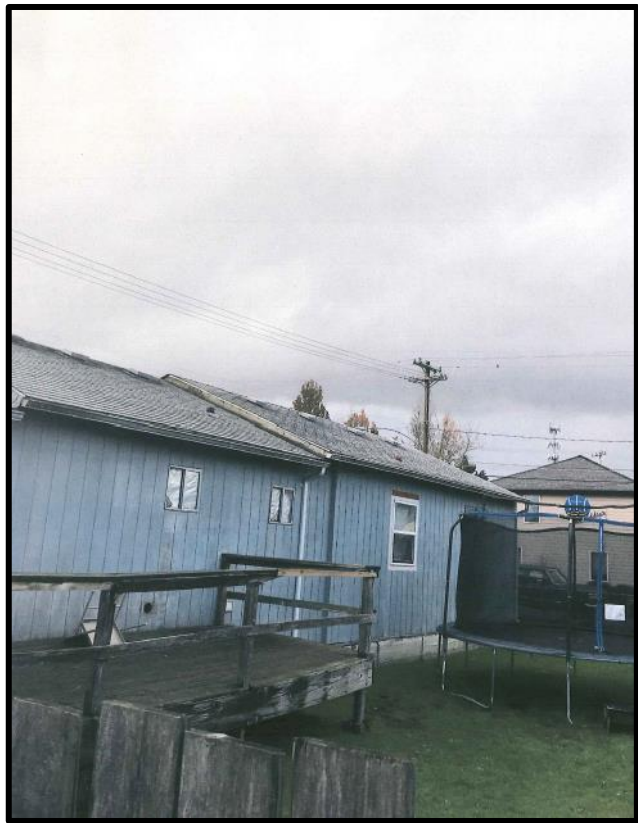
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designated as an Environmental resource, which is the lowest level and tier of classification on the Historic Resources Inventory. Resources that are designated as Contributory or Environmental resources have historically, and still are not under current historic preservation regulations, subject to any specific design standards or historic preservation review criteria. Therefore, alterations can occur to the structure without any additional review, other than what is required for building permit and general zoning requirements. In this scenario, it is clear that multiple alterations have occurred over time.

The statement of historical significance and description of the property, as described in the Historic Resources Inventory sheet and as documented during the original survey of the property in December 1983, describes a number of architectural elements and features that led to the structure being designated. Those are described individually below, along with the applicant’s descriptions of changes that have occurred and photos showing those changes.

The statement of historical significance described the structure as “This low-gabled one-story bungalow has wide eaves with exposed rafters.” The applicant has stated that the exposed rafters have been removed, and it is clear that the wide eaves have also been removed from the main roof structure, the porch, and the bump-out on the west façade. Photos of the absence of these features are provided below:

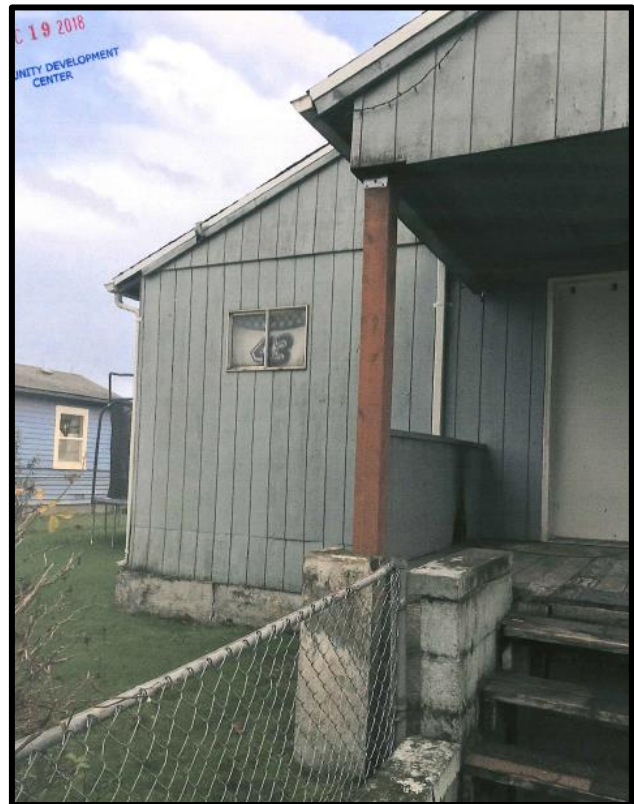
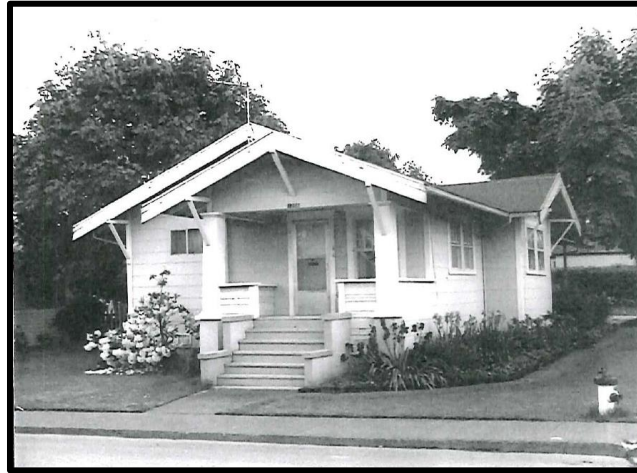




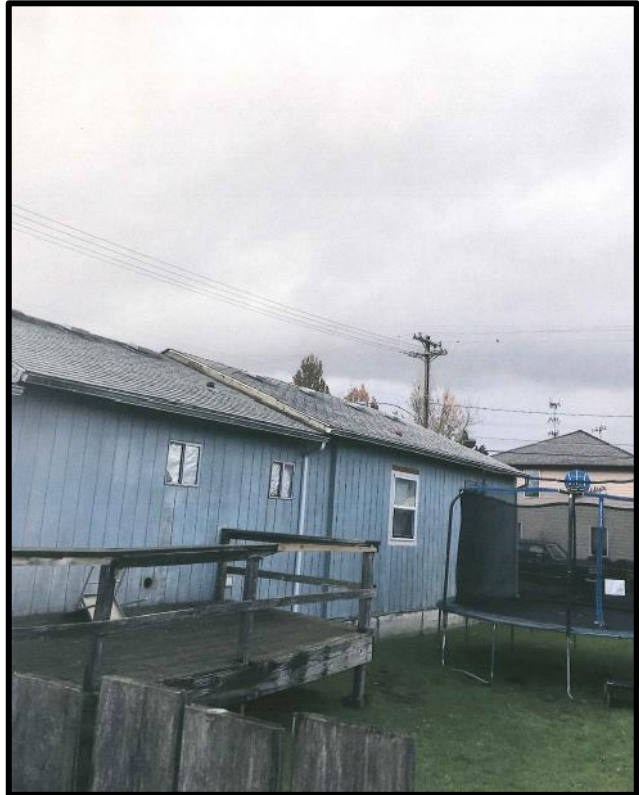
The statement of historical significance described the structure as having a “gabled porch [...] supported on square columns at its corners.” The statement also states that “the porch base is concrete.” The applicant has stated that the “access to the front door is now comprised of wood steps and CMU blocks instead of previous concrete steps”. Photos of the absence of these features are provided below:

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The statement of historical significance also describes the structure as follows: “The north and west façade is resided in plywood while the east and portions of the north façade have asbestos shingle siding [sic] over the original horizontal siding.” The applicant has stated that the “original horizontal siding and plywood have been replaced with T-1-11 siding”. Photos of the absence of these features are provided below:



Based on the alterations and the removal of once historic features, the Historic Landmarks Committee has found that the resource has lost the qualities for which it was originally recognized and designated on the Historic Resources Inventory.

2. Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing; or

Finding: **Section 17.65.030(F)(2) is satisfied by the proposal.**

The Committee found that the historic resource did likely satisfy the applicable criteria for designating the resource on the Historic Resources Inventory in 1983 and in 1987 when the City’s Historic Preservation Ordinance (Ordinance No. 4401) was adopted. However, due to the alterations that have occurred, the resource, if re-surveyed today, would no longer satisfy the criteria for recognition as a resource. The original criteria for designation as a historic resource are similar to those that still regulate changes or additions to the Historic Resources Inventory. Those criteria are as follows:

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1. History. The resource is associated with significant past events, persons, organizations, trends, or values which were important at the city, county, state, or national level. The age of the resource relative to other local development contributes to its historic significance;
2. Style/Design. The resource is representative of a particular style or a type of construction. The uniqueness of the resource or its quality of composition, detailing, or craftsmanship contribute to its design significance. The resource was designated or constructed by a craftsman, contractor, designer, or architect of local, state, or national importance;
3. Integrity. The resource retains original design elements, materials, and character with relatively minor alterations, if any; and
4. Environment. The resource contributes to the character or continuity of the street or neighborhood.

The statement of historical significance and description of the property, as described in the Historic Resources Inventory sheet and as documented during the original survey of the property in December 1983, describes a number of architectural elements and features that led to the structure being designated. There is no specific reference in the statement of historical significance to any significant past event, person, organization, or trend which were important at the city, county, state, or national level.

The original style and design of the resource was a bungalow style, with architectural features of historic value such as wide eaves, exposed rafters, gabled porch, and square columns at the corners of the front porch. Those features and overall building form would have warranted recognition as a historic resource at the time of designation based on their contribution to the historic character of the structure and the contribution to the historic environment in the surrounding area. The resource was also noted as being in “excellent” condition at the time of survey in December 1983, which would have satisfied the “Integrity” criteria. However, most of those architectural features and design elements have either been removed or significantly altered, and no longer exist, as described in more detail in the findings above. The removal and the loss of the features and elements has also resulted in a loss of historical integrity. Also, given the alterations and current condition of the historic resource, the resource is no longer contributing to the character or continuity of the neighborhood.

3. The Building Official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.

Finding: **Section 17.65.030(F)(3) is NOT satisfied by the proposal.**

The Building Official has not declared the resource a clear and immediate hazard, so this criteria is not applicable.

17.65.070 Public Notice.

- A. After the adoption of the initial inventory, all new additions, deletions, or changes to the inventory shall comply with subsection (c) of this section.
- B. Any Historic Landmark Committee review of a Certificate of Approval application for a historic resource or landmark shall comply with subsection (c) of this section.
- C. Prior to the meeting, owners of property located within 300 feet of the historic resource under consideration shall be notified of the time and place of the Historic Landmarks Committee meeting and the purpose of the meeting. If reasonable effort has been made to notify an owner, failure of the owner to receive notice shall not impair the validity of the proceedings.

Finding: Section 17.65.070 is satisfied. Notice was provided 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.

CD:sjs

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