

STAFF REPORT FOR THE HISTORIC REVIEW BOARD

FILE NUMBER: AP 14-02, ZC-14-02

HEARING DATE: June 9, 2015

REQUEST: Remand by City Council to the Historic Review Board of the removal from the historic district overlay zone, and remand of design review limited to the rear dormer addition and garage replacement.

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

Planning Manager's Review *JB*

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 Quasi-Judicial Amendments and Standards for Making Decision, or alternatively, comply with ORS 197.772(3). The Historic Review Board shall make a recommendation on the applicant's request for removal both under the CDC and under the state statute. The addition to the rear dormer and garage replacement are subject to Class II historic design review and the approval criteria in CDC Chapter 25, Historic Resources, and these decisions are back before the HRB on remand from the Council. The porch addition and window replacement that were originally part of DR-14-02 are not part of this hearing.

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 to parties to the subject decision of the public hearing on appeal to 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.

DECISIONS BEFORE HRB

1. Does the applicant’s proposal for an addition to the rear dormer meet the criteria for approval in Chapter 25, or in the alternative, can one or more conditions of approval be added to allow approval?
2. Does the garage replacement meet the criteria for approval in Chapter 25, or in the alternative, can one or more conditions of approval be added to allow approval?
3. Does the application for removal from the historic district overlay zone meet the criteria, warranting a recommendation to the City Council to approve the zone change request?

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Supplemental documents were added to the existing record on May 19, 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 ends 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. Therefore, notice requirements have been satisfied

Please Note:

On May 11, 2015 the City Council remanded the files AP 14-02 (Appeal on the addition to rear dormer and garage replacement) along with ZC 14-02 removal from the Historic Resource Overlay. The applicant was to provide supplemental materials addressing the two design review issues and the proposed zone change to remove the historic resource overlay. ***By the time of the publication of the staff report, no information was received.***

When the supplemental material is received, Staff will provide a cover memo with additional discussion. All available material for this action is accessible on the City website at: <https://westlinnoregon.gov/planning/1344-14th-street-historic-review>

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



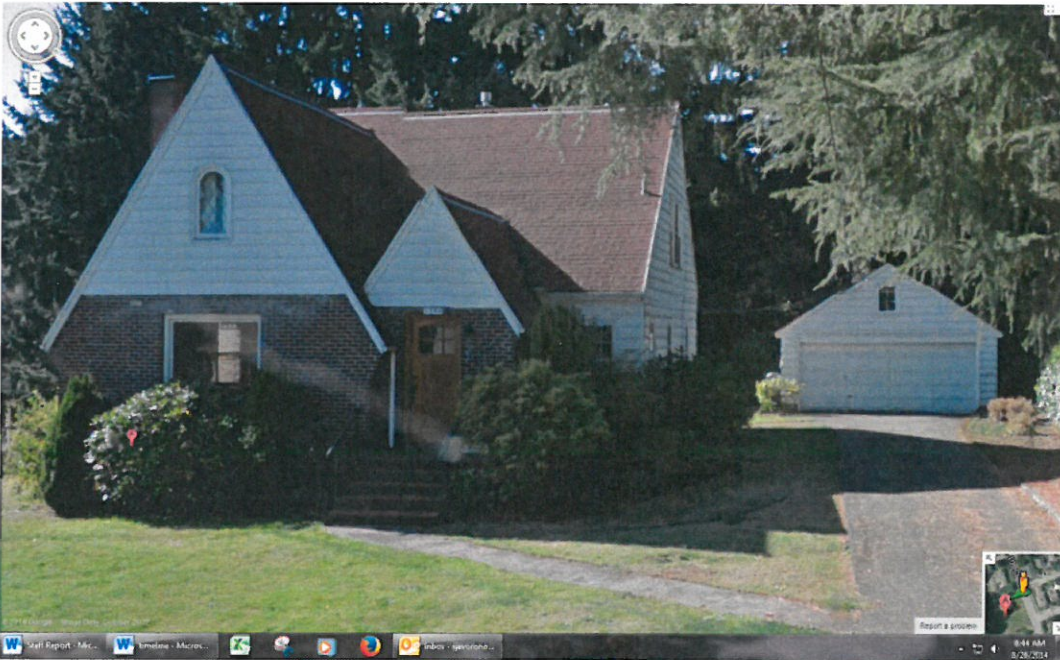
Rear elevation – September 2013



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 has been remanded to take additional evidence and allow the HRB to consider three issues: 1) the removal of the Property from the historic district overlay zone, 2) the condition of approval for the rear dormer, and 3) denial of the garage replacement. The property is within the Willamette Historic District, but is on the edge and is not part of the National Register Willamette Historic District. The second request is for historic design review specific to a reconsideration of the addition to the rear dormer that extends the existing rear dormer to the north and is flush with the side elevation. The third issue related to Design Review is the applicant's request to replace the existing contributing garage (468 square feet) with a larger structure (910 square feet).

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 Resource 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.

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

ANALYSIS

CDC Chapter 25, Historic Resources applies to this project, specifically CDC 25.060 Design Standards Applicable to Historic Resources, subsections (A) Standards for alterations and additions, (B) Standards for accessory structures; CDC 25.070 Additional Standards Applicable to Historic Districts subsections (A) Standards for alterations and additions, (B) Standards for new construction and (C) Willamette Historic District general standards; 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 decision on the criteria in CDC 25.060 and 25.070 and the authority to make a recommendation on the proposed historic district overlay zone removal pursuant to the criteria in CDC 105.050. Following the recommendation by the Historic Review Board, there will be a public hearing before the City Council related to the zone change.

The record on remand 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, and
- Supplemental documents added to the existing record on May 19, 2015.

This Staff Report on Remand will address only the remand to the Historic Resource Board on: 1) the condition of approval for the rear dormer, 2) the denial of the requested garage replacement, and 3) the remand of the requested zone change to remove the historic resource designation. The applicant has the burden of proof to demonstrate compliance with all applicable approval criteria.

1. Rear Dormer Addition

The addition to the rear dormer as proposed is flush with the side elevation and cannot be clearly identified as an addition, is not constructed in a way that is easily reversible, and is not subordinate to the original structure. The October 21, staff report and final order determined the criteria can be met if the proposed dormer is set back from the side elevation a distance equal to the set back of the dormer on the southeast elevation. This is addressed in Condition of Approval 2.

2. Garage Replacement

The proposed garage replacement would retain the existing side wall and increase the length of the garage by 11 feet to the front and rear and the width of the garage 6.5 feet to the side/south. This nearly doubles the size of the garage. The existing garage is 15 feet tall, which is the maximum height for a one story accessory structure, so the proposed increase in width would decrease the pitch of the proposed garage. The existing garage is contributing and is already one of the larger garages in the district. Staff does not recommend approval since the replacement does not meet Finding #2 CDC 25.060(A)(1) Retention of original construction, Finding #3 CDC 25.060(A)(2) Retention of historic material, Finding #6 CDC 25.060(A)(5) Differentiate old from new, Finding #7 CDC 25.060(A)(6) Reversibility, or Finding #9 CDC 25.060(A)(8) Building height and roof pitch.

3. Removal from Historic District Zone

Staff does not recommend that the Historic Review Board recommend removal from the historic district overlay zone to the City Council. 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 #23 CDC 25.100(A), Assessment of Designation, and Finding #24 CDC 25.100(B), Owner consent. 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 designation.

RECOMMENDATION

Option 1

The Historic Review Board has the option to approve the historic design review application for the addition to the rear dormer retaining the original conditions:

1. Site Plan, Elevations, and Narrative. The project shall conform to the plans, elevations, and narrative submitted in Exhibit HRB-5 and 6, except as modified below.
2. Rear Dormer. The addition to the rear dormer shall be set back from the side elevation at a distance equal to the set back of the other end of the dormer on the southeast elevation.

The Historic Review Board deny the historic design review application for garage replacement.

The Historic Review Board forwards a recommendation of denial of the removal of the Property from the historic district overlay zone to the City Council.

Option 2

The Historic Review Board has the option to approve the modification to the historic design review application for the addition to the rear dormer retaining the original conditions as modified below:

1. Site Plan, Elevations, and Narrative. The project shall conform to the plans, elevations, and narrative submitted in Exhibit HRB-5 and 6, except as modified below.
2. Rear Dormer. The addition to the rear dormer shall be constructed as provided in the applicant's alternative design.

The Historic Review Board denies the historic design review application for garage replacement.

The Historic Review Board forwards a recommendation of denial of the removal of the Property from the historic district overlay zone to the City Council.

Option 3

The Historic Resource Board forwards a recommendation of approval of the removal of the Property from the historic district overlay zone to City Council. If approved by City Council, this would render any design review decision as no longer applicable.

Notes to applicant.

- Expiration of Approval. This approval shall expire three years from the effective date of this decision.
- Additional Permits Required. Your project may require the following additional permits:
 - Public improvement permit: contact Engineering at (503) 723-5501 or mcoffie@westlinnoregon.gov
 - Public works permit: contact Engineering at (503) 723-5501 or mcoffie@westlinnoregon.gov
 - On-Site Utilities: contact the Building Division at (503) 656-4211, jnomie@westlinnoregon.gov. (Electrical permits are through Clackamas County, not the City of West Linn.)
 - Building permit: contact the Building Division at (503) 656-4211, jnomie@westlinnoregon.gov.
 - Inspections: Call the Building Division's Inspection Line at (503) 722-5509.

APPLICABLE REGULATIONS AND ASSOCIATED SUPPLEMENTAL FINDINGS

DR-14-02, ZC-14-02

CHAPTER 25, HISTORIC RESOURCES

25.040 HISTORIC DESIGN REVIEW PROCESSES

Proposed changes to historic resources that are not exempted by subsection A of this section, Exemptions from historic design review, are subject to subsection B of this section, Class I historic design review, or subsection C of this section, Class II historic design review. Class I historic design review addresses significant changes that warrant staff review. Class II historic design review addresses major changes including additions and new construction, subject to Historic Review Board approval. The processes for conducting Class I and Class II historic design review are in Chapter 99 CDC.

...

C. Class II historic design review. All proposed new construction, alterations, and additions, not identified as exempt under subsection A of this section, or subject to Class I historic design review under subsection B of this section, are subject to Class II historic design review and must meet the applicable approval standards.

Finding 1: The proposed addition to the rear dormer and garage replacement requires Class II historic design review. The criterion is met.

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 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 2:

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 set back from the side elevation a distance equal to the set back of the dormer on the southeast elevation. This is addressed in Condition of Approval 2.

Garage: The proposed garage replacement retains one wall from the existing garage and replaces the existing garage with one that is larger in length and width. The existing garage is visible from the right-of-way and a contributing structure. The proposed changes retain little of the original construction. The structure is simple and lacking in ornamentation, and removing most of the structure would not retain its original construction. The applicant states that the foundation is crumbling, but it is minimally visible and can be replaced without any historic review provided that its elevation does not change. Repair and replacement of the wood siding can also be completed without historic review.

Staff finds that the criterion is met for the rear porch addition. Staff finds that the criterion can be met for the addition to the rear dormer with Condition of Approval 2. Staff does not find that the criterion is met for the garage replacement.

2. Retention of historic material. Removal or alteration of historic materials and features shall be avoided during the construction of new additions or exterior alterations. Whenever possible, deteriorated materials and architectural features shall be repaired rather than replaced. In the event replacement of an existing feature is necessary, new materials shall, to the extent possible, match those of the original building in terms of composition, design, color, texture, and other visual features.

Finding 3:

Rear dormer: The addition to the rear dormer utilizes materials that match those of the original structure and the additional window has a pattern and size that is consistent with the original dormer.

Garage: The proposed garage replacement also does not retain historic material; however, the applicant is proposing to use materials that would, to the extent possible, match the original building.

Staff finds the criterion is met for the addition to the rear dormer. Staff does not find that the criterion is met for the garage replacement.

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 4:

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 set back from the side elevation a distance equal to the set back of the dormer on the southeast elevation. This is addressed in Condition of Approval 2.

Garage: The proposed garage replacement has a similar, but larger footprint, to the existing garage. Features that do not have a historical basis or seek to create a false sense of historical development are not proposed.

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

4. Significance over time. Changes to a property that have acquired historic significance in their own right, and during the period of significance, shall be retained and preserved.

Finding 5: The proposed garage replacement is not altering a previous change to the property that has attained its own significance. It is likely that the rear dormer is original to the residence. As such, the proposed addition to the rear dormer is not altering a previous change to the property that has attained its own significance. Staff finds the criterion is met.

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 6:

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 the proposed dormer is set back from the side elevation a distance equal to the set back of the dormer on the southeast elevation. This is addressed in Condition of Approval 2.

Garage: The proposed garage replacement retains one wall of the existing garage and increases the length and width of the existing garage. The proposed replacement is compatible with the existing materials. However, the increase in size is nearly double the existing garage and is not compatible in terms of size, scale, proportions, and massing.

Staff finds that the criterion can be met for the addition to the rear dormer with Condition of Approval 2. Staff does not find that it is met for the garage replacement.

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 7:

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 set back from the side elevation a distance equal to the set back of the dormer on the southeast elevation. This is addressed in Condition of Approval 2.

Garage: The proposed garage replacement alters the essential form and integrity of the property. The increase in length and width nearly doubles the size of the garage and would alter the form, integrity, and context of the property.

Staff finds that the criterion can be met for the addition to the rear dormer with Condition of Approval 2. Staff does not find that the criterion is met for the garage replacement.

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 8:

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 set back from the side elevation a distance equal to the set back of the dormer on the southeast elevation. This is addressed in Condition of Approval 2.

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

8. Building height and roof pitch. Existing or historic building heights and roof pitch shall be maintained.

Finding 9:

Rear dormer: The addition to the rear dormer would not increase the building height or alter the pitch of the dormer.

Garage: The proposed garage would not increase in height since it is already the maximum permitted for a one story accessory structure, but the pitch of the roof would be altered because it would decrease due to the increased size of the garage.

Staff does not find that the criterion is met for the garage replacement.

9. Roof materials. Replacement of a roof or installation of a new roof with materials other than cedar shingles, three tab asphalt shingles, or architectural composition shingles must be demonstrated, using photographic or other evidence, to be in character with those of the original roof, or with materials that are consistent with the original construction.

Finding 10: Rear dormer: The addition to the rear dormer utilizes same roof material as is present elsewhere on the residence. It is consistent with the original construction. Staff finds that the criterion is met.

10. Existing exterior walls and siding. Replacement of the finish materials of existing walls and siding with different material must be demonstrated, using photographic or other evidence, to be in character with those of the original materials, or with materials that are consistent with the original construction.

Finding 11: The applicant is not proposing replacement of the existing exterior walls and siding. The applicant has proposed a finish material for the garage that is in character with the original appearance, and if the Historic Review Board recommends approval, staff recommends a condition of approval to reuse the existing siding, as possible.

11. New exterior walls and siding. Wood siding or shingles shall be used unless the applicant demonstrates that an alternative material has a texture and finish typically used on similar style buildings of the era, or the era the building style references. Vinyl or other materials that do not match those that were typically used on similar style buildings of the era, or the era the building style references, are not permitted.

Finding 12:

Rear dormer: The applicant is not proposing a different material for the addition to the rear dormer. As possible, staff recommends utilizing the historic siding and blending it with any new siding that is required.

If the Historic Review Board recommends approval, staff recommends a condition of approval to reuse the existing siding, as possible, and blend with any new siding.

13. New windows. New windows shall match the appearance of the original windows as closely as possible. Wood window frames and sashes shall be used unless the applicant demonstrates that the non-wood windows are consistent with their wooden counterparts, including profile and proportion of the sash, sill, trim, light patterns, glass color, and profile of mullions and muntins. The window trim and sill shall match the original trim.

Finding 13:

Rear dormer: The windows in the rear dormer will closely match the appearance of the original windows in terms of the profile and proportions.

Garage: The applicant has stated that, as possible, existing windows from the garage will be reused.

Staff finds that, in conjunction with Condition of Approval 2, the criterion is met. Should the Historic Review Board approve the garage replacement, staff recommends modifying Condition of Approval 2 to include the garage windows.

15. Window replacement. Replacement of windows or window sashes shall be consistent with the original historic appearance, including the profile of the sash, sill, trim, window plane relative to the building wall plane, light pattern, glass color, profile of mullions and muntins, and color.

Finding 14: The proposed windows are consistent with the original historic appearance of the existing wood windows including the profile of the mullions and light pattern. However, as noted in Finding 3, they do not retain the historic material. Staff finds the criterion is met.

16. Doors. Doors shall be painted or stained wood, fiberglass clad, or metal clad, or another material that is consistent with the original historic appearance.

Finding 15:

Garage: The applicant has not submitted information detailing the door on the garage replacement. Should the Historic Review Board approve the garage replacement, staff recommends an additional Condition of Approval specifying that the garage door meet this criterion.

18. Decks. Decks shall be located in rear yard or the portion of the side yard behind the front 50 percent of the primary structure.

Finding 16: The proposed rear porch addition is located in the rear yard. Staff finds the criterion is met.

B. Standards for accessory structures. The following standards apply to accessory structures on properties designated as historic resources in addition to the regulations in Chapter 34 CDC:

1. All accessory structures.

a. Location.

- 1) *Accessory structures in the Willamette Historic District are subject to the setback requirements of CDC 25.070(C)(1) through (4);*
 - 2) *Accessory structures on historic landmark properties must meet the setback requirements of the underlying zone and Chapter 34 CDC;*
 - 3) *Detached accessory structures shall be in the rear yard; and*
 - 4) *Two-story accessory structures shall be at least 10 feet from the house; and one-story accessory structures shall be at least three feet from the house.*
- b. Height. Accessory structures in the Willamette Historic District are subject to CDC 25.070(C)(7). Accessory structures on historic landmark properties must meet the height requirements of the underlying zone and Chapter 34 CDC.*

Finding 17: See Findings 18 and 19, the criteria are met for the garage addition.

25.070 ADDITIONAL STANDARDS APPLICABLE TO HISTORIC DISTRICTS

This section provides additional standards that are applicable to properties within a historic district.

A. Standards for alterations and additions.

1. *Compatibility with nearby context. Alterations and additions shall be:*
 - a. *Compatible in scale and mass to adjacent properties; and*
 - b. *Constructed such that they maintain the privacy of the residents of adjacent properties through window placement, orientation or landscaping.*

Finding 18:

Rear dormer: The addition to the rear dormer is small and does not increase the height of the structure. It is minimally more visible to the adjacent property owners.

Garage: The proposed garage replacement utilizes the existing side wall of the garage, which is close to the adjacent property. The replacement nearly doubles the square footage of the garage from 468 square feet to 910 square feet. This is much larger than most garages in the historic district. In 2009, the adjacent property owner added a 560 square foot ADU to their existing garage; however, it has greater setbacks and is minimally visible from the public right-of-way. In contrast, the proposed garage replacement is visible from the right-of-way. Height restrictions and existing landscaping provide a vegetative screen so that the garage would be minimally visible to the adjacent neighbors.

Staff finds that the criterion is met.

C. Willamette Historic District general design standards. This subsection applies only to alterations and additions, new construction, and accessory structure construction of residential and historically residential properties in the Willamette Historic District. Other buildings are subject to the requirements in Chapter 58 CDC. Dimensional and other requirements of the underlying zone, as applicable, shall apply.

2. *Side yard setback. Side yard setbacks shall be five feet, except:*
 - a. *Bays, porches and chimneys and other projections that are cumulatively no more than 20 percent of the overall respective building wall length may intrude 18 inches into the side yard setback; and*
 - b. *One story accessory structures may be sited within three feet of the side property line and two story accessory structures shall be a minimum of 15 feet from the side property line.*

Finding 19:

Garage: The existing garage appears to be at least three feet from the side property line and the proposal for replacement would extend the structure along this line. If the Historic Review Board approves the garage replacement, staff recommends a Condition of Approval requiring a survey or hub and tack demonstrating that it meets the required setback.

Staff finds the criterion is met.

3. *Rear yard setback. The rear yard setback shall be a minimum of 20 feet, except for accessory structures, which may be sited to within three feet of the rear property lines.*

Finding 20: The subject property is on large lot and the proposed rear setback for the garage replacement will be in excess of the minimum 20 feet. Staff finds the criterion is met.

7. *Building height.*

- a. *Residential structures are limited to 28 feet in height. Cupolas and towers shall not exceed 50 feet in height.*
- b. *One story accessory structures shall not exceed a height of 15 feet. For the purposes of this chapter, any one story accessory structure over 15 feet is considered a two story structure.*
- c. *Two story accessory structures shall not exceed the maximum height of 23 feet as measured per Chapter 41 CDC.*
- d. *Accessory structures shall not exceed the height of the primary dwelling.*

Finding 21: The proposed garage alteration will not exceed 15 feet in height. Staff finds the criteria are met.

9. *Roof pitch. Roofs shall have a pitch of at least 6:12.*

Finding 22:

Rear Dormer: The pitch of the addition to the rear dormer is consistent with the original dormer. Staff finds that the criterion is met.

Garage: The proposed garage replacement would have a pitch of approximately 5:12. Staff finds that the criterion is not met.

10. *Garage access and parking areas.*

- a. *Garages shall be accessed from an alley, if present. No garage door may face or have access onto a street except when alley access is not available.*

Finding 23: There is not an alley present. Street access is permitted. The criterion is met.

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 24: 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 25: 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. Therefore, if the HRB finds that the property owner objected at the time the property was included in the District, state law would require a recommendation of removal, even if CDC 25.100(A), discussed in Finding 24, 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 26: 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 27: 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 28: 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 29: These criteria are not applicable.

EXHIBITS

**WEST LINN CITY COUNCIL
FINAL DECISION ON REMAND REQUEST AND FINDINGS**

AP-14-02/ZC-14-02

**IN THE MATTER OF A REQUEST TO REMAND
AP-14-02 AND ZC-14-02 TO THE HRB.**

I. Procedural History

In August 2014, the applicant completed applications for: 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 Historic Review Board (“HRB”) held a public hearing on October 21, 2014. At the hearing, staff provided a staff report and gave a presentation recommending that the HRB: 1) deny the applicant’s request to remove the property from the historic district, 2) approve the rear porch addition and dormer addition with conditions, and 3) deny the applicant’s proposals for window and garage replacement. During the hearing the applicant submitted additional photographic evidence to demonstrate that the windows had deteriorated, justifying replacement of the windows.

Following the public hearing, the HRB evaluated the applications and the criteria and: 1) recommended denial of applicant’s request to remove the property from the historic district, 2) approved the rear porch addition and dormer addition subject to conditions, 3) approved the window replacement, and 4) denied the garage replacement. The applicant appealed the final HRB decision denying the design review application for the rear dormer addition and the garage replacement, and the applicant requested in the appeal application that the Council send the decision back to the HRB. The recommendation on the zone change was consolidated with the design review appeal so that a hearing on both applications could be held at the same time.

The appellant appealed the design review decision on the grounds that the HRB erred by including the condition of approval related to the dormer because other conditions would have allowed approval of the dormer. The appellant also stated that they have “better information” to present to the HRB that may allow the HRB “to reach a different conclusion.” Appeal application, 3.

II. The Record

At the October 21, 2014, hearing the record was finalized. The record includes the file from AC-14-02 and ZC-14-02.

III. Limited Scope of Proceeding - Consideration of Remand

The scope of this proceeding is limited to the decision of whether these applications should be remanded to the Historic Review Board. An additional hearing on the merits will be scheduled for June if the appellant's remand request is not granted.

IV. Findings of Fact

- A. The Procedural History set forth above is true and correct.
- B. The appellant is Lonny and Kristine Webb.
- C. The Council finds that it has received all information necessary to make a decision based on the Agenda Report; public comment, if any; evidence in the whole record, including any exhibits received at the HRB hearing; and the findings below.

V. Findings and Determinations

An approval authority may remand a decision if it is satisfied that "testimony or other evidence could not have been presented or was not available at the hearing." CDC 99.290(C). The CDC also specifies five factors that an approval authority can consider and address when making a remand decision. These findings will address each of the factors.

A. CDC 99.290(C)(1): *The prejudice to parties.*

The appellant is also the applicant, and the appellant is requesting the remand. There is nothing to suggest that the appellant will be prejudiced if a remand is granted; in fact, it is more likely that the appellant would be prejudiced if the remand is *not* granted because the appellant has stated that there is additional evidence that is relevant to these applications. From the appeal application and the April 20, 2015, submitted on behalf of the applicant, it appears that there is additional testimony and evidence that was not available at the first evidentiary hearing, that the applicant would like to submit. The remand will also allow the HRB to make a specific recommendation on removal of the property from the historic district under ORS 197.772(3), which may require additional evidence to be submitted into the record.

The City will not be prejudiced because the appellant has granted an extension to allow the City an opportunity to complete its review of the applications. Staff supports the remand and finds that the parties will not be prejudiced by a remand.

B. CDC 99.290(C)(2): *The convenience or availability of evidence at the time of the initial hearing.*

From the appeal application and the April 20, 2015, letter submitted on behalf of the applicant, it appears that there is additional testimony and evidence that was not available at the first evidentiary hearing that the applicant would like to submit. The appellants believed that there would be an additional opportunity to present evidence and may not have submitted all relevant evidence at the October 21, 2014, hearing. The appeal application references additional evidence regarding the rear dormer addition that could have been presented to show alternative ways that the dormer could be modified to meet the criteria; however, those alternative designs were not presented at the time of the initial hearing.

Similarly, the appellants have obtained some relevant records to the zone change application that were not available at the time of the initial hearing. The City also has additional records that had not been located at the time of the initial hearing. Staff finds that there are records that had not been located and were unavailable at the time of the initial hearing.

C. *CDC 99.290(C)(3): The surprise to opposing parties.*

Staff finds that the remand would not be a surprise to opposing parties because staff is unaware of any opposing parties, and the appellant and the City are both in favor of a remand.

D. *CDC 99.290(C)(4): The date notice was given to other parties as to an attempt to admit.*

Public notice was mailed to the Willamette Neighborhood Association and to affected property owners on October 1, 2014, approximately 20 days prior to the hearing. Notice was also published in the newspaper and by posting the site on October 9, 2014, and October 10, 2014, respectively. If the remand is granted, the public hearing will be re-noticed in the same way, which will afford all interested parties the same opportunity to submit evidence. Staff finds that all parties had an opportunity to submit evidence, and that a remand hearing will provide an additional opportunity to admit evidence.

E. *CDC 99.290(C)(5): The competency, relevancy, and materiality of the proposed testimony or other evidence.*

Although the new evidence has not been received by the City, it appears from the appeal application and the April 20 letter that the appellants have evidence of other alternatives to the condition of approval regarding the rear dormer, as well as alternatives to the large garage. This evidence would be relevant and material to the HRB's decisions regarding the each of these decisions. In addition, relevant records related to the historic district designation have also

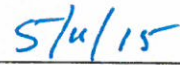
been obtained that may be material to the zone change decision. Staff finds that the types of records described here are relevant and material to the design review application and the zone change application.

VI. ORDER

The City Council concludes that the request for a remand of applications AP-14-02 and ZC-14-02 is justified to allow relevant and material evidence that was not presented or was not available at the October 21, 2014, to be submitted. Accordingly, based on the above Findings of Fact and conclusions of law, the appeal application, and the April 20 letter, the City Council orders a remand of AP-14-02 and ZC-14-02 to the Historic Review Board to allow additional evidence to be submitted on the rear dormer addition, garage replacement, and zone change.



Thomas Frank, Council President
WEST LINN CITY COUNCIL



DATE

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT <i>Sara Tavoronok</i>	PROJECT NO(S). <i>AP-14-02</i>	
NON-REFUNDABLE FEE(S) <i>400-</i>	REFUNDABLE DEPOSIT(S)	TOTAL <i>400-</i>

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input checked="" type="checkbox"/> Appeal and Review (AP) * | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Lot Line Adjustment (LLA) */** | <input type="checkbox"/> Time Extension * |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) */** | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address:

1344 14th St W Linn 97068

Assessor's Map No.: *31E02BC*

Tax Lot(s): *4500*

Total Land Area: *21,000 SF*

Brief Description of Proposal:

Appeal HRB decision relating to Garage & dormer decision

Applicant Name:
(please print)

Kristine + Lonny Webb

Phone: *503-333-2010*

Address:

1344 14th St

Email: *503-803-9361*

City State Zip:

W Linn

Knextreme@comcast.net

Owner Name (required):
(please print)

Kristine + Lonny Webb

Phone:

Same

Address:

West Linn OR 97068

Email:

City State Zip:

1344 14th St

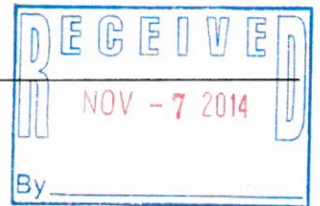
Consultant Name:
(please print)

Address:

City State Zip:

Phone:

Email:



- All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
- The owner/applicant or their representative should be present at all public hearings.
- A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application.**
One (1) complete set of digital application materials must also be submitted on CD in PDF format.
If large sets of plans are required in application please submit only two sets.

* No CD required / ** Only one hard-copy set needed

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

Kulmb
Applicant's signature

11/3/14
Date

Kulmb
Owner's signature (required)

11/1/14
Date

- 1. Reference to application # DR-14-D2
2C-14-02
- 2. We have standing to seek review as the applicant in this proceeding
- 3. a. HRB erred by finding the replacement garage does not meet CDC 25.060A1, CDC 25.060A2, CDC 25.060A5, 25.060A6 CDC 25.060A8

b. With respect to "approved w/ conditions" to the former, HRB erred by finding that ^{the} only condition of the application ~~the~~ is that all our criteria to be met was ~~the~~ proposed set back of the former as set forth in ~~the~~ staff ~~report~~ recommendation.

-also a procedural irregularity ~~the~~ HRB did not let ~~the~~ record to be left open despite a written request was presented by applicant at the time of ~~meeting~~ hearing.

Q

These are the only issues we are asking to be appealed. the ~~roof~~ garage + dormer decision.

- I am not asking for the record to be left open or to be reopened but I'm asking for the city council to send the decision back to the HRB

We felt we didn't have the proper understanding of when, how & what to present. It was difficult to hear and understand the procedure and we feel if we had the chance to express ourselves ~~and~~ we would have presented better information and been able to reach a different conclusion. It was very confusing. despite the formal process.

We had expected the HRB to discuss alternatives and discuss design options that would have had a better outcome for us and met the criteria of the HRB and address.

Please accept our appeal.



Hathaway Koback
Connors LLP

520 SW Yamhill St.
Suite 235
Portland, OR 97204

Christopher P. Koback
503-205-8400 main
503-205-8404 direct

chriskoback@hkcllp.com

April 20, 2015

FIRST CLASS MAIL

Megan Thornton
Assistant City Attorney
22500 Salamo Road
West Linn, OR 97068

Re: *Lonny and Kristine Webb; File Nos. DR-14-02 and ZC-14-02*

Dear Megan:

This letter is to confirm our discussion this week. The above matters are currently scheduled to be heard by City Council in an on-the-record proceeding on May 11, 2015. The DR-14-02 matter is an appeal of a decision by the Historic Review Board ("HRB"). The ZC-14-02 matter is a review of a recommendation from HRB.

I explained a few problems my clients had understanding the process and what they were supposed to introduce at the HRB proceedings. In the DR-14-02 case, they understood that they would have a subsequent opportunity to present evidence and alternatives in response to input from HRB. In the ZC-14-02 matter, staff stated in a report that there was no evidence of an owner objection in 1983, but the records of those proceedings were not available to my client. We still do not understand how the planner could have made such a statement without any records, but it clearly disadvantaged my clients. We have since taken steps with your office to obtain some of the relevant records.

Another significant complication is that in October 2013, my client made a written demand under ORS 197.772(3) that they be allowed to remove the current historic designation on their property. As far as we can tell, the City never acted upon that demand. I believe that you and I agree that that demand is not encompassed in my clients' requested zone change under CDC 25.100 because the relevant criteria is different. CDC 25.100 has one element that is not required under ORS 197.772(3).

For the reasons set forth above, you and I discussed the merits of jointly seeking a remand from City Council on May 11, 2015. I can confirm that my clients desire a remand and agree that the May 11, 2015 hearing should be limited to the question of whether the Council will order a remand. My client's request for the remand is based upon your statement that on remand, the City will include their October 2013 demand under ORS 197.772(3) that the historic designation on their property be removed.

Page Two
April 20, 2015

My clients understand that if a remand is ordered, the City will need a further extension on the 120 day period. They hereby grant an extension to August 13, 2015.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP



Christopher P. Koback

CPK/pl