CITY OF West Linn

**Agenda Report 2015-07-13-01**

Date: June 30, 2015

To: Mayor Russell Axelrod
Members, West Linn City Council

From: Megan Thornton, Assistant City Attorney

Through: Chris Jordan, City Manager $CJ$

Subject: ZC-14-02 Historic District Removal for 1344 14th Street

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**Purpose**
The applicant is requesting removal from the Historic District Overlay Zone of the property located at 1344 14th Street.

**Question(s) for Council:**
Does the Council wish to follow the recommendation of the Historic Review Board and deny the application for removal from the Historic District Overlay Zone for the property located at 1344 14th Street?

**Public Hearing Required:**
Yes.

**Background:**
Procedural History
The applicant, Lonny and Kristine Webb, owns a residence located within the Willamette Historic District. The Webbs submitted two applications in 2014 for their property: 1) a request to remove the historic resource designation and remove the property from the historic district zone, and 2) a design review application for a porch addition, rear dormer addition, window replacement, and garage replacement.

The procedure for removal from the historic district zone requires the HRB to make a recommendation to the City Council regarding whether the property should be removed from the zone; then, the City Council makes the final decision. This procedure is different from the design review application requests because on those requests the HRB makes the final decision, which can then be appealed to the City Council.

The Historic Review Board ("HRB") held a public hearing on October 21, 2014. Following the public hearing, the HRB recommended denying the request to remove the property from the historic district zone under the Community Development Code. On May 11, 2015, the Council remanded the zone change application back to the HRB to allow the HRB to make a recommendation on whether the property should be moved from the historic district zone under ORS 197.772. At its June 9 hearing, the HRB recommended the Council deny the request to remove the property from the Historic District Overlay Zone under both the CDC and ORS 197.772.

The Council's decision on the zone change application is on the record pursuant to CDC 105.040; therefore, no new evidence can be submitted at the hearing.

**Discussion:**
The Staff Report and the Final Decision and Order for the HRB hearing on June 9, 2015, are attached.

**Budget Impact:**
None.

**Council Options:**

1. Follow the HRB's recommendation and deny the application for removal from the Historic District Overlay Zone under both the CDC and ORS 197.772.
2. Disregard the HRB's recommendation and approve the application for removal from the Historic Overlay Zone pursuant to the CDC.
3. Disregard the HRB's recommendation and approve the application for removal from the Historic Overlay Zone pursuant to ORS 197.772.
4. Disregard the HRB's recommendation and approve the application for removal from the Historic Overlay Zone pursuant to the CDC and ORS 197.772.

**Staff Recommendation:**
Staff recommends that the Council deny the application requesting removal from the Historic District Overlay Zone for the property located at 1344 14th Street.

**Potential Motion:**

1. Deny the application for removal.
   Move to deny application ZC-14-02, and direct staff to prepare a Final Decision and Order consistent with this decision based on the findings in the July 13, 2015, hearing Staff Report and the record.
2. Approve the application for removal and set the matter for another meeting.
   Move to tentatively approve application ZC-14-02, and direct staff to prepare a Final Decision and Order consistent with this decision, and continue the meeting to _____, 2015, at _____ to adopt the Final Decision.

**Attachments**:

1. Staff Report for July 13, 2015
2. Final Decision and Order issued by the HRM
3. Hathaway Koback Conners Letter dated June 5, 2015

City of West Linn

# STAFF REPORT
# FOR THE CITY COUNCIL

**FILE NUMBER:** ZC-14-02

**HEARING DATE:** July 13, 2015

**REQUEST:** Removal from the historic district overlay zone.

**APPROVAL CRITERIA:** Community Development Code (CDC) Chapter 25, Historic Resources Chapter 105, Amendments to the Code and Map, ORS 197.772(3)

**STAFF REPORT PREPARED BY:** John Boyd, Planning Manager

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Planning Manager's Review JB

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## EXECUTIVE SUMMARY

The subject property, 1344 14th Street ("Property"), is an existing residence located within the Willamette Historic District. The applicant originally sought to: 1) have the Property removed from the historic district overlay zone, and 2) obtain approval of a porch addition, addition to a rear dormer, window replacement, and garage replacement. The removal from the historic zone must meet the criteria in CDC 25.100 and CDC 105.050, or alternatively, comply with ORS 197.772(3). The Historic Review Board made a recommendation to deny the applicant's request for removal both under the CDC and under the state statute. The dormer was approved with conditions at the HRB's June 9 hearing, and it has not been appealed; therefore, only the removal from the historic district overlay zone is before the Council.

PROCEDURAL HISTORY
On October 21, 2014, the Historic Review Board ("HRB") forwarded a recommendation to the City Council to deny the request to remove 1344 14th Street from the Historic District overlay zone to the City Council. The HRB decision on the Design Review was completed on October 23, 2014. This decision approved the requested porch addition, window replacement, and approved with conditions the addition to a rear dormer. The requested garage replacement was denied.

On November 7, 2014, the applicant submitted an appeal of the Design Review decision regarding the condition of approval placed on the rear dormer addition and the denial of the garage

replacement. On April 15, 2015, a notice was sent that there would be a public hearing on appeal to the City Council and a notice was posted in the newspaper on April 30, 2015.

The applicant requested a remand to the HRB in both the applicant's appeal application and in a letter submitted by the applicant's attorney. On May 11, 2015, a hearing was held by the Council to determine whether the appeal and zone change applications should be remanded to the HRB. The City Council remanded the zone change application and the appeal application for the rear dormer and garage decision back to the HRB. The applicant removed the garage request prior to the HRB hearing on June 9, 2015, and the HRB approved the rear dormer addition with conditions on June 9, 2015. At that hearing the HRB also recommended denial of the request to remove the property from the Historic District Overlay Zone.

DECISION BEFORE THE COUNCIL

1. Does the application for removal from the historic district overlay zone meet the criteria for removal under the Community Development Code?
2. Does the application for removal from the historic district overlay zone meet the criteria for removal in ORS 197.772?

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## STAFF ANALYSIS AND RECOMMENDATION



## ADDENDUM



## EXHIBITS



Supplemental documents were added to the existing record on May 19, 2015, and June 9, 2015. These documents are on the City website at:

https://westlinnoregon.gov/planning/1344-14th-street-historic-review.

A copy of these documents were provided to the applicant and are located on a compact disc in the land use file.

# GENERAL INFORMATION

| | |
|---|---|
| **APPLICANT/ OWNER:** | Lonny and Kristine Webb |
| **SITE LOCATION:** | 1344 14th Street |
| **LEGAL DESCRIPTION:** | Clackamas County Assessor's Map 31E02BC, Tax Lot 4500 |
| **SITE SIZE:** | 27,000 square feet |
| **ZONING:** | R-10, Single Family Residential Detached |
| **COMP PLAN DESIGNATION:** | Low Density Residential |
| **120-DAY PERIOD:** | The application was complete on August 14, 2014. Therefore, the 120-day application processing period ended on December 12, 2014. The applicant has provided an extension to the 120-day processing period until August 13, 2015. |
| **PUBLIC NOTICE:** | Public notice was mailed to the Willamette Neighborhood Association and to affected property owners on October 1, 2014; notification was published in the newspaper on October 9, 2014; a notice was posted on the site on October 10, 2014; and the application and notice have been posted on the City's website. Public notice was mailed to the Willamette Neighborhood Association and to affected property owners on May 20, 2015, notification published in the newspaper on May 28, 2015, a notice posted on the site on May 27, 2015, and the application and notice have been posted on the City's website May 20, 2015. Public notice of the HRB's Final Decision and Order was mailed on June 16, 2015. Public notice of the zone change hearing was mailed on June 23, 2015; notification was published in the newspaper on July 2, 2015; a notice was posted on the site on June 30, 2015, and the application and notice have been posted on the City's website. Therefore, notice requirements have been satisfied. |

# BACKGROUND

As previously noted, the Property is located at 1344 14th Street in the Willamette Historic District, near the intersection of 14th Street and 4th Avenue.


*Front Elevation – August 2014*

*Side (south) elevation – August 2014*

*Side (north) Elevation – August 2014*

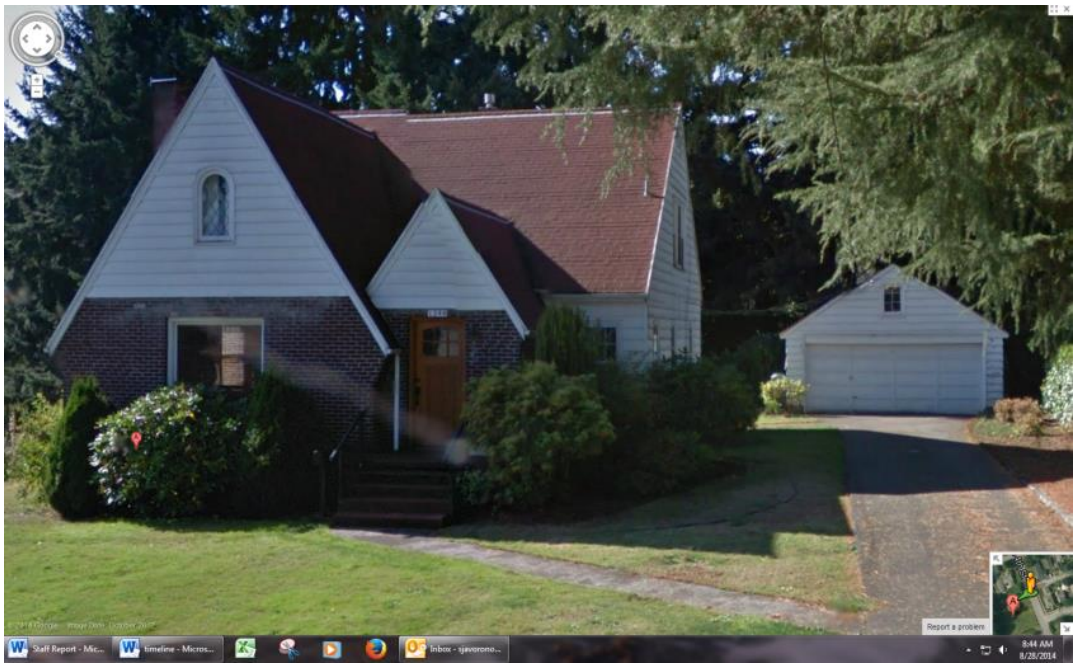
*Rear elevation – October 2013*

*Rear elevation – September 2013*

*Rear elevation – September 2013*

*October 2013 – Front and side (north) elevation*

*August 2014 – Side (north) elevation*



*October 2012 – Google Street View image*

*Existing garage – August 2014*

*Existing garage – August 2014*

Site Conditions. The large, gently sloping lot currently accommodates a single family home, garage, and small accessory structure.

Project Description. The application requests removal of the Property from the historic district overlay zone. The property is within the Willamette Historic District, but is on the edge and is not part of the National Register Willamette Historic District.

Surrounding Land Use. The properties to the north, south and west are zoned R-10, single family residential detached. The property to the east is zoned R-5, single family residential detached and attached/duplex.

Chronology of Events.
*December 1983*
A new Community Development Code was adopted that included the Willamette Historic District.

*March 2013*
The City mailed a Measure 56 notice on March 26, 2013, to the property owner and other historic property owners advising them of the upcoming hearing on amendments to the historic resources regulations.

*August 2013*
Staff exchanged emails with the property owner discussing planned improvements and whether review would be required for them (Exhibit HRB-9 Email Correspondence)

*September 2013*
A neighbor called and was concerned about construction work that was going on at the property. Staff visited the site with Jim Clark, the City's Building Inspector, and work on the site that required Historic Review Board review was limited to the addition to the rear dormer. Staff talked with the property owner and contractor and explained that Historic Design Review and building permits were required for the addition to the rear dormer. Following the site visit, the property owner applied for the required Pre-Application Conference.

*October 2013*
The applicant and staff met for a Pre-Application Conference on October 3, 2013. At that point, staff encouraged the property owner to change the planned construction of the dormer so that it was not flush with the north elevation (as shown on page 5). A portion of the side elevation, prior to the addition, is visible on Google Street View (October 2012 image), and shown on page 6. At the October 3, 2013, Pre-Application Conference, staff and the property owner discussed submitting an application for Design Review with a desire for it to be on the November 2013 Historic Review Board agenda. Staff emailed the applicant on October 22 and October 28 asking if she was ready to submit her application and advising the applicant that the later it was submitted, the more difficult it would be to have it on the agenda for the November meeting (Exhibit HRB-9 Email Correspondence).

*November 2013*
Staff received and responded to a request from the property owners to be removed from the historic district (Attachment 4).

*March 2014*
Staff received and responded to emails from Tommy Brooks, an attorney at Cable Huston, regarding window replacement at the subject property (Exhibit HRB-9 Email Correspondence).

*May 2014*
At the May 20, 2014, Historic Review Board meeting a member asked that staff look into work being done at the property. On May 21, 2014, staff visited the site with Jim Clark and discussed with the property owner that work that required Historic Review Board review and a building permit had been completed. A stop work order was not issued because there was not ongoing work. On May 22, 2014 a Development Review application was submitted (Exhibit HRB-4 Applicant's Submittal). Staff sent a follow up letter to the applicant on June 2 and a letter stating the application was not complete on June 4, 2014 (Exhibit HRB-3 Completeness Review). Staff did not receive a response from the applicant and sent a letter on July 17, 2014 to encourage review at the September 16, 2014 Historic Review Board meeting (Exhibit HRB-10 Written Correspondence).

| DIRECTION FROM SITE | LAND USE | ZONING |
|---|---|---|
| North | Single family residence | R-10 |
| East | Single family residence | R-5 |
| South | Single family residence | R-10 |

| | | |
|---|---|---|
| West | Single family residence | R-10 |

Public comments.

The October 21, 2014, Historic Review Board public hearing is in the record.

The May 11, 2015, City Council public hearing to consider the remand to the HRB is in the record.

The June 9, 2015, Historic Review Board public hearing is in the record.

To date, staff has not received comments from the public on the notice for the City Council public hearing.

# ANALYSIS

CDC Chapter 25, Historic Resources applies to this zone change application, specifically CDC 25.100, Removal of Historic Resource Designation, and CDC Chapter 105, Amendments to the Code and Map. The Historic Review Board has the authority to make a recommendation on the proposed historic district overlay zone removal pursuant to the criteria in CDC 25.100 and 105.050 or ORS 197.772.

The record incorporates the record for DR-14-02, ZC-14-02, and AP-14-02, including the:

- Staff Report dated October 21, 2014,
- Final Decision and Order signed November 7, 2014,
- Final Decision on Remand Request and Findings signed on May 11, 2015,
- Supplemental documents added to the existing record on May 19, 2015,
- Supplemental documents added to the record on June 9, 2015.
- Submittal by the applicant dated June 5, 2015, and
- Final Decision and Order and Findings signed on June 15, 2015.

This Staff Report will address only the remand to the Historic Review Board on the requested zone change to remove the property from the historic district overlay zone. The applicant has the burden of proof to demonstrate compliance with all applicable approval criteria.

## RECOMMENDATION

Staff recommends that the Council uphold the HRB recommendation and deny the applicant's request to remove the property from the historic district overlay zone. The request meets the criteria for designation under CDC 25.090(A)(2) and CDC 25.090(A)(3). It does not meet the criteria for removal under 25.100(B) or under ORS 197.772(3). This is detailed in Finding #1, CDC 25.100(A), Assessment of Designation, and Finding #2, CDC 25.100(B), Owner consent, and ORS 197.772. It does not meet the criteria in CDC 105.050 (A), (B), or (C). The applicant has not provided evidence that the proposed removal of the Property from the historic district overlay zone is due to a proof or change in the community or neighborhood, or that there is evidence of a mistake or inconsistency. In addition, it is not supported in the relevant Comprehensive Plan policies, nor is there a public need for removal of the property from the historic district overlay zone.

## OPTIONS

**Option 1**

The Council can uphold the Historic Review Board's recommendation of denial of the removal of the property from the historic district overlay zone.

**Option 2**

The Council can disregard the Historic Review Board's recommendation of denial and approve the removal of the Property from the historic district overlay zone pursuant to CDC 25.100.

**Option 3**

The Council can disregard the Historic Review Board's recommendation of denial and approve the removal of the Property from the historic district overlay zone pursuant to ORS 197.772.

**Option 4**

The Council can disregard the Historic Review Board's recommendation of denial and approve the removal of the Property from the historic district overlay zone pursuant to CDC 25.100, 105.050, and ORS 197.772.

# APPLICABLE REGULATIONS AND ASSOCIATED SUPPLEMENTAL FINDINGS

**ZC-14-02**

## CHAPTER 25, HISTORIC RESOURCES

***25.100 REMOVAL OF HISTORIC RESOURCE DESIGNATION***

*These provisions allow for the removal of the local historic designation when it is no longer appropriate. This review does not affect a property or district's listing on the National Register. Proposals to remove historic resource designation shall be approved if the approval authority finds that removal of the designation is appropriate after considering the information required under subsections A and B of this section.*

*A. Assessment of designation. The approval authority shall consider:*

*1. Criteria. Whether the historic resource meets the criteria for listing under CDC 25.090(A);*

***25.090 DESIGNATION OF A HISTORIC RESOURCE***

*The designation of historic resources shall comply with the following criteria; provided, that the age of a specific building shall not be deemed sufficient in itself to warrant designation of a building as historic.*

*A. Approval criteria. The approval authority may designate additional historic resources if it determines that the site or district proposed for designation meets at least one of the following five criteria:*

*1. Events. Is associated with an event or events that made a significant contribution to the history of the city, county, state or nation;*

*2. Persons. Is associated with the life or lives of a significant person or people in the history of the city, county, state or nation;*

*3. Architecture. Embodies distinctive architectural characteristics of a type, style, period or method of construction;*

*4. Construction. Represents the work of a master builder, designer, or architect who influenced the development of the city, county, state or nation; or*

*5. Archaeology. Has yielded, or will likely yield, information important in prehistory or history.*

*2. Hardship. The importance to the public of retaining the historic resource relative to the hardship to the owner and any potential hazard to the public if the historic resource is retained;*

*3. Condition. The physical condition of the historic resource and any loss of characteristics that originally caused it to be listed;*

*4. Historic or architectural significance. The historic or architectural significance of the historic resource;*

*5. Economic use and benefits. The economic use of the historic resource and any economic benefits associated with the proposed new use of the property; and*

*6. Location. If within a historic district, its contribution to the district and the effect on the district if the designation is removed.*

**Finding 1:** CDC 25.100(A) requires the approval authority to consider six factors to assess a historic property's inclusion in a zone. The factor in CDC 25.100(A)(1), which incorporates 25.090(A)(2) regarding significant people in the history of the City supports designation. The property was owned by the Bernert family, who, per Images of America: West Linn, by Cornelia Seigneur (Exhibit HRB-6), has lived in the area since the 1860s. The family began a logging operation on the river using a rowboat, and later a tugboat. The company is still in existence today as Marine Industrial Construction/Wilsonville Concrete Products (Exhibit HRB-7 and http://marineindust.com/about-mic/). Bernert Landing in Willamette Park is named after the family. Several photographs of the family, including one standing in front of the subject property, are included in Images of America (attached).

In addition, CDC 25.100(A)(4) also supports inclusion in the zone because the property is also significant for its architecture. It is the only Tudor Revival home in the historic district and one of two in the Willamette neighborhood. It has a number of elements specific to the architectural style including the steeply pitched roof, multiple front gables, shallow eaves, arched gable window, and brick on the front façade.

The property is in the locally designated Willamette Historic District, but not the National Register district. The National Register district includes only the residential properties that are within the 1893 Willamette Falls plat and its period of significance is from 1893-1929. This property was platted in 1908 as part of the Willamette and Tualatin tracts and the house constructed in 1941. The survey form reports that it is eligible contributing, but that it was built out of the period of significance for the district. While it is out of the period of significance for the National Register district, the local district is larger and has a greater variety of building types. It is noted to be contributing to the local Willamette Historic District. The criteria for designation of a historic resource were correctly applied and are still appropriate.

The retention of this property as a historic resource does not impart a hardship to the owner that is greater than that of other residences in the historic district. It does not impose a potential hazard to the public if inclusion in the historic district continues. Therefore, 25.100(A)(2) does not provide a reason to remove the Property from the zone.

Assessing the Property's condition pursuant to 25.100(A)(3), the current homeowners have improved the condition of the Property by removing the artificial siding from the house and restoring the original wood siding. The condition of the Property does not provide a reason to remove the Property from the zone.

The home is a single family residence and removal of the designation would not change its use as a single family residence; therefore, removal from the zone would not be justified for economic reasons under CDC 25.100(A)(5).

The home is on the edge of the Willamette Historic District and its removal would create a more irregular boundary to the district. In terms of architectural characteristics, it is one of the strongest amongst the residences that are part of the local Willamette Historic District and not the National Register Historic

District, and its contribution to the district weighs in favor of keeping it in the historic district under CDC 25.100(A)(6).

Staff finds that the criteria in 25.100(A) support the original designation listing the Property in the historic district.

***CDC 25.100(B) Owner consent.***

*1. Historic landmarks. For historic landmark properties, the property owner at the time of designation must have objected, on the record, to the historic designation.*

*2. Historic districts. For properties in historic districts, the property owner at the time of designation must have objected, on the record, to inclusion in the district.*

***ORS 197.772(3)*** *A local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government. [1995 c.693 §21; 2001 c.540 §19]*

**Finding 2:** To carry the burden of proof under CDC 25.100(B), an applicant must demonstrate in the application for removal from the historic district that: 1) the property owner at the time the property was included in the City's historic district objected, and 2) the property was included in the district over the objection of the property owner. State statute also provides that a local government "shall" remove a historic property designation that was "imposed" by the local government. As with CDC 25.100(B)(2), under state law historic property designations before 1995 require the City to remove the property if the applicant demonstrates that the property owner at the time the property was included in the historic district objected to inclusion of the property in the district. Therefore, if the Council finds that the property owner objected at the time the property was included in the District, state law would require removal, even if CDC 25.100(A), discussed in Finding 1, is not met.

The applicant submitted a letter dated January 5, 2014, from the sons of the previous property owner, Agnes Bernert. The letter states that the house has been in trust since December 13, 1990, and that the trustee has been authorized to make decisions regarding the house since that time. The applicant has not provided evidence that shows the previous property owner objected, on the record, at the time the property was included in the historic district.

In addition, the Bernerts' letter states that the trust was formed in December 1990 and that "any authorization would have to be given through me," making an assumption that the historic district was formed after 1990, but that is not the case. The trust was formed *after* the historic district zone was adopted. The zoning map adopted on December 14, 1983, as part of the Comprehensive Plan by Ordinance 1129, shows the Historic District. The Historic District Boundary was also modified by Ordinance 1172, adopted on September 25, 1985. Both of these ordinances were adopted after public notices and public hearings. The Comprehensive Plan adopted by Ordinance 1129 had at least the following public hearings and meetings on the Comprehensive Plan at the Council level:

- October 19, 1983 - Joint Planning Commission and City Council Public Hearing;
- November 2, 1983 - City Council Public Hearing;
- November 3, 1983 - Continued City Council Public Hearing;
- November 21, 1983 - Continued City Council Public Hearing;
- November 28, 1983 - Continued City Council Public Hearing; and
- December 14, 1983 - City Council Comprehensive Plan adopted.

From staff notes for the November 2, 1983, meeting, it appears that 35 people testified that night and that 288 people signed a petition opposing a rezoning in the Bolton District, and the minutes for November 2, 1983 state:

> "(For the record, the Council Chambers were filled past capacity and people were out in the hall, down the stairs and out in the parking lot waiting to get in)…there were probably one hundred persons out in the hallway that couldn't hear the testimony…the Fire Department was on the scene and were saying that the crowd in the Council Chambers was over capacity for the room."

The meeting was moved to West Linn High School. Although it is the applicant's burden to show that there was an objection when the Historic District was adopted, staff looked through city records and did not find any objection to the Historic District zone by the Bernerts at the time of designation.

In addition, the City amended the historic code regulations in the CDC and the boundary of the historic district in August 2013. The applicant purchased the Property in September 2010. In November 2010, staff sent a letter to the address given as the mailing address for the property's utility bill welcoming them to the historic district and advising them of the additional regulations that applied in the district. Therefore, the applicant was the owner of record in 2013, and property owners in the historic district were notified of the proposed changes to the historic district through a postcard announcing an online survey, a postcard letting them know about a neighborhood meeting to discuss the proposed code changes, a postcard announcing Historic Review Board review, and a Measure 56 notice for the Planning Commission public hearing. These code and zoning map amendments removed a single property from the district and affirmed the Willamette Historic District boundary.

Staff finds that the applicant has not provided an objection, on the record, at the time of designation, when the historic district boundary was adopted in the 1980s or in 2013; therefore, CDC 25.100(B)(2) is not met.

Staff also finds that the applicant has not provided an objection, on the record, at the time of designation when the historic district boundary was adopted in the 1980s. Therefore, the applicant has not demonstrated that the historic district overlay zone was "imposed on the property by the local government," which is required for removal under ORS 197.772(3).

Staff finds the criteria in CDC 25.100 support the property's inclusion in the historic district.

## CHAPTER 105, AMENDMENTS TO THE CODE AND MAP

### *105.050 QUASI-JUDICIAL AMENDMENTS AND STANDARDS FOR MAKING DECISION*

*A decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:*

*A. The standards set forth in CDC 99.110(A), which provide that the decision shall be based on consideration of the following factors:*

*1. The applicable Comprehensive Plan policies as identified in subsection C of this section and map designation.*

*2. The applicable standards of any provision of this code or other applicable implementing ordinance.*

**Finding 3:** See below for the applicable Comprehensive Plan policies. The applicable standards and codes are addressed throughout this report.

*B. The standards set forth in CDC 99.110(B), which provide that, in making the decision, consideration may also be given to the following:*

*1. Proof of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to the property which is the subject of the development application.*

*2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in sub-section A or (B)(1) of this section.*

**Finding 4:** The applicant has not provided evidence of a proof of change in the neighborhood or community or evidence that shows there is a mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to this property or this application. The applicant has not provided factual oral testimony or written statements from the parties or others that meet the criteria specified in (2) above. Staff finds the criteria are not met.

*C. The Comprehensive Plan, Plan and Ordinance Revision Process, and Specific Policy No. 4, which provides that the decision shall be based on consideration of the following criteria:*

*1. Conformance with the Comprehensive Plan policies and criteria.*

*2. There is a public need for the change or the change can be demonstrated to be in the interest of the present and future community.*

*3. The changes will not adversely affect the health, safety and welfare of the community.*

**Finding 5:** The related Comprehensive Plan goal and action measure are below:

*Goal: Identify and preserve the historic and archaeological resources of West Linn.*

*1. Maintain the Willamette Historic District as delineated in the Community Development Code, and establish development standards that will:*

*a. Preserve the historic and aesthetic character of the Willamette Historic District.*

*b. Incorporate into new construction architectural design elements that are historically compatible with existing buildings in the district, as well as appropriate to the Pacific Northwest.*

*c. Advocate for the preservation, protection, and vitality of the Historic District, ensuring that the District's unique, historic qualities are protected through the Design Review process.*

The proposed removal of historic designation would not preserve the historic and aesthetic character of the Willamette Historic District. In addition, removal of the designation would not maintain the Willamette Historic District as delineated in the City's Community Development Code and Zoning Map. It would not preserve the aesthetic character of the District. It would not comply with the existing development

standards that seek to preserve the District's historic and aesthetic character, have historically compatible architectural elements, or ensure that the District's unique historic qualities are preserved.

The applicant has not demonstrated that there is a public need for the change or that the change can be demonstrated to be in the interest of the present and future community.

Staff finds the criteria confirm the original designation was appropriate and recommends the Historic Review Board forward to the Planning Commission a recommendation to deny applicant's request for removal.

*D. Transportation Planning Rule compliance.*

> *1. Review of applications for effect on transportation facilities. When a development application, whether initiated by the City or by a private interest, includes a proposed comprehensive plan amendment zone change or land use regulation change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule: "TPR"). "Significant" means the proposal would:*
>
> > *a. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
> >
> > *b. Change standards implementing a functional classification system; or*
> >
> > *c. As measured at the end of the planning period identified in the adopted transportation system plan:*
> >
> > > *1) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
> > >
> > > *2) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
> > >
> > > *3) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*
>
> *2. Amendments that affect transportation facilities. Amendments to the Comprehensive Plan and land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:*
>
> > *a. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
> >
> > *b. Amending the TSP or Comprehensive Plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of OAR 660-012-0060 of the TPR.*

*c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.*

*d. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*

*3. Traffic impact analysis. A traffic impact analysis shall be submitted with a plan amendment or land use district change application.*

**Finding 6:** These criteria are not applicable.

# WEST LINN HISTORIC REVIEW BOARD
# FINAL DECISION AND ORDER
# AP 14-02 / ZC 14-02

# IN THE MATTER OF A VOLUNTARY REMAND OF THE ZONE CHANGE RECOMMENDATION FOR REMOVAL FROM THE HISTORIC DISTRICT OVERLAY ZONE AND AN APPEAL OF THE CONDITION OF APPROVAL FOR THE REAR DORMER

## I. Overview

On May 11, 2015, the Council remanded AP-14-02 and DR-14-02 to the West Linn Historic Review Board ("Board") at the request of the Applicant, Lonny and Christine Webb, through their attorney, Christopher Koback.

At the Board's meeting on June 9, 2015, the Board held a public hearing on the Applicant's request to be removed from the Historic District Overlay Zone (Historic District) and the appeal of the condition of approval for the rear dormer. The approval criteria for a zone change and removal from the Historic District Overlay Zone are found in Community Development Code (CDC) Chapter 25, Overlay Zones - Historic District, and Chapter 105, Amendments to the Code and Map. The approval criteria for Historic Design Review are found in Chapter 25. The hearing was conducted pursuant to the provisions of Chapter 99.

The hearing commenced with a staff report presented by John Boyd, Planning Manager. There was no additional public testimony. Lonny Webb and Christopher Koback presented for the Applicant. The hearing on the zone change recommendation was closed, and a motion was made to recommend denial of the Applicant's request to be removed from the Historic District Overlay Zone; the motion passed unanimously. The Applicant withdrew the garage design review component from consideration by the Board. The hearing on the design review application was closed and a motion was made by Board Member Jon McLoughlin and seconded by Board Member Chris Sherland to approve the application for the rear dormer with a modified condition of approval. The motion passed unanimously.

## II. The Record

The record was finalized at the June 9, 2015, hearing. The record includes the entire file from ZC 14-02 and DR-14-02/AP-14-02, including without limitation the supplemental records entered on May 18, 2015, and June 9, 2015.

## III. Burden of Proof

The applicant bears the burden of proof to demonstrate that an application complies with applicable approval standards, and a local government is not required to approve a noncomplying development proposal.[1] The historic design review application and the application for removal from the Historic District Overlay Zone require decisions on land use applications that necessitate compliance with customary land use procedures. Therefore, the applicant is required to carry the burden of meeting each and every criterion for approval.

## IV. Incorporation of Staff Report

The Staff Reports for June 9, 2015, and October 21, 2014, ("Staff Reports") hearings including all Addendums, Supplemental Findings, and exhibits to the Staff Reports, are incorporated into this Final Decision and Order. All the facts, findings and determinations in those Staff Reports are adopted except where the findings in this Final Decision and Order conflict with those Staff Reports. Where there is a conflict between this Final Decision and Order and the findings in the Staff Reports, the findings in this Final Decision and Order shall govern.

## V. Findings of Fact

1) The Overview set forth above is true and correct.
2) The Applicants are Lonny and Christine Webb, and they were represented by their attorney, Christopher Koback, on the zone change recommendation.
3) The Board finds that it has received all information necessary to make a decision based on the Staff Report and attached findings; public comment, if any; and the evidence in the whole record, including any exhibits received at the hearing.

## VI. Findings and Determinations

These findings will first address the: 1) request for removal from the Historic District, followed by the 2) design review application.

### *1) ZC-14-02*

The Applicant requested removal from the Historic District pursuant to ORS 197.772(3) and CDC 25.100 in their November 7, 2013, letter and the application for ZC-14-02. The Applicant's attorney further requested removal on the Applicant's behalf in his April 20, 2015, letter. At no time prior to the Applicant's submittal on June 5, 2015, which was received by Staff and transmitted to the Board on June 8, 2015, did the Applicant submit an application or letter requesting removal under ORS 197.772(1). Even though the request for removal pursuant to ORS 197.772(1) was untimely, these findings will address the recommendation that removal from the Historic District be denied pursuant to: A) CDC 25.100; B) ORS 197.772(3); and C) ORS 197.772(1).

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[1] *Adler v. City of Portland*, 25 Or LUBA 546 (1995).

**A) CDC 25. 100**

The Board adopts the findings and determinations for CDC 25.100(A) in the Staff Reports. The Board finds that the Applicant did not demonstrate that the factors in 25.100(A) required removal; therefore, the Applicant did not carry the burden on this criterion. The inability to satisfy any one criterion required for removal from the Historic District is sufficient to deny removal from the Historic District.

***CDC 25.100(B) Owner consent.***

*1. Historic landmarks. For historic landmark properties, the property owner at the time of designation must have objected, on the record, to the historic designation.*

*2. Historic districts. For properties in historic districts, the property owner at the time of designation must have objected, on the record, to inclusion in the district.*

Further, the Board finds that CDC 25.100(B) incorporates the requirement from *Demlo v. City of Hillsboro*[2], that "imposed" means the historic designation is "imposed over the objections of the property owner at the time of designation."[3] The Board finds that the property located at 1344 14th Street ("Property") was in the Historic District from 1983 and throughout all subsequent amendments to the zone. The Applicant did not provide any evidence of an objection on the record during the original designation of the Historic District in 1983, or the subsequent amendments to the Historic District in 1985, 1986, or 2013. Therefore, the Applicant did not meet the burden of proof required under CDC 25.100(B) for the Board to recommend removal from the Historic District.

**B) ORS 197.772(3)**

***ORS 197.772(3)*** *A local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government. [1995 c.693 §21; 2001 c.540 §19.]*

Similar to CDC 25.100(B) regarding owner consent, the Board finds that ORS 197.772(3) requires a removal from the Historic District if the historic designation was imposed over the objections of the property owner at the time of designation. In addition, if the Applicant demonstrates that there was an objection from a property owner at the time of designation, a "successor property owner" is "entitled to have that designation removed under ORS 197.772(3)."[4]

The Applicant argues that a historic designation is "imposed" within the meaning of ORS 197.772(3) if a historic designation is made after 1995 without the consent of the property owner. The Board rejects this interpretation of "imposed" and finds that

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[2] 39 OR LUBA 307 (2001).

[3] *Lake Oswego Preservation Society v. City of Lake Oswego*, 268 Or. App. 811, 817 (2015) (citing *Lake Oswego Preservation Society v. City of Lake Oswego*, LUBA No. 2014-009 (2014).

[4] *Id.* at 821.

"subsection (3) was meant to provide a mechanism for property owners to remove a designation placed on their property and over an owner's objection *before* enactment of ORS 197.772" in 1995.[5] The Board finds that when subsection (3) was adopted it was limited so that property owners who did not utilize "subsection (1) to refuse consent after the enactment of ORS 197.772, could not use subsection (3) to remove the designation."[6]

The Applicant also attempts to shift the burden to the City to prove that notice was given to Historic District property owners when the Historic District was formed in 1983. Individualized notice was not required because the Historic District was formed before the passing of Measure 56. The record shows that other citizens made requests for zone changes during the Comprehensive Plan process that were addressed by the Council at the time;[7] however, there were no requests to change the Historic District boundaries in 1983. The Board finds that it is the Applicant's burden to show that there was an objection, and that the Applicant has not shown evidence of any objection to the Historic District.

The Board does not find that the burden shifts to the City to prove that notice of the Historic District formation was given. Evidence in the record shows that there were multiple hearings, and Mayor McIntyre pointed out that "public notice has been made regularly regarding workshops being held on the Comprehensive Plan."[8] Although it is not required, the Board finds that there is substantial evidence in the record to show that notice for a legislative action was given in 1983, when the original designation was made. Notice of the amendment in 1986 is also in the record. Thus, notice of the designation was given.

Staff finds that the applicant has not provided an objection, on the record, at the time of designation when the Historic District was adopted in 1983, or during the subsequent amendments prior to 1995. Therefore, the applicant has not demonstrated that the Historic District was "imposed on the property by the local government," which is required for removal under ORS 197.772(3). Therefore, the Board recommends the Property remain in the Historic District.

**C) ORS 197.772(1)**

***ORS 197.772(1)*** *Notwithstanding any other provision of law, a local government shall allow a property owner to refuse to consent to any form of historic property designation at any point during the designation process. Such refusal to consent shall remove the property from any form of consideration for historic property designation under ORS 358.480 to 358.545 or other law except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.).*

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[5] *Id.* at 818 (emphasis added).
[6] *Id.* at 820.
[7] City Council Meetings 1983 Minutes, October 20, 1983, Joint P/C and C/C Public Hearing.
[8] City Council Meetings 1983 Minutes, November 2, 1983, City Council Final Public Hearing.

The Board finds that ORS 197.772(1) is "forward-looking", and it only applies to designations that occur after 1995.[9] The Applicant has not provided any evidence that the Historic District designation for the Property was repealed. The Applicant has the burden to show that there is no such designation, and the Applicant has not met the burden.

The record shows that the Historic District was amended in 2013 by Ordinance 1614. The language of Ordinance 1614 controls, and it states clearly in Section 17 that the map for the Historic District is being amended. No evidence has been presented to show that the Historic District has ever been amended to exclude the Property. The Board finds that the applicant has not provided any evidence that the original 1983 Historic District Overlay Zone has ever been repealed, and that instead any subsequent actions by ordinance are amendments to the zone that did not affect the Property. A new designation did not occur in 2013; therefore, ORS 197.772(1) does not apply.

The Applicant argues that the Historic District did not transfer with the property; therefore, when the Applicant purchased the Property, consent had to be obtained under ORS 197.772(1). The Board rejects this interpretation of the statute. If a subsequent owner could withhold designation for a district property properly formed through the legislative process, there would be no certainty about historic designations. The Board finds that the Historic District designation, like all other zoning designations in the City, transfers with the property. Further, it would not have been necessary for the Court of Appeals to determine whether the statute applied to property owners at the time of designation *and* subsequent owners in the *Lake Oswego* case if the Applicant's interpretation was correct.[10]

The Applicant also argues that if subsection (1) applies, silence is a means of withholding consent under subsection (1). As stated previously, this subsection does not apply because the Property was designated before 1995.

The Board finds that ORS 197.772(1) is not applicable; therefore, it cannot be utilized as a basis to recommend removal from the Historic District.

***2) AP-14-02/DR-14-02***

***25.060 DESIGN STANDARDS APPLICABLE TO HISTORIC RESOURCES***
***The following design standards apply to all changes, including alterations, additions, and new construction proposed on a designated historic resource. These standards are intended to preserve the features that made the resources eligible for historic designation. Development must comply with all applicable standards, or be approved through the modifications process specified in CDC 25.080.***
***A. Standards for alterations and additions. This section applies to historic reviews for alteration of and additions to designated historic resources:***
***1. Retention of original construction. The original construction shall be maintained or restored to the greatest extent practicable. Stylistic features of original construction that shall be preserved include, but are not limited to: a line of columns, decorative***

[9] *Lake Oswego Preservation Society v. City of Lake Oswego*, LUBA No. 2014-009 (2014).
[10] *Lake Oswego Preservation Society*, 268 Or. App. 811, 817 (2015).

***shingles, projecting bays, other primary structural elements, spatial relationships that characterize the property, examples of skilled craftsmanship that characterize the building, and architectural details defining the structure's character and historic significance.***

Finding: At the public hearing on June 9, 2015, the applicant clarified the appeal of the garage was withdrawn from further design review consideration; therefore, no additional findings for the garage are necessary and the previous denial of the garage replacement is a final decision.

Finding: Rear dormer: The addition to the rear dormer does not retain the original construction to the greatest extent possible since it extends flush to the side elevation. The dormer is a structural element and this change to it affects the spatial relationships that characterize the property. Staff finds that the criterion can be met if the proposed dormer is constructed as approved in "Applicant's Design Review Submission for June 9, 2015" ("Webb Submittal") Figure 7 (also called Option B or Option 2). This is addressed in modified Condition of Approval 2.

Staff finds that the criterion is met for the rear dormer. Staff finds that the criterion can be met for the addition to the rear dormer with Condition of Approval 2.

***3. Time period consistency. Buildings shall be recognizable as a physical record of their time and place. Alterations which have no historical basis or which seek to create a false sense of historical development are not allowed.***

Finding: Rear dormer: The addition to the rear dormer affects the appearance of the structure. It is unlikely that it would have historically been constructed this way, particularly given the construction of the other side of the dormer on the south elevation. There is not a historical basis for the alteration. Staff finds that the criterion can be met if the proposed dormer is constructed as approved in Webb Submittal Figure 7 (also called Option B or Option 2). This is addressed in modified Condition of Approval 2.

***5. Differentiate old from new. Alterations and additions shall be differentiated from the original buildings and shall be compatible with the historic materials, features, size, scale, proportion, and massing to protect the integrity of the property.***

Finding:

Rear dormer: The addition to the rear dormer is not differentiated from the original building. The addition is flush with the side elevation and cannot be clearly identified as an addition to the dormer. The proportions and massing of the addition are not compatible with the historic structure since the side elevation appears as a single wall

rather than an extension of the existing dormer. Staff finds that the criterion can be met if a piece of trim is added to the proposed dormer to visually differentiate between old and new construction as depicted in Webb Submittal Figure 7 (also called Option B or Option 2). This is addressed in modified Condition of Approval 2.

***6. Reversibility. Additions and alterations shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its context would be unimpaired.***

Finding:

Rear dormer: The addition to the rear dormer is not proposed in a way that is easily reversible nor is the essential and original form of the structure easily identifiable. Staff finds that the criterion can be met if the proposed dormer is constructed as approved in Webb Submittal Figure 7 (also called Option B or Option 2). This is addressed in modified Condition of Approval 2.

***7. Building additions. Building additions shall be subordinate to the original building, smaller in scale, and attached to the rear or set back along the side. Features of building additions, including the proportions of window and door openings, shall be consistent with those of the existing building. Dimensional and other requirements in the underlying zone, as applicable, shall apply.***

Finding:
Rear dormer: The proposal for the addition to the rear dormer is not subordinate or smaller in scale to the original building since it is flush with the side elevation. It is located on the rear elevation, but is not set back along the side. Staff finds that the criterion can be met if the proposed dormer is constructed as approved in Webb Submittal Figure 7 (also called Option B or Option 2). This is addressed in modified Condition of Approval 2.

## VII. Order

Based on the above Findings of Fact, Findings, and the evidence in the whole record, the Board recommends to the City Council that it deny the Applicant's request pursuant to ZC-14-02 to be removed from the Historic District Overlay Zone.

In addition, the Board concludes that AP 14-02/DR 14-02 is approved based on the Record, Findings of Fact and Findings above. The Board concludes that all of the required approval criteria are met subject to the following modified condition of approval.

2. Rear Dormer. (Modifies DR 14-02) The applicant shall construct the rear dormer so that new construction is differentiated from original construction by a piece of applied trim as shown in the "Applicant's Design Review Submission for June, 9, 2015," in Figure 7 on page 8; this dormer modification is also referred to in the submittal as "option (B)" or "Style B".

6/15/15

ADAM PETERSEN, CHAIR
WEST LINN HISTORIC REVIEW BOARD

DATE

This decision may be appealed to the City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearings, or signed in on an attendance sheet or testimony form at either of the hearings, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of $400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.

Mailed this 16th day of June, 2015.

Therefore, this decision becomes effective at 5 p.m., June 30, 2015.

Devrev/projects folder/projects AP-14-02 and DR-14-02/ZC-14-02 final decision

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June 5, 2015

Historic Review Board
Jim Mattis, Board Member
Jon McLoughlin, Board Member
Samantha Higbee, Board Member
Christine Lewis, Board Member
James Manning, Board Member
Adam Petersen, Board Member
Chris Sherland, Board Member
City of West Linn Planning Department
Attn: Megan Thornton
22500 Salamo Road #1000
West Linn, OR 97068

Re: Property Located at 1344 14th Street, West Linn

Dear Board Members:

This firm represents Lonny and Kristine Webb, who own the property located at 1344 14th Street, West Linn. The purpose of this letter is to provide testimony, evidence and argument relevant to the matters that are coming before you on June 9, 2015 in File No. 14-02 and ZC 14-02. As noticed, the June 9, 2015 hearing is for the purposes of considering the removal of the historic designation from the property and the design of the garage and rear dormers. However, the most significant issue is whether the Webb's have the right to have the historic designation removed from their property. If the Board agrees with the Webb's position on that issue, the design review element of the hearing is not required. This submission addresses only the Webbs' requests that all local historic designations be removed from their property. The Webbs are separately submitting material related to the design review application.

## I. Factual Background

The Webbs purchased their property in September, 2010. They were unaware that it was within a designated historic district or had any other historic designation. Indeed, local historic designations are not reported on title reports. On November 5, 2010, the City sent a letter to the property explaining that the property was within the Willamette Historic District. The letter did not ask the Webbs whether they consented to retain a local historic designation on their property.

The Webbs now understand that beginning in 2012, or earlier, the City began a process to amend parts of it development code, including the historic resource regulations and maps. Apparently,

in March 2013, the City mailed notice to property owners within the Historic District advising them of hearings related to the proposed amendments. City records reflect that a notice was mailed to 1344 14th Street, which is the subject property and is within the district boundaries. The Webbs did not reside at that property when the notice was mailed and had not resided there for some time. They resided at 1294 14th Street, which is not within the district boundaries. The Webbs never received any notice of the hearings before they were conducted and before the amendments were approved. In July 2013, the Webbs moved into the house at 1344 14th Street; in August 2013, then received written notice that the amendments were adopted.

The Webbs began a remodel project in the summer/fall of 2013. They had a series of communications with staff about aspects of the project and how the project was impacted by the City's application of the historic resource regulations. On November 7, 2013, the Webbs sent the City a written demand pursuant to ORS 197.772(3) that the City remove any historic designation from their property.

On November 20, 2013, the City sent a response to the Webbs stating that the City's process for removal of historic designations under ORS 197.772(3) was detailed in the Community Development Code (CDC") Section 25.100. The City further advised the Webbs that their request would only be approved if their property met all of the criteria for removal in CDC §25.100. As we will explain in more detail, that was not a correct statement. CDC §25.100 has two elements. One required proof of an owner objection and the other proof that the property no longer meets the criteria for designation as a historic resource. Under ORS 197.772 if the historic designation was imposed on the property, the City is required to remove it. There are no other elements. The City was not allowed to add requirements to ORS 197.772(3) through its code.

In its November 20, 2014 letter, the City went on to advise the Webbs:

> Based upon what you said in your email, you would need to demonstrate that Ms. Bernert did not have knowledge of this designation and objected at the time. In addition, in August 2013, the City adopted new code language for the historic district and new boundaries for the district. You were sent public hearing and Measure 56 notices for these changes and did not object to the designation at that point. (Emphasis added).

The City also advised the Webbs that they could also complete a Development Review application to seek approval of the remodeling they were doing to their property even if it remained a historic resource. On May 22, 2014, the Webbs filed a development review application with the City. The Webbs' application stated that their primary request was to have any historic designation removed and secondarily sought review of the design issues.

On October 21, 2014, the Board considered the Webbs' removal request under CDC §25.100 and recommended that it be denied. We understand that the Board accepted staff's conclusion that the Webbs did not provide proof that the owner of the property in 1983, when the historic district was created, objected, on the record, to the property's inclusion. Staff also concluded that, in

2013, it sent a notice of the hearings related to the adoption of new regulations and of a revised map to the property owners, and the Webbs did not object on the record. The Board did not consider or make any separate decision on the Webbs' demand that the historic designation be removed pursuant to ORS 197.772(3).

The City scheduled a hearing before City council on May 11, 2015, for the purpose of considering the Board's recommendation. That date was also the date set for City Council to consider the Webbs' appeal of the Board's denial of their design review application. Prior to May 11, 2015, the Webbs at the suggestion of the assistant city attorney requested that the matter be remanded to the Board. The Council granted that request.

## II. Issues Presented

As mentioned above, based upon information the Webbs received from the City in November 2014, the Webbs believed that they were required to file an application for removal under CDC §25.100, even though they were seeking removal under ORS 197.772(3). Consequently, there are two requests for removal pending. The City cannot decide a request or demand under ORS 197.772(3) applying CDC §25.100 because the elements are not the same.

CDC §25.100 has two elements that must be met before an owner can remove a historic designation from a property. Under CDC §25.100(B), the applicant for removal must establish that the owner at the time the historic district was created objected, on the record, to inclusion in the district. As written, even if an owner establishes that the owner at the time of the designation objected, they still must address six factors set forth in CDC §25.100(A). The factors generally involve an examination of the contributions of the original owners, the architecture and the age of the structure. Under ORS 197.772(3) an owner has the right to have a historic designation removed if it was imposed by the local government. There are no other elements to consider. Thus, CDC §25.100 is not consistent with ORS 197.772.

It appears from the May 29, 2015 Staff report that Staff is revising the position the City took in its November 20, 2014 letter. Staff concludes that both provisions require that an owner demonstrate that at the time of the designation, the owner of the property objected on the record. According to Staff, if the Board finds that the owner objected at the time the Webb property was included in the historic district, ORS 197.772(3) requires that the Board recommend removal even if the elements in CDC §25.100(A) do not support removal. The core issue then is what an owner must establish to have the right to require the City to remove all local historic designations under ORS 197.772. If the Webbs establish that they have the right to remove the designations under ORS 197.772, there is no need to consider removal under CDC §25.100.

As we will explain more fully below, we agree with part of Staff's conclusion. If the Board finds that the inclusion of the Webbs' property in the historic designation was imposed in 1983, we believe that the Board is required to recommend that the Webbs' property be removed from the historic district regardless of whether the elements in CDC §25.100(A) can be satisfied. We do not agree that to establish that the historic designation was impose under ORS 197.772(3) the Webbs must produce proof that in 1983, the owner of the property formally objected, on the

record, to the inclusion of their property in the historic district. Moreover, we do not agree that the City can impose a different standard that the state law. In other words, if the state law is interpreted to not require proof that the owner formally objected on the record in 1983, the City cannot deny the Webbs' request by asserting that under CDC §25.100(B) proof of a formal objection, on the record, is required. In other words, the City cannot have a different standard for determining whether a local designation was imposed.

## III. Status of Any Historic Designations Currently on the Property

The analysis of the critical issue of whether the historic designation was imposed under ORS 197.772(3) is somewhat more complicated because it is not clear what position the City is taking on when the current historic designation was placed on the property. In a June 4, 2014 letter to the Webbs, an associate planner addressed, among other issues, the submission requirement in CDC §25.050(C)(5) stating that the Webbs had to provide documentation that the property owner objected, on the record, at the time of designation. The associate planner stated that in 2012-13, the City repealed and replaced the historic district regulations in Chapter 25. She indicated that as part of that action, there was also a map amendment to adopt a revised historic boundary to the City's zoning map. The planner went on to note that notice of the amendments was issued and the City did not receive any objections during this process. The logical and reasonable implication of that communication is that the current, and only, designation was placed on the property in 2012-2013 and that any prior designation was repealed.

In later staff reports, the same planner discussed both the creation of the historic district in the 1980s and the revisions completed in 2013. The planner concluded that staff did not find that the previous or current owners objected, on the record, at the time of the designation, either to the original designation of the historic district in the 1980s or, in 2013. See, Staff Report dated September 16, 2014, Staff Report dated October 21, 2014 and Staff Report dated November 19, 2014. In its reports, Staff is less clear on the status of the original designation in 1983, and the effect of the legislative process in 2013. The text used in the staff reports suggests that had the Webbs objected in 2013, the new district map could not have included the Webb property. We believe that is the correct conclusion, Indeed if the Webbs' objection in 2013 would not have had any impact on whether or not the City could place a historic designation on their property, there would have been no reason for Staff to expressly include in the staff report the fact that the Webbs did not object to the proposed action.

We agree with Staff that in 2013, the City had to notify the Webbs of the proposed historic designations that would have affected their property. We believe that ORS 197.772 applied to that process and the Webbs had the right to keep any local historic designation off their property. As we will discuss below, for more than one reason, we disagree that in that process the Webbs were required to formally object on the record to keep the designation off their property. We believe that before the City could impose any local historic designation on the Webbs' property after they acquired it, the City had to obtain affirmative consent from the Webbs.

## IV. Under ORS 197.772 the City was required to seek the Webbs' consent after they became the owner and only with affirmative consent could the City designate the Webb property as a historic resource.

The first issue to address is whether when the Webbs acquired their property they acquired it with the prior historic designation attached to it. In other words, did the prior designation survive the transfer of the property? When ORS 197.772 is construed in light of its purpose and with the relevant legislative history, we believe the answer is that any prior historic designation did not transfer with the property when the Webbs acquired it. ORS 197.772 was enacted to protect property owners from having local historic designations imposed upon their property.

The statute recites:

> (1) Notwithstanding any other provision of law, a local government shall allow a property owner to refuse to consent to any form of historic property designation at any point during the designation process. Such refusal to consent shall remove the property from any consideration for historic property designation under ORS 358.480 to 358.545 or other law except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.).
>
> (2) No permit for demolition or modification of property removed from consideration for historic property designation under subsection (1) of this section shall be issued during the 120-day period following the date of the property owner's refusal to consent.
>
> (3) A local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government.

A fair reading of the entire statute reveals that the intent was to eliminate nonconsensual local designations. ORS 197.772(1) expressly requires that before placing a local designation on a property, the local government must seek consent and gives the owner the unfettered right to withhold consent. Thus, a local government under ORS 197.772(1) cannot place a local historic designation on private property because the owner fails to object. An owner may remain silent and prevent the designation because remaining silent is withholding consent.

The statutory text does not expressly state what happens to an existing historic designation when a property is conveyed, but the legislative history provides valuable insight. In May and June 1995, the bill that became ORS 197.772 was being considered in committees. Representative Milne proposed amendments, one of which related to owner consent and the other to removal rights. One question that arose was whether, if an owner consented to a designation at one time, that same owner could later remove the designation. Representative Milne indicated that it was

not her intent. That discussion led to a further discussion over whether a local designation would survive property transfers.

Representative Ross introduced additional text and indicated that under her proposed additions, if an owner acquired property with a designation, the person bought the designation. Representative Johnston raised a significant concern that if Representative Ross's amendments passed, it would put a cloud on title of all the designated properties and title companies would have to include in the analysis of title the fact that the property owner's rights to the property are impinged:

> "REP. JOHNSTON: If Rep. Ross's amendment were to pass, it would put a cloud on the title of all the properties. The title companies would have to include in their analysis of the title that the property owner's rights to the property are impinged."

After further discussion, Representative Strobeck moved to add language to Representative Ross's amendment to state that if a property was designated historic with the concurrence of the owner, it would remain designated upon one or more transfers:

> "MOTION: REP. STROBECK moves to further amend Rep. Ross's motion: at the end of line 3 add 'with the concurrence of the property owner'."

The relevant text of the proposed amendment that came out of those discussions read:

> (4) If a local government, with the concurrence of the property owner, designated property as historic property, the property shall continue to be so designated upon the property's transfer to one or more subsequent owners.

The only reason the legislative committee proposed the above amendment was that they knew that as it was originally proposed, the bill that became ORS 197.772 did not allow local governments to retain historic designations on properties if they were transferred after the initial designation. The committee proposed that the consensual and only consensual designation would survive a transfer of the property. Ultimately, before ORS 197.772 was approved by the full legislature, the Conference Committee removed the entire amendment that allowed local designations to survive transfer. A copy of the Conference Committee Report is enclosed as Exhibit A.

The only supportable interpretation of that action is that the legislature decided that under ORS 197.772 even consensual designations do not survive transfers of the property. Consequently, after the adoption of ORS 197.772, local governments were required to seek consent from all owners of property before placing a historic designation on it. If a property changed hands, local government had to seek consent from the new owner and that owner could withhold consent. If the local government failed to obtain consent from the owner, any designation, even the

continuation of a prior designation, would thus be imposed and the owner could simply request that it be removed under ORS 197.772(3).

## V. Under ORS 197.772(1) the Webbs were not required to object on the record to the designation. The City was required to obtain consent and the Webbs' failure to consent precluded any designation.

According the staff, the initial imposition of the historic designation on the Webbs' property occurred in 1983, when the historic district was created. The Webbs acquired the property in 2010, and there was no information in the preliminary title report to advise them that their property was in the historic district or subject to restrictive regulations. As discussed above, the legislature removed the provision that would have resulted in designations surviving transfers, thus, showing the intent that designations would not survive transfers. Consequently, the 1983 designation did not run with the land and burden the Webbs. The City was required by ORS 197.772(1) to seek the Webbs' consent to retain that designation on the property. The City never specifically sought consent from the Webbs.

The City cannot rely upon the process it undertook in 2013 to satisfy the requirement in ORS 197.772(1). As discussed earlier, staff suggested that the Webbs had the ability to prevent the any designation from being placed on their property in 2013. It is not clear whether staff made such a statement because it understood that the prior designation did not survive the transfer to the Webbs, or because it believed that the repeal of the prior regulations required the City to comply with ORS 197.772. It is clear though, that staff indicated that an objection by the Webbs would have allowed the Webbs to eliminate any local designation.

Whether one accepts Staff's statement that the prior historic regulations and maps were repealed, or whether one concludes that the 1983 designation did not survive that transfer, ORS 197.772(1) required the City to obtain affirmative consent. ORS 197.772(1) does not impose on the property owner any obligation to object. It clearly places the obligation on local government to obtain consent. The City does not claim that the Webbs consent to the new designation in 2013. Rather, the City only claims that the Webbs did not object on the record. The City cannot rely upon the Webbs' failure to respond to the notices in 2013 to establish consent. The City cannot even claim that the Webbs actually received notice of the proposed designation in 2013. All the City can state is that it sent the notice to the address of the subject property. During that period the Webbs resided at 1294 14th Street and that was the address used on all City records that called for an address. Whether or not the Webbs received notice is irrelevant though, because they had the right to remain silent and in doing so, withheld consent to any historic designation being placed on their property

The text the legislature used in ORS 197.772(1) does not permit the City to claim that the Webbs' silence qualifies as giving consent. ORS 197.772(1) states that the owner may withhold consent at any time. The term withhold qualifies the term consent. It means that before a city can place a historic designation on a property the owner must take affirmative action to allow that designation; the owner must affirmatively give consent. Under the plain text, if the owner

remains silent or, in other words, withholds consent, the statute prohibits the city from placing any designation on the property.

As we discussed ORS 197.772(1) requires a city to obtain affirmative consent before placing a historic designation on private property. The legislature expressed a clear intent that purely local designations, unlike national designations, do not survive property transfers. Thus, when a locally designated property transfers, to continue to designate property as a local historic resource, the city must obtain the consent of the new owner. The owner is not required to affirmatively object to the designation remaining on the property. It follows then, if the city retains the designation without affirmative consent, the designation is imposed on the property.

## VI. Because any designation placed on the Webbs' property in 2013 has to be deemed to have been imposed, the Webbs have the right to have it removed under ORS 197.772(3).

ORS 197.772(3) provides property owners with protection in case a local government does not comply with ORS 197.772(1). If a local government fails to seek consent from an owner, or fails to honor the owner's right to withhold consent, ORS 197.772(3) gives the owner the right to have the designation removed. The text plainly states that a local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government. If a property owner withholds their consent, a designation is imposed.

In this matter, the Webbs acquired property that had previously been designated as a historic resource. That designation did not survive the transfer. If the City desired to continue to have any historic designation on the Webb property, the City was obligated by ORS 197.772(1) to obtain their affirmative consent. The City has not claimed that between September 2010 and the date the regulations and map were amended in 2013, it ever sought consent to retain the prior historic designation. There can be no argument that the Webbs consented to continuing the prior designation.

Moreover, the only action that the City took that could be construed as an attempt to comply with ORS 197.772 was to send a notice to the property related to the 2013 revisions. As discussed above, the City was not authorized to deem the Webbs silence as consent to any new designations in 2013. As a consequence, the new designation that resulted from the 2013 actions was imposed by the City. Under the unambiguous text of ORS 197.772(3) the City shall remove the historic designation.

## VII. Even if one assumes for argument sake that the original 1983 designation survived the transfer to the Webbs, and survived the 2013 repeal of the historic regulations, the Webbs had the right to remove the designation under ORS 197.772(3).

The staff report for the June 9, 2015 hearing assumes that purely local historic designations survive the transfer of the affected property. It does not appear that Staff evaluated the

legislative history to ORS 197.772. If Staff evaluated any legislative history, that evaluation is not described in the staff report.

Staff simply proceeds as if all local designations run with the property and obligate future owners, many of whom, acquire property with no notice whatsoever of any prior historic designation. We have demonstrated above that the legislative history contains a clear indication that the legislature did not want purely local historic designations to burden new owners. In May 1995, the at least one member of the committee drafting the Act felt that it was necessary to include an amendment that made local designations survive transfer and later the legislature declined to include that proposed provision.

Nevertheless, even if we accept the proposition that local designations survive transfers, the Webbs have the right to have the 1983 designation removed under ORS 197.772(3). That statute gives a property owner the right to have a local historic designation removed if it was imposed on their property. Staff asserts that regardless of whether the removal request is under ORS 197.772(3) or CDC §25.100, to have a designation removed, an owner must prove that the owner at the time of the designation objected on the record. We disagree with that position.

CDC §25.100 states that to have a property removed from a historic district, the property owner at the time of the designation must have objected, on the record, to inclusion in the district. CDC §25.100 does not expressly place the burden of proving that the owner objected on the requesting owner. Furthermore, that is not the text used in ORS 197.772(3). The statute states that a local government shall allow a property owner to remove a historic property designation that was imposed by the local government. The statutory text does not require a property owner to prove that the owner at the time of the imposition objected on the record. The distinction should not impact the outcome of this matter, because Staff agrees that if the Webbs have the right to remove the designation under ORS 197.772, CDC §25.100 does not give the City any right to continue to designate their property as a historic resource.

In its November 20, 2014 letter the City explained that its position that the Webbs must prove that the owner at the time of the designation objected, on the record, to inclusion in the district, was consistent with the decision in *Demlow v. City of Hillsboro*, 39 Or LUBA 307 (2001). The City went on to advise the Webbs that they would have to demonstrate that the owner in 1983, Ms. Bernert, "did not have knowledge of this designation and objected at the time." That statement makes no sense and helps demonstrate the shortcoming in LUBA's decision. How can an owner who has no knowledge of the designation object on the record? The City's statement, if accepted, establishes a standard that cannot be met. A person must have knowledge that something is going to occur before they can object to it.

LUBA never examined the critical issue of whether an owner at the time of a local designation had actual knowledge of the proposed designation and a meaningful opportunity to object. LUBA analysis assumed that the owner had knowledge and began by looking at the dictionary definition of the term "imposed." The first definition LUBA recited was to "give or bestow (as a name or title) authoritatively or officially"; "to cause to be burdened"; "to make, frame or apply (as a charge, tax, obligation, rule penalty) as compulsory, obligatory or enforceable. Then

LUBA went to secondary definitions that included "taking unwanted advantage of." From that exercise, LUBA incorrectly concluded that the majority of meanings supported the petitioner's argument that imposed involved doing something over the objection of another. LUBA's conclusion assumes that the person who is being imposed upon had a chance to object.

LUBA was correct to the extent that there are cases where a burden is deemed imposed only if it is over an objection of another party. But, that situation all would have to include specific notice to the other party and some opportunity to raise an objection. If the process leading up to something being imposed involved specific notice and some ability to object, the lack of an objection could signify that the designation or obligation was not imposed. However, there are instances where there is no ability to object. A perfect example is contained within the primary definition that LUBA set forth in *Demlow*: taxes. Federal, state and local taxes are imposed. There is no room to legitimately debate that notion. Yet, there is no requirement that every tax payer object every year to paying taxes for those to be imposed. Even under the secondary definitions that LUBA stated and apparently relied more heavily upon, there are examples of impositions where that could be no objection. LUBA included in the definition of imposed to encroach or infringe upon. As an example, if one neighbor went on vacation and came home two weeks later to find a fence built several feet over the property line that would be an encroachment imposed upon the vacationing neighbor. But, under LUBA's reasoning, because the vacationing owner did not object before the fence was imposed, it really was not imposed. It cannot be the case that the only time a burden is deemed to be imposed is when the party being burdened formally objected on the record. LUBA simply did not fully analyze the statutory text looking at the proper context.

In this case, the City records show that the historic district was first created in 1983 when the City adopted its comprehensive plan. A copy of Ordinance 1128 and excerpts of the work papers referred to therein is attached as Exhibit B. That was done as a legislative act. The City has been unable to produce any records that show that notice of that action was given to the owner of the Webb property. The record documents contain the text of the ordinance adopting the comprehensive plan, but no documents that reveal how notice of any of the proceedings was given. Since the action was legislative, the Webbs conclude that there was no individual notice and that the only notice would have been through publication.

Indeed, the documents that the Webbs received from the City reflect that in 1986, the City adopted amendments to the comprehensive plan. That was essentially the same process in which the City engaged in 1983. The documents include proof that the notice used in those proceedings was publication through the local newspaper. Examples of the notices issued for the 1986 legislative hearing are included as Exhibit C. The notice is small, and not easy to locate. The only logical extension is that in 1983, when the City was going through a similar legislative process, it employed the same publication notice. The evidence available establishes that there was no individual notice to the property owner in the proposed historic district.[1]

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[1] The March 20, 1986 Planning Commission Minutes reflect that even in instances where individual notice was required, property owners within the notice area were not receiving the required notice.

Staff appears to rely upon the fact that although there was no individual notice, some citizens in West Linn became aware of the legislative proceedings and attended some or all of the public hearings. Staff's recitation of the minimal evidence of what occurred at the hearings is misleading. Staff recites that at the November 2, 1983 hearing it appears that 35 people testified and that 288 people signed a petition opposing the rezoning of property wholly unrelated to the historic district. Staff did not offer any evidence of the number of people who were aware of the proposed historic district and testified on it. It is important to consider that the legislative actions being considered involved the adoption of a comprehensive plan and the adoption of a new development code both of which addressed numerous issues affecting citizens. Nothing in the evidence cited by Staff indicates that the owners of property within the proposed historic district actually received notice and had sufficient information upon which to testify. More importantly, Staff did not present any evidence that Ms. Bernert received notice.

Based upon the evidence in the record, the Board must find that Ms. Bernert did not receive individual notice that her property would be included. Because the evidence establishes that she was not given notice of the proposed designation, she was not given any meaningful opportunity to object to the inclusion of their property. According to her sons, Ms. Bernert was born in 1903. Thus, in 1983, she would have already been 80 years old. It is reasonable to conclude that Ms. Bernert was not scouring the paper looking for small notices with tiny print that did not reveal anything specific about her property. Specific to the Webb property, the City has not provided any proof that Ms. Bernert was given any meaningful notice and opportunity to object in any manner.

Before the City can rely upon the lack of a formal objection on the records in 1983, the City must prove that it provided meaningful notice and some opportunity for Ms. Bernert to object before her property was included within the newly created historic district. The City cannot maintain the position that a designation is not imposed in situations where the City places a designation on private property in a process where the owner has no knowledge of the designation. That would require an owner to object to an act of which they had no knowledge. Not only is that an unreasonable position, it is not lawful. The owners were not afforded procedural due process before the City imposed restrictions on their property.

Thank you for your consideration.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP

Christopher P. Koback

CPK/pl
Enclosures

68TH OREGON LEGISLATIVE ASSEMBLY - 1995 Regular Session
STAFF MEASURE SUMMARY CARRIER:
Conference e Committee

MEASURE: SB 588 C
Sen. Johnson; Rep. Lewis and Milne
☐ Revenue Impact ☑ Fiscal Impact

**Action:** **Recommend that the Senate concur in the House amendments dated May 22 and that the bill be amended as follows and repassed**

**Vote:** 6-0
**Yeas: Sen. Yih, Sen. Adams, Rep. Lewis, Rep. Milne, Rep. Lehman, Chair Sen. Johnson**
**Nays:**
**Exc.:**

**Prepared By:** Karen Quigley, Committee Counsel
**Meeting Dates:** June 3, 1995 (Conference Committee; Work Session)

## WHAT THE BILL DOES:

Adds some definitions to the statutes related to classification of historic property. Makes some technical amendments, such as changing "handicapped" to "disabled." Also deletes "county" before "governing body," because these statutes apply to all local governments. Extends the date for property owners to apply for special tax assessment status. (If SB 588A becomes effective 90 days after sine die, new applications would be accepted for less than two years. The bill now provides for seven years.)

Restores sunsetted sections related to application for classification and assessment as historic property; makes revisions to other sections of historic property statutes to conform with restored sections.

Provides timelines and procedures to apply for classification making property eligible for special tax assessment.

Establishes an Historic Assessment Review Committee consisting of three members appointed by the State Historic Preservation Officer. The members represent particular interests and serve four year terms.

Requires local government to allow for property owner refusal to consent to any form of historic property designation with very limited exceptions for property listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, under consideration for or determined to be eligible for listing in the National Register of Historic Places or classified under ORS 358.475 to 358.545 before July 1, 1997.

Allows local government to permit historic property designation to be transferred to one or more subsequent owners with property owner's concurrence.

Requires local government to get property owner's permission to "delist."

Allows property owner to remove property from a designation imposed by local government.

Adds a temporary delay before demolishing an historic property that requires a permit for demolition or substantial modification to allow time to see if some party wishes to "buy out" the owner.

Requires the State Historic Preservation Officer to report to revenue interim committee on the implementation and effects of this Act upon the historic property special assessment program. The report is due no later than September 30, 1998.

*This summary has not been adopted or officially endorsed by action of the committee.*
LCO Form - 1995 Session

**ISSUES DISCUSSED: (in original Senate hearings on bill)**
HB 2124 (1993)
Owner consent provisions.
Preservation plans for new applications, but avoid fiscal burden of making existing program participants file plans.
Federal listings.
Burdens that might be anticipated if state program decertified.

**CONFERENCE COMMITTEE AMENDMENTS:**
Requires local government to permit property owner to decline designation at any point in the designation process.

Provides that no permit for demolition or modification of property removed from consideration for historic property designation shall be issued during the 120-day period following property owner's refusal to consent.

Allows commercial buildings that make significant investments for purposes of energy conservation, seismic and American Disabilities Act upgrade to be eligible for a second 15 year special assessment. Defines terms related to this issue and allows for rulemaking to provide minimum amount of investment and improvements in the renovation plan for the plan to be approved.

Deletes House amendments that would have permitted a local government to remove a historic property designation only with the concurrence of the property owner and that would have permitted a designated property to continue to be so designated when transferred to one or more subsequent owners.

Deletes House amendment that specified single family residential as only property ineligible for another 15 year special assessment period.

**BACKGROUND:** This bill was introduced as an attempt to fix some problems that might have been inadvertently created by HB 2124 (1993).

ORDINANCE NO. 1128

AN ORDINANCE ADOPTING THE WEST LINN COMPREHENSIVE PLAN.

WHEREAS, the City of West Linn has prepared the West Linn Comprehensive Plan composed of land use goals, objectives, policies, implementation strategies, and land use planning maps, which Comprehensive Plan is justified and supported by extensive findings, inventories, analysis, and evaluation, and

WHEREAS, said Comprehensive Plan was developed as a result of intensive study and evaluation by the City and were reviewed and commented upon by the citizens of the City of West Linn and representatives of effected public agencies and other interested persons at numerous public meetings before the West Linn City Council, West Linn Planning Commission, and the West Linn Comprehensive Plan Committee,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LINN AS FOLLOWS:

Section 1. The West Linn Comprehensive Plan is hereby adopted as required by ORS 197.175. The text of the West Linn Comprehensive Plan is attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2. From the effective date of this ordinance, the West Linn Comprehensive Plan shall serve as the land use policy for the City and shall govern the exercise of the zoning and planning responsibilities of the City thereafter.

Section 3. The West Linn Comprehensive Plan is adopted based upon the findings of fact, inventory and analysis, data base and evaluation contained in the following inventories, working papers and studies:

(1) Comprehensive Plan Inventories for Statewide Land Use Planning Goals 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15.

(2) Comprehensive Water Systems Plan, September, 1982.

(3) Population and Housing Trends Study, April, 1983.

(4) Storm Drainage Master Plan, October, 1983.

(5) West Linn Park and Recreation Master Plan, November, 1978.

(6) Fire/Policy Facilities Study, September, 1981.

The aforesaid inventories, working papers and studies are contained in Exhibit "B" attached hereto and incorporated by reference. The information contained in Exhibit "B" is adopted only as justification for the adoption of the West Linn Comprehensive Plan and shall not govern the exercise of the planning and zoning responsibilities of the City of West Linn.

Section 4. Certified copies of the West Linn Comprehensive Plan shall be filed with the City Recorder, Clackamas County, the Metropolitan Service District, and the Land Conservation and Development Commission of the State of Oregon.

Section 5. This ordinance shall be effective the 15th day of December, 1983.

THIS ORDINANCE IS ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS 14th DAY OF December, 1983.

Larry M. Ditlya
Mayor

ATTEST:

Diana J. Nicolay
City Recorder

in the Zoning Ordinance. The following sentence added to the Goal Statement sub-paragraph 4, of the Economic Base Element is adopted and will help to strenghten that policy: "In part, this may be accomplished by home occupations or cottage industries that do not alter the residential appearance or adversely effect the quiet, clean, neat, and safe nature of residential properties."

(41) The Planning Commission considered the staff suggestion that aggregate removal be recommended as a conditional use in residential areas. Approval of the conditional use permit would, in part, be based upon a specific excavation and restoration plan. The Commission recommended that aggregate removal not be permitted in residential areas. The City Council accepted the Planning Commission recommendation.

(42) An addition to Objective #1, Housing Supply and Choice, page 37, policy #5 as follows, is adopted.

"5. Mobile homes are too often not accepted in a community when at present they offer an opportunity for many people to own their own shelter. Because of the necessity of manuevering and parking mobile homes on approximately level ground, West Linn offers very few potential locations for them. Specific standards requiring landscaping, screening, paved driveways, skirting of units, requirement of attractive storage structures for each space, and other things which will make mobile homes attractive and functional places, shall be adopted in the City Ordinances."

(43) The Planning Commission considered the area zoned as Neighborhood Commercial on Cornwall between Warwick and Landcaster. It was decided to specifically designate the appropriate portion of this area on the Comprehensive Plan Map. The Commission recommended that the Comprehensive Plan Map have a "Convenience Commercial" designation placed along the west side of Cornwall Street between Warwick and Landcaster for a depth of one-hundred (100) feet. The City Council adopted this recommendation on the Comprehensive Plan Map.

HISTORICAL ITEMS

(44) Based upon the proposal for historic preservation by the Willamette Neighborhood groups and the recommendation of the Planning Commission, the following is adopted to the Comprehensive Plan Map, and to page 76 of the plan text.

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Designate on the Comprehensive Plan Map the area they inscribe as an Historic District: 7th Avenue, from 12th Street, to 14th Street; 14th Street, from 7th Avenue to 6th Avenue; 6th Avenue, from 14th Street, to 15th Street; 15th Street from 6th Avenue to 5th Avenue; 5th Avenue from 15th Street to 14th Street; 14th Street, from 5th Avenue to the City boundary in the Tualatin River; the Tualatin River City Boundary, from 14th Street to 12th Street; 12th Street, from the City Boundary in the Tualatin River to 7th Avenue. The objective would be to preserve existing old homes and buildings and encourage the design of new building to be visually compatible with those that were built near the turn of the century. The neighborhood group has worked out sufficient details for administrating the historic district until more specific criteria can be developed and studied. The following should be placed on page 76 of the Comprehensive Plan.

Objective #8, Willamette Historic District and Historic Theme Area

In response to Objective #7, above, the Willamette Neighborhood Groups have proposed and the Planning Commission and City Council have approved a Willamette Historic District. The initial Historic District consists of all properties bounding upon and included within the streets and the area described as follows:

7th Avenue, from 12th Street to 14th Street; 14th Street, from 7th Avenue to 6th Avenue; 6th Avenue to 14th to 15th Street; 15th from 6th Avenue to 5th Avenue; 5th Avenue from 15th Street to 14th Street; 14th Street, from 5th Avenue to the City boundary in the Tualatin River; the Tualatin River City boundary, from 14th Street to 12th Street; 12th Street, from the City boundary in the Tualatin River to 7th Avenue.

A Willamette Historic Theme is also established for the Willamette Neighborhoods. The Historic Theme areas may be designated in the Zoning Ordinance as determined by the City Council. Theme areas should originate next to the Historical District and then extend in any direction or distance deemed acceptable by the City Council.

Planning Concepts

The primary purpose of the Willamette Historic District is to preserve the dwellings which, because of their age are significant in local history. Also the Historical District is intended to maintain the setting of these old buildings so that structures of modern architectural design are not

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built near or amoung them. Presently there are vacant lots within this district. New construction will be permitted, provided in the Design Review Committee's judgement, the architectural appearance is in keeping with the architectural period the Historical buildings represent.

The purpose of the Willamette Historic Theme is to provide a means by which areas outside the Historic District may be influenced by the same or similar architectural objectives through the Design Review process.

The Zoning Ordinance shall reflect the detailed design criteria that further studies accepted by the City Council may recommend. The following guidelines shall serve as the foundation for Design Review criteria:

(1) Building Height — This is determined by the building height restrictions in the underlying zoning. However, heights compatible with surrounding structures are to be encouraged. On a street or in an area which is predominatly single-family structures, a height of two stories is encouraged. On some streets or in some areas, a variety of building heights is appropriate.

(2) Relationship of Siting: — In addition to the zoning requirements, the relationship of a new building to the street, and to the open spaces between buildings, should be visually and environmentally compatible with the Historic Area.

(3) Proportion of Building Facade: — The relationship of the height to the width of new structures should be compatible and consistent with the architectural character of the Historic Area.

(4) Facade: — Many buildings in the area have wide eaves, decorative trim, bays, and porches; in contrast, monotonous flat planes, such as those present on several of the newer homes and businesses in the district, tend to detract from the

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overall aesthetics of the neighborhood. For this reason, new structures are encouraged to incorporate the use of wide eaves, decorative trim, bays, porches, etc.

(5) Building Material: Building materials chosen for new structures should be compatible with the materials used by the historical structures. Wood siding may relate better to existing structures in the area than commonly used textured plywood or asbestos shakes. The scale and type of materials for new structures should relate to the scale and type of materials used by the historic structures within the district.

(6) Relationship of Roof Form: Predominant roof forms along a street or in an area should influence the type of roof to be allowed on a new structure on that street or in that area. The roof shapes of a new structure must be considered in the over-all evaluation of that structure, particularily in relation to existing roof shapes.

(7) Relationship of Landscaping: Landscaping for new construction should include plantings fronting the street, including street trees where appropriate. Existing trees are to be retained whenever possible.

Signs and commercial lighting should be visually compatible with the architectural character of the Historic District.

Policies

1. The City will continue to provide a means for neighborhood and land owner involvement in decisions relating to regulatory and physical change which may effect the Willamette Historical District or Willamette Theme Area.

2. The City will strive to preserve the historic and aesthetic character of the Willamette Historical District.

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3. The City will encourage expansion in the use of design features of the architectural period reflected by the historical buildings within the district to adjoining areas of Willamette by means of the Willamette Theme designation.

4. The City will accommodate continuing growth within the Historic District, and the theme areas by means of the Design Review process to insure the compatibility of new structures to the historic buildings.

(45) A correction is needed in the introductory paragraph of Objective #7, Historic Areas / Sites, on page 75. Contrary to the current statement West Linn does have a nationally registered historic site. The following change is adopted: The Willamette River Locks are registered in the national list of historic places. While no other registered historic...

(46) The following revision is adopted as the replacement for the section titled Long Range Planning - Future Comprehensive Plan Review, page 9.

October 11, 1978
Revised June 11, 1980
West Linn Comprehensive Plan
City Council Amendments
Attachment A

Long Range Planning - Future Comprehensive Plan Review

The CPRC will meet in September of each year to review how well the plan is working and to determine what minor revisions are necessary to improve the plan's usability. After consideration of neighborhood group or individual citizen recommendations that may be submitted, the Committee may recommend specific changes to the plan, or they may recommend that certain portions of the plan require a more detailed review and update. The Committee is not required to revise the Comprehensive Plan unless they believe it requires such change. An annual report from the CPRC will be submitted to the Planning Commission at its January meeting. The CPRC shall assume a review role in the Plan Amendment process outlined in the next section as well.

Plan Amendment Procedures

In addition to plan amendment recommendations that may result from the annual review of the CPRC, private citizens may wish to request amendments to the Land Use Map or other stated policies of the plan. In those circumstances, the following procedure will be followed.

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Private party requests to amend the Land Use Map will be heard by the Planning Commission semi-annually in April and October of each year. These private initiatives will be evaluated based on the following criteria:

1. The request is in conformance with the Comprehensive Plan goals, objectives, and policies,

2. There is a public need for the change or that the change can be demonstrated to be in the interest of the present and future community,

3. If there is a public need or that the change is in the community's interest, that the change is best accommodated by the specific request, and

4. The change will not adversely effect the health, safety, and welfare of the community.

If the CPRC determines that these criteria have been met, they will recommend revision to the Land Use Map, to the Planning Commission.

If a private party wishes to revise a stated objective, policy or standard within the Comprehensive Plan, the request for such change must be made to the CPRC at its September annual review meeting. The CPRC will review the request along with its general review of the total plan. The recommendation formulated by the CPRC will be included along with their annual report to the Planning Commission in January.

The Planning Commission shall review the recommendation of the CPRC and other information or testimony it receives and shall then make and forward a recommendation to the City Council.

In all circumstances, the Planning Commission and City Council will hear plan amendment requests in a public hearing format, legally noticed in accordance with the Oregon Revised Statutes and the City of West Linn requirements for a public hearing. A final decision on any plan amendment request will normally be rendered by the City Council within 180 days of the date of the Planning Commission's first hearing.

Five Year Plan Review

In order to ensure that the Comprehensive Plan continues to reflect the long term trends within the City, the CPRC will undertake a complete and systematic review of the Comprehensive Plan every five years. Neighborhood associations, the Planning Commission and the City Council will be involved in this review.

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Short Range Planning Process

The Planning Commission and City Council will continue to discharge the duties outlined in City Ordinances and in compliance with the adopted Comprehensive Plan. The major change in the short range planning process will occur through the involvement of local neighborhood groups. These groups will be provided the opportunity to respond to the Comprehensive Plan Review Committee, the Planning Commission and the City Council concerning specific planning related matters of interest to them. In addition, these groups can play an important advisory role to the City's budgeting process by identifying neighborhood needs and priorities.

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City of West Linn

1908 PORTLAND AVENUE
WEST LINN, OREGON 97068
PHONE (503) 656-4261

TO: WEST LINN PLANNING COMMISSION

FROM: WEST LINN PLANNING STAFF

DATE: APRIL 9, 1986
(HEARING DATES: APRIL 21, 1986, PLANNING COMMISSION
MAY 14, 1986, CITY COUNCIL

SUBJECT: PROPOSED COMMUNITY DEVELOPMENT CODE AMENDMENTS

**(NOTE: Additions are underlined, Deletions are [bracketed].)**

## PROPOSAL #1:

Revise the Willamette Historice District Boundary, removing most 7th Avenue Commercial Properties from the District.

**COMPREHENSIVE PLAN AMENDMENTS**

Insert District Map (Exhibit A) on Page 50, renumber subsequent pages accordingly.

**COMPREHENSIVE PLAN AND ZONING MAPS**

Amend the Comprehensive Plan Map and Zoning Map to reflect the boundary adjustment identified on Exhibit A.

**COMPREHENSIVE PLAN INVENTORIES**

Delete District Map on Page 56 and renumber subsequent pages accordingly.

## PROPOSAL #2:

Change required sideyard setbacks in R-7.5 Zone from 7-1/2 feet to 5 feet.

**Section 12.070(5)(b) amend as follows:**

b. for an interior side yard, 5 [7-1/2] feet.

## PROPOSAL #3:

Change detached single-family residences from a "Conditional" to an "Outright" use in the R-4.5 Zone.

**Section 14.030 add before #1 the following and renumber accordingly:**

"1. Single-family detached residential unit."

Section 14.060(1), delete the following:
[1. Single-family detached residential unit.]

## PROPOSAL #4:

Clarify allowable uses in Neighborhood Commercial Zone and Define "Nursery" uses.

**Section 18.060(6) Amend the following:**

"6. Nursery. [Garden store and nursery supply]

**Section 02.030 (page 02-28) Add the Following:**

NURSERY: The propagation of trees, shrubs, vines or flowering plants for transplanting, sale, or for grafting or budding; planting of seeds or cuttings; grafting and budding one variety on another; spraying and dusting of plants to control insects and diseases, and buying and selling the above plant stock at wholesale or retail. Seasonal labor may be employed. The term "nursery" comtemplates the sale of products of the nursery. The conduct of a nursery business presumes parking places for customers, the keeping of sales records, and quarters for these functions. However, the use does not include the business of manufacturing and selling products composed of raw materials purchased off the premises. Plant related products manufactured elsewhere may be resold on the premises.

## PROPOSAL #5:

Change parking standards for most commercial uses. The attached Exhibit B compares parking standards throughout the Portland Metropolitan Area. West Linn's existing standards are based on Gross Floor Area (G.F.A.) rather than Gross Leasable Area (G.L.A.). Our existing standards require more parking spaces than required for comparable buildings in other communities. This creates confusion for developers and designers and discourages new commercial investment in the City.

**Section 46.080(C)(1-6) amend as follows:**

| | | |
|---|---|---|
| 1. | Restaurants: Eating and drinking establishments | |
| | (a) Cafe, Diner, Taverns Bars, Lounges | 1 space for every 100 square feet of gross leasable [floor] area. (Ord.1172;9/85) |
| 2. | General Retail Store except as provided below. | 1 space for every 200 square feet leasable [floor] area, [plus 1 space for each 2 employees]. |
| 3. | Retail-Bulky (i.e., automobiles, furniture, appliances such as stoves, refrigerators, etc.) | 1 space for every 600 square feet of gross leasable [floor] area, [plus 1 space for each 2 employees]. |
| 4. | Service and Repair Shops (not directly attached or associated with furniture, appliance or automobile retail sales). | 1 space for every 500 square feet of gross leasable [floor] area, [plus 1 space for each 2 employees]. |

| | | |
|---|---|---|
| 5. | Professional offices, banks and savings and loans. | 1 space for every 300 [400] square feet of gross leasable [floor] area [plus 1 space for each 2 employees]. |
| 6. | Medical/Dental Clinics. | 1 space for every 200 square feet of gross leasable [floor] area. |

## PROPOSAL #6:

Change certain sections of the "sign code" (Chapter 52) relating to service stations, real estate signs, development signs and signs in newly annexed areas.

**Section 52.300(C) and Section 52.400(E) amend to read as follows:**

"C. Multi-family Development [or Subdivision] signs.

**Section 52.300(G) and 52.400(I) amend to read as follows:**

G. Temporary Development or Construction Signs

1. Temporary signs denoting the architect, engineer, contractor, land division or development shall be limited to thirty-two (32) square feet in area per sign.

2. Any portion of the land division or development signs denoting the listing realtor or agency shall be limited to six (6) square feet in area.

3[2] Only two (2) such signs shall be permitted on the premises.

4[3] Shall not be artificially illuminated.

5. Shall not exceed nine (9) feet in height above the natural ground level.

6[4] Shall be removed upon completion of the project.

7[5] Shall not require City Approval.

**Section 52.300(H)(4) Amend to read as follows:**

"4. Shall be limited from one (1) to five (5) signs as approved by the Planning Director [Commission].

**Section 52.400(A)(2)(3)&(6) Amend to read as follows:**

"2. Only one (1) free-standing identity sign shall be permitted upon the premises, limited to thirty-two (32) [twenty-eight (28)] square feet in area and may include a directory."

"3. Only automobile service stations may have one (1) additional free-standing changeable copy sign for the single purpose of advertising the price of fuel, limited to eighteen (18) [twelve (12)] square feet in area, and one changeable promotion flatwall sign, limited to eighteen (18) square feet in area. This does not authorize "readerboards"."

"6. Free-standing [identity] signs shall not exceed seven (7) feet in height."

Add the following Section:

52.500 Newly Annexed Land: All signs on land annexed to the City of West Linn shall comply with the relevant provisions of the sign ordinance within 30 days of the completion of the annexation.

**Section 52.400(A)(2) Add the following:**

"An additional free-standing menu board may be permitted for drive-thru businesses, limited to sixteen (16) square feet in area."

**Section 52.400(B)(4) Amend to read as follows:**

"4. Shall contain only the name of the center or complex, or name or logo of tenants, and may include directory."

**Section 52.400(L)(1). Add the following:**

Signs for parcels of land in excess of two acres may advertise sale, rental or lease, provided they do not exceed twenty four (24) square feet in area and are set back from the public right-of-way a minimum of sixty (60) feet.

Add after Section 52.400(L)(5) and renumber accordingly the following:

"6. Shall not exceed nine (9) feet in height above the natural ground level, except for real estate signs or parcels in excess to two (2) acres, in which case, shall not exceed a height of twelve (12) feet."

## PROPOSAL #7:

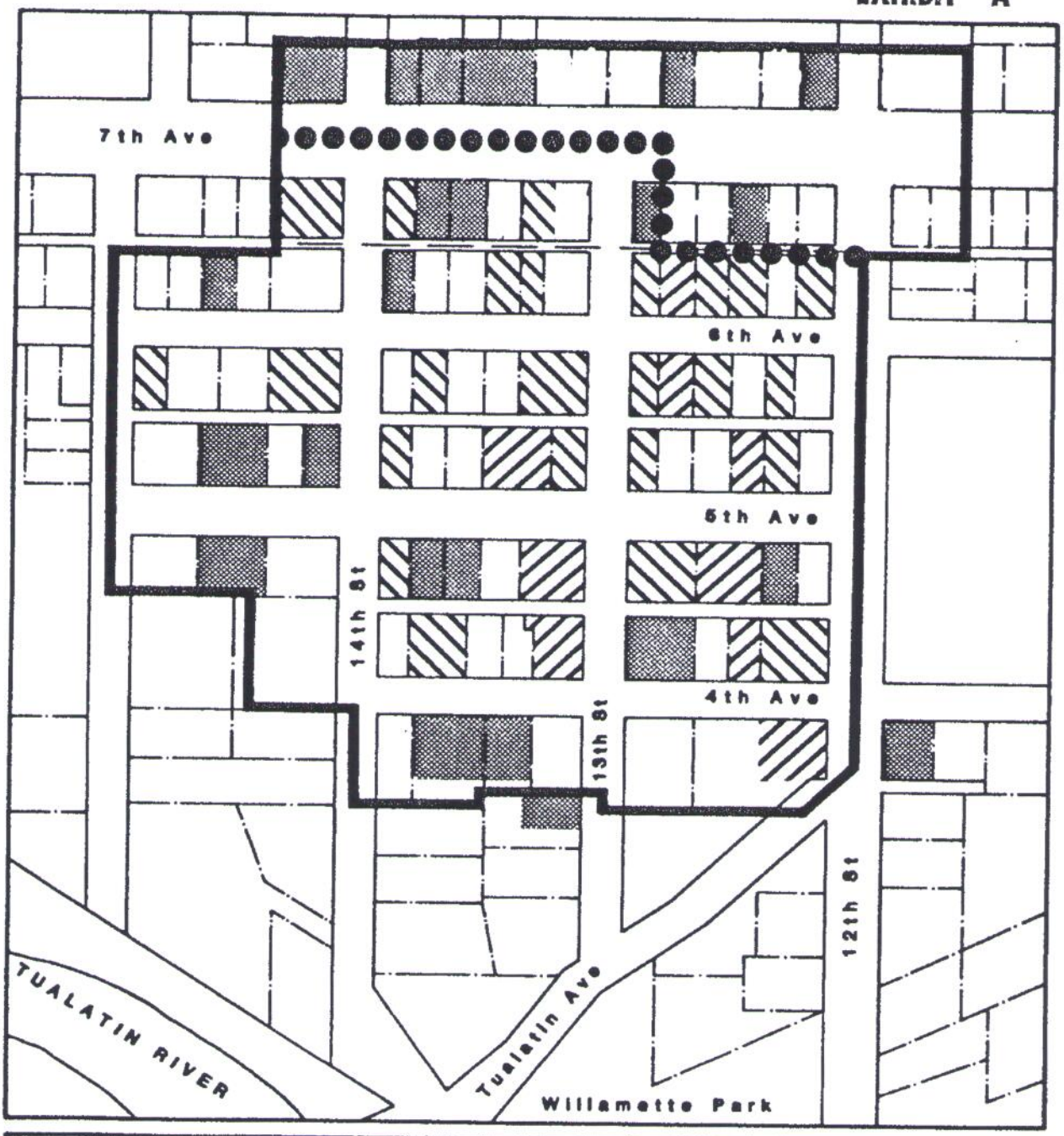
Clarify sidewalk improvement obligations on double frontage lots.

**Section 92.010(6) Add the following:**

In the case of double frontage lots, provision of sidewalks along the frontage not used for access shall be the responsibility of the developer. Providing front and side yard sidewalks shall be the responsibility of the landowner at the time of request for a building permit is received. Additionally, deed restrictions and CC&R's shall reflect that sidewalks are to be installed prior to occupancy and it is the responsibility of the lot or homeowner to provide the sidewalk, except as required above for double frontage lots.

# WILLAMETTE HISTORIC DISTRICT

EXHIBIT "A"




LEGEND

PRIMARY STRUCTURES

SECONDARY STRUCTURES

BOUNDARY

ADOPTED SEPT. 11, 1985

PROPOSED BOUNDARY

N

0 100 200

Dec. 1985

Table

Parking Space Factor Comparisons

| Location | General Office | Medical/ Dental Office | Banks/ Saving & Loan | Retail/ Service | Restaurant/ Tavern | Place of Assembly | Comment |
|---|---|---|---|---|---|---|---|
| City of Tualatin | 3.50 | 5.50 | 5.30 | 4.00* | 10.00 | - | *Shopping Ctr.<100,000sf |
| Tualatin Core Area | 3.50 | 5.00 | 4.50 | 3.85 | 5.00 | 2.00 | Has parking district |
| Vancouver, WA | | | | | | | |
| downtown | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | Has parking district |
| other commercial | 2.50 | 6.66 | 2.50 | 2.85 | 5.00 | - | |
| Lake Oswego | 3.30 | 5.00 | 2.50 | 3.30 | 13.33 | - | |
| Salem | .40-.80 | 2.40 | 2.00 | 2.60 | 1.80 | - | Has parking district |
| Milwaukie | 2.86 | 3.64 | 2.86 | 5.71 | 5.71 | 16.66 | |
| Hillsboro | 2.50 | 5.00 | 2.50 | 4.00 | 6.67 | - | |
| West Linn | 2.50gfa | 5.00gfa | 2.50gfa | 5.00*gfa | 10.00gfa | - | *Add 1 sp. per 2 employees |
| Beaverton | 3.33 | 5.00 | 2.00 | 3.33-5.00 | 10.00 | - | |
| Tigard | 2.86 | 5.00 | 2.00 | 2.50 | 20.00* | - | *Add 1 sp. per 2 employees |
| Gresham | 3.33 | 5.00 | 3.33 | 5.00 | 10.00 | - | |
| Oregon City | 3.33 | 3.33 | 3.33 | 5.00 | 5.00 | - | |
| Wilsonville | 4.00 | 4.00 | 4.00 | 5.00 | 5.00 | - | |
| Portland | | | | | | | |
| general commercial | 1.43 | 1.43 | 10.00* | 2.00 | 10.00* | - | *Per 1,000sf patron |
| new garages | - | - | 1.50 | 1.00 | - | - | service area |
| s. waterfront | 1.45-2.00 | - | - | 1.50 | 5.00 | - | |
| Washington County | 3.33 | 3.33 | 3.33 | 2.50 | 10.00 | - | |
| Multnomah County | 3.33 | 5.00 | 3.33 | 5.00 | 10.00 | 16.66 | |
| Clackamas County | 3.33 | 3.33 | 3.33 | 3.33 | 10.00 | - | |
| (mode) | (3.33) | (5.00) | (3.33) | (5.00) | (10.00) | (16.66) | |
| ITE Study '85[1] | 3.00 | - | - | 3.50-5.50 | - | - | Rec. for Suburban Locations |
| ULI Study '83[2] | 3.00 | - | - | 3.80-4.00* | 10.00-20.00** | - | *for shopping centers <400,000sf<br>**for shopping centers <100,000sf |

[1] "Parking Requirements for Local Zoning Ordinances," ITE Journal, September 1985
[2] "Shared Parking," ULI 1983

F# SPCFACT.PTF

EXHIBIT "B"

COPY OF NOTICE TO
BE POSTED HERE

## PUBLIC NOTICES

**CITY OF WEST LINN**
**PLANNING COMMISSION MEETING**
**PUBLIC HEARING NOTICE**

File No. CU-86-02/SUB-86-07

The West Linn Planning Commission, at its regular meeting of April 21, 1986, starting at 8:00 P.M. in the Council Chambers of City Hall, will hold a public hearing on the request of Dan Fowler and Mark Foley of Abernathy Development for Conditional Use and Tentative Plan Approval of "Fowler's Oak View Estates". Applicant proposes a 25-Lot subdivision near Exeter Street and Sunset Avenue. The "Conditional Use" requested will allow single-family development in the "duplex residential" (R-4.5) zone.

The subject property is located between Southslope Drive and Exeter Street, also known as Tax Lot(s) 900 and 1000, Assessor's Map 2-1E-36AC, and Tax Lot 10000, Assessor's Map 2-1E-36AB.

All relevant materials and information pertaining to the proposed amendments may be obtained and reviewed at City Hall, 4900 Portland Avenue, West Linn, Oregon (phone 656-4211).

This hearing will be conducted in accordance with the provisions of Section 99.170 of the Community Development Code, adopted December 14, 1983, Ordinance No. 1129.

Patricia A. Rich
Planning Commission Secretary
Publish West Linn Tidings, April 9, 1986

# AFFIDAVIT OF PUBLICATION

STATE OF OREGON,
COUNTY OF CLACKAMAS,—ss.

I, Tom K. Decker, being first duly sworn, depose and say that I am the Publisher of the West Linn Tidings, a newspaper of general circulation as defined in sections 193.010, 193.020, Oregon Revised Statutes, and published in Lake Oswego, in the aforesaid county and state; that the City of West Linn Planning Comm. CU 86-02/SUB 86-07 a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for one successive and consecutive issue in the following issues: April 9, 1986

Tom K. Decker
(Signed)

Subscribed and sworn to before me this 11th, day of April 19 86

Eileen V. Nelson
Notary Public for Oregon

(My commission expires 3/4/89)

STATEMENT

Lake Oswego Review
635-8811
P.O. Box 548, Lake Oswego, Oregon 97034

1986 APR 15 AM 9:43

City of West Linn
4900 Portland Ave.
West Linn, OR 97068

CITY OF WEST LINN

ALL ACCOUNTS DUE AND PAYABLE BY THE 10th OF MONTH
DETACH AND RETURN THIS STUB WITH YOUR REMITTANCE.

| DATE | DESCRIPTION | CHARGES | Y | CREDITS | BALANCE |
|---|---|---|---|---|---|
| | BALANCE FORWARDED | | | | 3607 |
| 4/2 | Plan. Comm. MISC 86-06 | 6180 | | | 9787 |
| 4/9 | Plan. Comm. CU86-02/SUB-07 | 2060 | | | 11847 |
| 4/9 | Plan. Comm. etc. ZC86-7 SUB863 | 2703 | | | 14550 |

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Lake Oswego Review

PLEASE PAY LAST AMOUNT

**CITY OF WEST LINN**

**PLANNING COMMISSION MEETING**

**CITY COUNCIL MEETING**

**PUBLIC HEARING NOTICE**

The West Linn Planning Commission, at its regular meeting of December 16, 1985, starting at 8:00 P.M. in the Council Chambers of City Hall, and the West Linn City Council, at its regular meeting of January 8, 1986, starting at 8:00 P.M. in the Council Chambers of City Hall, will hold public hearings to consider amendments to the Community Development Code.

Proposed amendments include: amending setback requirements in the Willamette Historic District to reflect adopted design standards; adding language including "satellite disks" under the provisions of accessory structures; and adding a section specifying street naming criteria.

All relevant materials and information pertaining to the proposed amendments may be obtained and reviewed at City Hall, 4900 Portland Avenue, West Linn, Oregon (phone 656-4211). Public oral or written testimony is invited. These hearings will be conducted in accordance with the provisions of Section 98.120 of the Community Development Code, Adopted December 14, 1983, Ordinance No. 1129.

PATRICIA A. RICH
Planning Commission Secretary

(Publish - West Linn Tidings, December 11, 1985
Enterprise Courier, December 13, 1985)

12-9-85
KS

COPY OF NOTICE TO
BE POSTED HERE

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**CITY COUNCIL MEETING**
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Publish West Linn Tidings, Dec. 11, 1985.

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Tom K. Decker
(Signed)

Subscribed and sworn to before me this 13th, day of December 19 85

Eileen V. Nilson
Notary Public for Oregon

(My commission expires 3/4/87)

STATEMENT

Lake Oswego Review
635-8811
P.O. Box 548, Lake Oswego, Oregon 97034

City of West Linn
4900 Portland Ave.
West Linn, Or 97068

ALL ACCOUNTS DUE AND PAYABLE BY THE 10TH OF MONTH
DETACH AND RETURN THIS STUB WITH YOUR REMITTANCE.

| DATE | DESCRIPTION | CHARGES | Y | CREDITS | BALANCE |
|---|---|---|---|---|---|
| | PREVIOUS BALANCE | | | | 135 18 |
| 12/5/85 | Ad ck #34497 | | | 51 49 | 83 69 |
| 12/11 | Tidings 14" @ 5.15 | 74 68 | | | 158 37 |
| 12/12/85 | Ad ck #34596 | | | 135 18 | 23 19 |
| 12/11 | Notice - Community Dev. Code | 21 88 | | | 45 07 |

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Lake Oswego Review

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