

Memo

To: Sara Javoronok, Associate Planner, West Linn
West Linn Historic Regulations Technical Committee

From: Jeff Joslin and Rick Michaelson

Date: April 3, 2012

Re: **West Linn Standards and Guidelines Concept**

Introduction

KLK Consulting, LLC has been asked to review West Linn's regulation of historic regulations. Specifically, we are initially scoped with providing the following elements at this time:

1. Recommend a regulatory scheme consistent with West Linn's historic property goals.
2. Identify the major issues to be covered in the final deliverable
3. Identify which issues are best dealt with as standards, and which as guidelines.
4. Describe the format and organization of the final standards/guidelines deliverable

These questions will be addressed following general observations about the current state of West Linn's regulation.

General

As part of this assessment effort, West Linn's regulations have been assessed alongside numerous others about the State. While West Linn's approach is more detailed and evolved than many, there are some aspects of the Chapter that are challenging to interpret, and presumably challenging to apply. These deficiencies have a number of prospective results:

- They weaken the interest in, and support of, preservation in the City.
- They incent some to perform regulated work without benefit of review.
- They dis-incent some who might have an interest in preserving existing structures or otherwise developing within the district(s).
- They create the potential for appeals of City processes, which serves neither City, the public, or preservation in general.

Chapter 25 does a particularly good job of identifying the intent and purpose of the chapter. There are aspects of the Chapter that are highly detailed and prescriptive, and

function as standards. There are others that are clearly discretionary and require judgment. And there are yet others that blur or combine this distinction. As the Code is laid out, these different approaches are somewhat randomly comingled, which adds to the potential for confusion and challenge, even for those with the best intentions. We've provided a keyed assessment of Chapter to help fully illustrate these qualities.

The re-organization of the regulation through this project is anticipated to help in a number of respects:

- The distinction between standards and discretionary criteria will be clear.
- Both the standards and guidelines resulting will better reflect the current expectations of the public and the City.
- Discretionary regulation (guidelines, which require judgement to implement) will allow the expectations of the public and the City to evolve over time, without the need to continuously revise the Code.
- The process through which to apply and receive approval will be more legible.
- Discretionary criteria will be better supported with descriptions and graphics to provide greater guidance and predictability for all users, both internal (the City) and external (the public).
- Better-delineated regulation will be applicable with greater efficiency.
- Anticipated results will be better understood earlier, resulting in less costs for all, and better projects overall.
- The resulting procedural clarity will be defensible, should there be procedural or substantive appeals in the future.

Element 1:

Recommend a regulatory scheme consistent with West Linn's historic property goals.

West Linn has a rich history, a highly intact primary historic district, and a profound commitment to preserving and enhancing its historic resources. The current Code is testament to that commitment. As issues have come up regarding potential impacts to resources, extensive Code has been crafted to address those issues. Code language from different eras has remained as the Code has continued to evolve. This is true in terms of both the physical aspects of review, and those pertaining to procedure. However, it also explains some of the structural problems with the current chapter.

The procedures in Chapter 25 are broad, and in some cases discretionary. For example: the Planning Director has much discretion, without much Code guidance, in determining what level of review is required. This is another aspect that results in uncertainty and unpredictability in the process.

What's recommended to address both of these aspects (criteria, and process) is that the code be re-organized and clarified in order to allow it to be more readily understood and applied.

Regulations

Regulations will be clearly distinguishable in terms of prescriptive standards (where no discretion is applied) and guidelines (which require a degree of interpretation and judgment).

Standards will be organized by zone, use, and type. Parallel structure for various sections will be used to help render them more understandable and readily applicable.

Guidelines will be developed in a form that clearly defines the portions that are instructive from those that are the specific approval criteria.

Procedures

Thresholds are needed to clearly define those elements that are subject to review, and those that are exempt.

Thresholds will also be developed that defined what level of review is to be required for different degrees of development/redevelopment.

A process and criteria for the review of exceptions to standards and/or guidelines will be defined.

The relationship of the historic regulations to other City regulations will be defined.

Application requirements will be further developed and clearly delineated.

Specific steps and timelines for respective process will be clearly defined.

Element 2:

Identify the major issues to be covered in the final deliverable

The major issues identified thus-far to be addressed in the final deliverable include the following:

Procedural

Processes, timelines, review bodies, thresholds, and application requirements need to be clearly established.

Minor projects require too much process.

Review processes are too long and too expensive

Minor projects are not being consistently addressed.

Too much process for minor elements may be costly and counter-productive to the overall support of preservation.

There needs to be a balancing of good design assurances, and flexibility

Substantive

Massing and style, as well as more minor elements (materials, windows, details), are all essential elements that must be specifically addressed.

ADUs and accessory structures are of particular concern.

Street-facing elements are critical, but all other facades must be addressed as well.

Enforcement is key to successful implementation, and has been deficient.

Sustainable approaches must be given consideration.

Element 3:

Identify which issues are best dealt with as standards, and which as guidelines.

Standards

Prescriptive standards are an effective means to address elements such as height, massing, and setbacks from property lines in order to ensure new construction shares attributes typical to a particular area. Standards will be developed for these elements that can be defined in a measurable (clear and objective) manner in which new construction can take shape. Standards that provide across-the-board clarity for what can and cannot be built in a historic district are objective and highly effective.

Design Guidelines

The application of design guidelines blends guidance and rules. Guidelines are aspirational and descriptive. Guidelines are discretionary in nature since judgment is required to determine whether aspects of a project are consistent with their intent. Guidelines will be mandatory approval criteria applicants must meet. Design guidelines therefore require more expertise to apply on the part of city staff, project designers, and other regulatory decision makers. However, it is this application of expertise and judgment that is their strength. Guidelines demand more of projects, but provide for flexibility in their interpretation. In order to balance this flexibility while providing projects certainty and predictability, guidelines must be well crafted.

Guidelines must consist of simple and clear wording that can be understood and applied by professionals and the public alike. Good design guidelines define and describe their purpose. The guideline language itself must be directive in a manner that is legally defensible.

Element 4:

Describe the format and organization of the final standards/guidelines deliverable

It's desirable that the format and organization of the final deliverable be readily incorporated as an implementable Code Chapter in way that's understandable in the context of the Code Structure. However, there are likely some changes to the structure and Chapters that will likely be modified as the project in advance to make the Code more useful and accessible. The basic organization currently includes the following:

- PURPOSE
- APPLICABILITY
- PERMITTED USES
- CLASSIFICATIONS AND BOUNDARY DELINEATION
- CRITERIA FOR HISTORIC DISTRICT DESIGNATION
- CRITERIA FOR EXTERIOR ALTERATION AND NEW CONSTRUCTION
- APPROVAL CRITERIA FOR REMODELS, NEW HOME AND ACCESSORY STRUCTURE CONSTRUCTION
- ADDITIONAL ARCHITECTURAL SPECIFICS FOR NEW CONSTRUCTION AND REMODELING
- COMMERCIAL REMODELS AND NEW CONSTRUCTION
- MINOR ALTERATIONS AND MAINTENANCE
- PARTITIONS AND SUBDIVISIONS
- BUILDING CODE REQUIREMENTS
- DEMOLITION
- APPLICATION AND SUBMITTAL REQUIREMENTS
- DESIGN MODIFICATION PROCEDURES

As stated, these sections will be substantially re-written and clarified to render them more understandable, and clearly segregate the non-discretionary from the discretionary approaches.

There will also be new sections. These will likely include:

- Exemptions from Historic Design Review
- When Historic Design Review is Required
- Thresholds for Staff Review Process versus Board Review

The formal (regulatory) Design Guidelines can be incorporated directly into the Code, but we believe there may also want to be a freestanding document (not embedded in the Code itself), referred to by the Code. This will serve a number of purposes:

- The document will incorporate general educative information not suitable for the Code.
- The guidelines will take a substantially different form from the code, in order to help guide the public in their use of the guidelines.
- As the examples used in the guidelines might want to change over time, such changes can occur without a legislative process and decision by the Board and/or Council.

It's intended that guidelines will achieve the following:

- Provide context for the guidelines within the specific historic district by including a clear background statement.
- Define clearly what the specific criteria are, distinct from the rest of the text.
- Provide and describe various ways in which the guidelines might be met, including illustrations and discussions of community goals.
- Use district-specific photographic examples from both the past and the present.
- Employ simple understandable language, including definitions and explanations.
- Educate through detailed explanation and accurate historical information.

Conclusion

We are pleased to be helping West Linn with this significant and timely effort. Significant, because the historic resources are key and defining aspects of West Linn's character and rich physical environment. Timely, as the best time to address such matters is when public interest is high, Board and Council support is clear, the quality and dedication of staff is superlative, and economic pressure is minimal.

We look forward to working with you further to advance this effort, and hope you find the direction in this memo informative and appropriate.