



Memorandum

TO: Planning Commission

FROM: Sara Javoronok, Associate Planner

DATE: May 27, 2010

SUBJECT: Establishment of a Historic Review Board

Purpose: Staff is seeking a recommendation from the Planning Commission on the attached proposed amendments to chapters 25, 26, 55, and 99 of the Community Development Code (CDC). Amendments to Chapter 2 of the Municipal Code are also included for the Planning Commission’s review (which are not under the Planning Commission’s purview). These amendments will establish a Historic Review Board to assume the responsibilities currently completed by the City’s Historic Resources Advisory Board (HRAB) and the Clackamas County Historic Review Board (CCHRB).

Background: In the 1980s, the City established an intergovernmental agreement with the CCHRB to provide for implementation of the portions of the CDC pertaining to historic properties. This included reviewing new construction and alterations to structures within historic districts, providing recommendations for the designation of historic landmarks or districts, applying architectural design review standards within the Willamette Falls Drive Commercial District, and reviewing and making recommendations on proposed partitions of properties designated as landmarks.

In 2009, Clackamas County terminated this agreement. The City has a one-year transition period to establish a Historic Review Board. This period ends September 30, 2010. Prior to that date, the City needs to establish a Board to assume the duties that the CCHRB currently provides for the City.

In 2006, the City established the HRAB. The HRAB serves in an advisory capacity to the City Council and does not have authority to approve or deny projects. However, it does perform some of the traditional functions of a historic review board. Under the direction of the HRAB, the City has applied for and completed several Certified Local Government (CLG) grants with matching funding from the State Historic Preservation Office (SHPO), including one for National Register designation for the Willamette Falls Neighborhood Historic District.

In 2006, the City attained status as a CLG. The CLG program is administered through the SHPO for the Department of the Interior. It has several requirements for governments, including establishing a historic preservation commission, passing a preservation ordinance, participating in expanding and updating the state's historic building inventory program, and reviewing National Register of Historic Places nominations. Currently, CLG program elements are completed by both the HRAB and the CCHR. B.

On April 6, 2010, staff sought input from the HRAB regarding the options of having one or two boards, the membership qualifications, and the number of members. On April 19, 2010, staff presented the options and HRAB recommendations to the City Council. The City Council directed staff to draft language to establish a single Historic Review Board comprised of seven members, the majority of whom reside in the city (with a preference for all members to be West Linn residents). Staff recommended, and the Council concurred, that one member would be an architect; however, the amendments allow for this requirement to be waived if an architect is not available. In the event that staff can not recruit an architect to serve on the Board, we will consult with one as warranted.

On April 21, 2010, staff briefed the Planning Commission regarding the upcoming code amendments.

On May 19, 2010, staff discussed a draft of the proposed amendments with the HRAB. The HRAB was generally supportive of the amendments and offered a few revisions that staff has incorporated.

Discussion: The proposed amendments are generally only those necessary to establish the Historic Review Board. There are a few exceptions, including:

- Changing the Municipal Code to allow for terms of office for board and commission members to extend until the position is replaced or reappointed;
- Modifying the criteria used to designate historic districts and historic landmarks to more closely match the National Register of Historic Places Criteria for Evaluation;
- Incorporating provisions to reflect state law regarding the protection of historic resources of statewide significance; and
- Clarifying and consolidating related provisions scattered through the code in a single location within the CDC.

Approval Criteria: Chapter 98 of the CDC provides administrative procedures for legislative amendments to the CDC. Section 98.100 lists the factors upon which a decision shall be based. The applicable standards along with staff's response are as follows:

1. *The statewide planning goals and rules adopted under ORS Chapter 197 and other applicable state statutes.*

Staff reviewed the statewide planning goals and found that Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces, and to a lesser extent, Goal 1: Citizen Involvement, are applicable the proposed amendments. Specifically, Goal 5 states that local governments shall adopt programs that will protect historic resources.

The proposed amendments and process to develop them are consistent with these goals.

2. *Any federal or state statutes or rules found applicable;*

Staff has reflected applicable provisions of state law in the proposed amendments. Such provisions are identified in the staff comments interspersed in the proposed amendments.

4. *The applicable Comprehensive Plan policies and map;*

Comprehensive Plan Goal 1: The proposed amendments will support sub-goals 1 and 2 within Goal 1: Citizen Involvement. The sub-goals are as follows:

1. Provide the opportunity for broadly based, ongoing citizen participation, including opportunities for two-way dialogue between citizens and City elected and appointed officials.
2. Provide opportunities for citizens to shape City government and other West Linn institutions into exemplary organizations that foster trust, respect, courage, and honor.

The establishment of the Historic Review Board will provide opportunities for citizen participation and dialogue around historic preservation. Citizens will have an opportunity to shape city government by commenting on the proposed amendments.

Comprehensive Plan Goal 5: The proposed amendments are in accordance with Goal 5 and its related policies. It is supportive of the "Historic Areas" sub-goal to "Identify and preserve the historic and archaeological resources of West Linn". Two related policies are also applicable:

6. Encourage the listing, cataloging, and preservation of historic landmarks and historical data relating to the history of West Linn.
9. Support efforts to obtain historic designation at the state and national level for historic sites and districts.

The revised language will continue to allow for the listing, cataloging, and preservation of historic landmarks and efforts to obtain historic designation at the national level for historic sites and districts.

The proposed amendments will not affect the Comprehensive Plan map.

Recommendation: Staff recommends that the Planning Commission recommend approval of the proposed code amendments to chapters 25, 26, 55, and 99 of the Community Development Code.

ESTABLISHMENT OF AN
HISTORIC REVIEW BOARD

**Proposed Amendments to Chapter 2 of the Municipal Code and
Chapters 25, 26, 55, and 99 of the Community Development Code**

**PLANNING COMMISSION PUBLIC HEARING DRAFT
6/16/2010**

Note:
Plain text = existing regulation
~~Strike through~~ = proposed deletion to existing regulations
Underline = proposed addition
Italic = staff comment
... = unaffected text omitted

The following proposed amendments are intended to create a Historic Review Board that will assume the responsibilities of the Historic Resources Advisory Board and the Clackamas County Historic Review Board.

**Municipal Code
Chapter 2, GOVERNMENT AND ADMINISTRATION**

...
2.060 Appointment. Term. Removal of Members

- ...
- (2) Qualifications for appointment and term of office for a position on a City advisory board, committee or commission shall be as provided in the enabling provision for such board, committee or commission in this chapter, provided that the term of office shall extend until the Council reappoints or replaces the position. If a position becomes vacant before the expiration of the term, the Council shall appoint a person to fill the vacancy for the remainder of the term. Initial terms for a newly created advisory board, committee or commission shall be staggered in the resolution of appointment so that a majority of the positions do not become vacant in the same year and so that an equal or approximately equal number of positions become vacant each year.

(Staff Comment: The proposed revision above, suggested by a Councilor, would apply to all City advisory boards, committees and commissions.)

2.085 Boards, Committees and Commissions

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O. HISTORIC RESOURCES ADVISORY REVIEW BOARD

- (1) Establishment; Membership; Term.
There is hereby established a Historic ~~Resources Advisory Review~~ Board (HRB) of the City of West Linn consisting of seven ~~five~~ regular members appointed for three-year terms, ~~except that the initial appointments shall be made so that the terms of not more than two members expire in any given year.~~ (*Staff Comment: The staggering of terms is addressed by Section 2.060 (2) above.*)
- (2) Qualifications. Board members shall have a demonstrated interest, knowledge, or competence in historic preservation and, to the extent possible, in one of the following fields: archaeology, architecture, building construction, history, landscape architecture, law, local history, real estate or urban planning. At least one member shall be an architect experienced in historic preservation, unless an applicant with these qualifications is not available. The majority of the members shall reside within the City of West Linn. Preference will be given to applicants residing in West Linn, except as necessary to obtain specific expertise listed above. ~~It is desirable that members of the committee have diverse interests and backgrounds, including some with knowledge or expertise in architecture, historic preservation and restoration.~~
- (3) Powers and Duties. The Historic ~~Resources Advisory Review~~ Board shall:
 - (a) Meet at least four times a year and as required to conduct business in a timely fashion. Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places. (*Staff Comment: The stricken language is incorporated in d.*)
 - (b) Have the powers and duties which are now or may hereafter be assigned to it by the charter, ordinances and resolutions of West Linn and state law. Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs. (*Staff Comment: The stricken language is substantially incorporated in d. There are a limited number of local groups and it goes without saying that the Board will continue to work with them.*)
 - (c) Enforce appropriate state and local legislation pertaining to the designation and protection of historic properties.
 - (d) ~~(e)~~ Advise interest groups, agencies, boards, and citizens ~~on~~ regarding the community's history and prehistory, promote research pertaining to local history and prehistory; make available materials

pertaining to the preservation of historic resources and, subject to applicable state laws, archaeological resources; and provide information regarding state and federal preservation programs.
~~matters relating to historic preservation within the city.~~

- (d) ~~Monitor the city's historic inventories on a periodic basis and ensure that information on inventoried historic properties is updated and maintained.~~ *(Staff Comment: The stricken language is incorporated in e.)*
- (e) Evaluate the city's historic and archaeological resources; compile and periodically monitor and update an Inventory of Historic Resources; establish and periodically update a Designated Landmarks Register; and document historic resources prior to their alteration, demolition, or relocation and archive that documentation. ~~Research and recommend property owner incentives to City Council to assist in continued preservation of historic resources.~~ *(Staff Comment: The stricken language is incorporated in g and h.)*
- (f) Devise strategies, programs, incentives and code amendments to protect, enhance and assist in the appreciation of historic and archaeological resources and, subject to City Council approval, implement such measures. ~~Coordinate with Clackamas County, neighboring cities, and regional and state historic preservation agencies and groups to integrate West Linn preservation with statewide preservation initiatives.~~ *(Staff Comment: The stricken language is incorporated in c.)*
- (g) Assist the owners of historic resources in their individual efforts to secure funding for the preservation of their properties. ~~Coordinate with the Clackamas County Historic Review Board as appropriate.~~
- (h) Subject to City Council approval, seek, accept and expend public appropriations, grants and gift funds that will further the protection, enhancement, and appreciation of the city's historic and archaeological resources. ~~Seek outside funding of preservation work and activities.~~
- (i) Subject to City Council approval, develop and publish guidelines and examples to clarify the criteria in regulations pertaining to historic properties and to assist applicants in developing complete and viable applications. ~~Work to provide an adequate permanent facility for West Linn historic artifacts and materials.~~ *(Staff Comment: Providing a facility for historic artifacts and materials is proposed to be removed from the powers and duties. Staff*

recognizes the need for this type of facility but believes that it could best be accomplished through another entity.)

Community Development Code, Chapter 25

(Staff Comment: The items in the following section are proposed to be repealed as they no longer apply, are addressed in Chapter 2 of the Municipal Code, or are addressed in Chapter 99 of the Community Development Code.)

...

~~25.040~~ HISTORIC REVIEW BOARD

- ~~A. For the purpose of this ordinance, the decisions regarding alterations within Historic District and recommendations for designation of Historic Districts shall be accomplished by the Clackamas County Historic Review Board.~~
- ~~B. **Appointment and composition.** The City Council shall appoint two individuals who have demonstrated an interest in historic preservation, and have experience and/or special expertise or knowledge in the field of historic preservation, and may fulfill the requisites of the Historic Review Board and composition pursuant to 707.04 of the County's Code. The remaining five members of the Board are standing members responsible for reviewing applications for all of Clackamas County. Their appointment is made through Clackamas County government.~~
- ~~C. **Terms of service.** The aforementioned two members of the Historic Review Board shall be appointed for three years and may be re-appointed or replaced at the discretion of the City Council.~~
- ~~D. **Duties and responsibilities.** It is the responsibility of the Historic Review Board to ensure that the purposes of this section are implemented and to perform the following duties:
 - ~~1. Adopt rules to govern its deliberations and decisions, including a method to record its proceedings.~~
 - ~~2. Carry out the duties described for it in this Ordinance and otherwise assist the Board of County Commissioners and West Linn City Council on historic preservation matters.~~
 - ~~3. Review and render decisions on proposals to alter the exterior of a Historic Landmark subject to the procedures and criteria set forth in CDC Chapter 26.~~
 - ~~4. Review and render decisions on all proposed new construction on property on which a Historic Landmark is located, subject to the procedures and criteria set forth in Chapter 26 of this Code.~~
 - ~~5. Review and make recommendations on all applications for zoning of a Historic Landmark, as provided under CDC Chapter 26.~~
 - ~~6. Review all requests for demolition or removal of a Historic Landmark, as provided under CDC Chapter 26.~~
 - ~~7. Review and make recommendations to the Planning Commission on all conditional use applications under Chapter 26 of this Code.~~
 - ~~8. Review and make recommendations on all partitions and subdivisions of designated properties.~~~~

9. ~~Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places.~~
10. ~~Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs.~~
11. ~~Advise interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the City.~~
12. ~~Insure that information on inventoried historic properties is updated and maintained.~~
13. ~~Provide opportunities for the ongoing education and training of Board members in architecture and historic preservation. (Staff Comment: The stricken language goes without saying.)~~

~~25.045~~ ~~APPEALS OF HISTORIC REVIEW BOARD~~

~~Appeals of Historic Review Board are heard by the City Council pursuant to Chapter 99, Procedures for Decision Making: Quasi-Judicial.~~

25.050 **CRITERIA FOR HISTORIC DISTRICT DESIGNATION**

- A. All historic districts in the City that are listed on the National Register of Historic Places shall be designated as a Historic District. (Staff Comment: OAR 660-023-0200 states that local governments shall protect all resources of statewide significance, i.e., those listed on the National Register of Historic Places.) ~~Approval of an Historic Districts designation shall be made when the Historic Review Board finds that when the proposed Historic district meets any of the following criteria have been met:~~

(Staff Comment: The following proposed changes require that any proposed designation of a historic district meet at least one of five criteria, which are adapted from the National Register of Historic Places Criteria for Evaluation).

The approval authority shall designate proposed districts that:

1. ~~Whether the proposed district or landmark would serve the purpose of the Historic District as stated in Section 25.010;~~
- 1.2. ~~Reflects the broad cultural or natural history of the community, state, or nation. Are associated with events that have made a significant contribution to the history of the community, county, state or nation;~~
- 2.3. ~~Is identified with historic personages or with important events in national, state, or local history. Archeological sites would also be~~

~~included.~~ Are associated with the lives of significant people in the history of the community, county, state or nation;

~~3.4. Embodies the distinguishing characteristics of an architectural specimen inherently valuable for a study of a period, style, or method of construction.~~ Embody distinctive architectural characteristics of a type, style, period or method of construction;

~~4. Represent the work of a master builder, designer, or architect who influenced the development of the community, county, state or nation; or~~

~~5. Is a notable work of a master builder, designer, or architect. Have yielded, or will likely yield, information important in history or prehistory.~~

Community Development Code, Chapter 26

26.020 AREA OF APPLICATION

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B. ~~A building, site, structure, or object shall be designated may be zoned an Historic Landmark if it is listed on the "National Register of Historic Places," or approval of an Historic District designation shall be made when Planning Commission finds that any of the following criteria have been met: (Staff Comment: OAR 660-023-0200 states that local governments shall protect all resources of statewide significance whether or not they are locally listed.)~~ A building, site, structure, or object may also be designated a Historic Landmark if it:

~~1. Whether the proposed district or landmark would serve the purpose of the Historic District as stated in Section 26.010.~~

~~1.2. Reflects the broad cultural or natural history of the community, state, or nation. Is associated with events that have made a significant contribution to the history of the community, county, state or nation;~~

~~2.3. Is identified with historic personages, or with important events in national, state or local history. Is associated with the lives of persons significant in the history of the community, county, state or nation;~~

~~3.4. Embodies the distinguishing characteristics of an architectural specimen inherently valuable for a study of a period, style, or method of construction. Embodies distinctive architectural characteristics of a type, style, period or method of construction;~~

4. Represents the work of a master builder, designer, or architect who influenced the development of the community, county, state or nation; or
5. ~~Is a notable work of a master builder, designer, or architect. Has yielded, or will likely yield, information important in prehistory or history.~~

(Staff Comment: The changes above modify the existing criteria and require landmarks to meet at least one of the five criteria, which are adapted from the National Register of Historic Places Criteria for Evaluation.)

- ~~C.B.~~ The age of a specific building shall not be deemed sufficient in itself to warrant designation as historic.
- ~~D.C.~~ The height and floor area ratio ~~single family residential design~~ standards that apply to homes elsewhere in West Linn shall not apply to historic landmark structures identified in ~~s~~Section 26.020(A). ~~Setbacks and lot coverage standards of the underlying zone shall, however, apply. The standards will apply to both infill development and homes within new subdivisions.~~ *(Staff Comment: The first change above is for clarification and the following stricken language above goes without saying.)*
- E. No building permit for altering or moving any proposed historic landmark shall be issued while any advertised public hearing or any appeal affecting the proposed designation of the area or building is pending. In addition, demolition of a building affected by a pending public hearing or appeal under this Section shall be a violation of this Ordinance. *(Staff Comment: moved from 26.050(E)).*

(Staff Comment: The items in Sections 26.040, 26.045 and 55.030 are proposed to be removed as they no longer apply or are addressed in Chapter 2 of the Municipal Code or Chapter 99 of the Community Development Code.)

~~26.040~~ **HISTORIC REVIEW BOARD**

- ~~A.~~ For the purpose of this ordinance, the decisions regarding alterations to ~~Historic Landmarks and within historic districts, and recommendations for designation of historic landmarks or districts, shall be accomplished by the Clackamas County Historic Review Board.~~
- B. **Appointment and composition.** The City Council shall appoint two individuals who have demonstrated an interest in historic preservation, and have experience and/or special expertise or knowledge in the field of historic preservation, and may fulfill the requisites of the Historic Review Board and composition pursuant to ~~707.04~~ of the County's Code.

- C. ~~**Terms of service.**~~ The members of the Historic Review Board shall be appointed for three years, and may be re-appointed or removed at the discretion of the City Council.
- D. ~~**Duties and responsibilities.**~~ It is the responsibility of the Historic Review Board to insure that the purposes of this section are implemented, and to perform the following duties:
1. ~~Adopt rules to govern its deliberations and decisions, including a method to record its proceedings.~~
 2. ~~Carry out the duties described for it in this Ordinance and otherwise assist the Board of County Commissioners and West Linn City Council on historic preservation matters.~~
 3. ~~Review and render decisions on proposals to alter the exterior of an Historic Landmark subject to the procedures and criteria set forth in Section 26.060.~~
 4. ~~Review and render decisions on all proposed new construction on property on which an Historic Landmark is located, subject to the procedures and criteria set forth in Section 26.060.~~
 5. ~~Review and make recommendations on all applications for zoning of an Historic Landmark, as provided under Section 26.050.~~
 6. ~~Review all requests for demolition or removal of an Historic Landmark, as provided under Section 26.080.~~
 7. ~~Review and make recommendations to the Planning Commission on all conditional use applications under Section 26.030(B).~~
 8. ~~Review and make recommendations on all partitions and subdivisions of designated properties.~~
 9. ~~Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places.~~
 10. ~~Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs.~~
 11. ~~Advise interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the City.~~
 12. ~~Insure that information on inventoried historic properties is updated and maintained.~~

~~26.045~~ ~~APPEALS OF HISTORIC REVIEW BOARD~~

~~Appeals of Historic Review Board are heard by the City Council pursuant to Chapter 99, Procedures for Decision-Making: Quasi-Judicial.~~

~~26.50~~ ~~PROCESS FOR DESIGNATION OF A HISTORIC LANDMARK~~

(Staff Comment: Sections A-D below are proposed for deletion as they are addressed under Chapter 99. Section 26.050(E) is moved to 26.020(E)).

- A. ~~City-initiated action.~~ The Historic Review Board, City Council or interested parties may initiate the process for designation of an Historic Landmark. If the Historic Review Board or City Council initiates the process, notice shall be as required under Chapter 98.
- B. ~~Quasi-judicial application.~~ The owner(s) of property, or properties, may request the zoning of their property, or properties, as an Historic Landmark(s) by making application to the City. Notice requirements shall be as provided for zone change/plan change actions under Chapter 99.
- C. ~~Historic Review Board evaluation.~~ The Historic Review Board shall evaluate the proposed zoning action and shall enter findings and make a written recommendation to the City Council.
- D. ~~City Council public hearing.~~ The City Council shall conduct a public hearing to consider the proposed zoning action and shall either approve or deny the request. The Council shall enter written findings supporting its decision.
- E. ~~Pending permits.~~ No building permit for altering or moving any proposed Historic Landmark shall be issued while any advertised public hearing or any appeal affecting the proposed designation of the area or building is pending. In addition, demolition of a building affected by a pending public hearing or appeal under this Section shall be a violation of this Ordinance.

26.060 ALTERATION AND DEVELOPMENT CRITERIA

(Staff Comment: The proposed changes in this section are for clarification and to correct scrivener's errors.)

- A. **Purpose.** It is the intent of this Section to provide for the appropriate level of review for proposed alterations and development to historic landmarks within Historic Districts, or those affecting Historic Landmarks, and to provide criteria ensuring effective and efficient review of proposed alterations to landmarks and associated development.

55.030 ADMINISTRATION AND APPROVAL PROCESS

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- E. ~~Design review of single family detached dwellings in the Historic District, landmark structures, and buildings in the Willamette Falls Drive overlay zone shall be reviewed by the West Linn/Clackamas County Historic Review Board per Chapter 99.~~

99.60 APPROVAL AUTHORITY

...

(Staff Comment: As proposed, provisions pertaining to the Historic Review Board's authority will be consolidated, clarified, and organized in Chapter 99.)

- D. The Historic Review Board shall have the authority to:

1. Approve, deny, or approve with conditions applications for the following: development applications.
 - a. Major and minor remodels, alterations, and additions to historic landmarks, property within a historic district, and property within the Willamette Falls Drive Commercial District;
 - b. New construction within a historic district and in the Willamette Falls Drive Commercial District;
 - ~~1. New home construction in the Historic District. (*Staff Comment: The stricken language is incorporated in b.*)~~
 - ~~3. Major renovation or additions to historic landmarks, and major renovation or additions to structures in the Historic District (*Staff Comment: The stricken language is incorporated in a.*)~~
 - ~~6. New construction, major renovation, and additions in the Willamette Falls Drive Commercial Overlay Zone. (*Staff Comment: The stricken language is incorporated in a and b.*)~~
 - c. Construction of a non-exempt accessory structure or garage on a historic landmark property, or property within a historic district; ~~4. Construction of non-exempt accessory structures and garages to historic landmark properties and properties within a historic district.~~
 - ~~d. 5. Demolition permits for historic landmarks and property within a historic district; for the Historic District, to historic buildings in the Willamette Falls Drive Commercial Overlay Zone, and to Historic landmark structures.~~
 - ~~f. 7. Revocation Revoke or modification modify of an approval as provided by Section 99.330 for any application approved by the Historic Review Board; and~~
 - ~~g. 8. Extensions of an approval when the Historic Review Board acted as the initial decision making authority.~~
 - ~~2. Creation of new historic districts. (*Staff Comment: The Historic Review Board has the authority to review and make recommendations on proposed landmarks and districts. This is incorporated below in 2(a).*)~~

2. The Historic Review Board shall have the authority to review and make recommendations to the approval authority specified in Section 99.060 and, as applicable, to the City Council, regarding proposed:

- a. Designation of a new historic landmark or historic district;
- b. Partitions or subdivisions of property containing a historic landmark and property within a historic district;
- c. Conditional use of property containing a historic landmark; and
- d. Zone change for property containing a historic landmark and property within a historic district.