May 16, 1997

Dan Drentlaw
Planning Director
City of West Linn

Re: Withdrawl from Historic Distric

Dear Mr. Drentlaw:

I, Michelle Blanchard and my husband, Laird Blanchard are the owners of the property located on 1293 SE 14th / cross street 4th.

Due to future plans of adding on to our home and by the suggestion from the planning department, we would like to withdraw from the historic distric of Willamette.

If you have any question please feel free to call myself or my husband at 6504393. Thank you for your time and consideration.

Sincerely,

Michelle Blanchard & Laird Blanchard

FILE COPY

May 19, 1997

Laird and Michele Blanchard
1293 14th Street
West Linn, OR 97068

Dear Mr. and Mrs. Blanchard:

This letter is to confirm the removal of your property from the Willamette Historic District. The Oregon State Legislature modified historic district provisions under Senate Bill 588, Section 21 to allow non-national register structures to be withdrawn from the district at the property owner's request. The written request is submitted to the Planning Director so that the property's removal from the district can be duly noted and recorded.

Please call me or Peter Spir if you have any questions regarding this matter.

Sincerely,

Dan Drentlaw
Planning Director

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CONTINUED

Measure No. 56

House Bill 2515—Referred to the Electorate of Oregon by the 1997 Legislature to be voted on at the General Election, November 3, 1998.

BALLOT TITLE

56 EXPANDS NOTICE TO LANDOWNERS REGARDING CHANGES TO LAND USE LAWS

RESULT OF "YES" VOTE: "Yes" vote requires governments to mail notice to landowners regarding changes to land use laws.

RESULT OF "NO" VOTE: "No" vote retains current notice requirements, which do not require mailed notice to landowners.

SUMMARY: Requires counties and cities to mail notices to landowners regarding changes to state, local, or metropolitan service district land use laws and regulations that limit or prohibit uses currently allowed on the landowners' property. Requires state government to reimburse counties and cities for costs of mailing notice resulting from changes to state statutes or administrative rules. Requires metropolitan service districts to reimburse counties and cities for costs of mailing notice resulting from changes in district land use regulations. Prescribes form of each notice.

ESTIMATE OF FINANCIAL IMPACT: State government expenditures are estimated to be $2,040,000 annually in notice costs. Local government expenditures, including those of the Metropolitan Service District, are estimated to be $1,547,000 a year.

This estimate is based on 7,000 land use actions per year, of which 3,900 would require some notice under this measure. Actual expenditures may vary based on such variables as the total number of land use actions, the number of actions included in each notice and the costs per notice.

TEXT OF MEASURE

AN ACT

Relating to notice of proposed land use action by local government; creating new provisions; amending ORS 215.503; repealing ORS 215.508; and providing that this Act shall be referred to the people for their approval or rejection.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 215.503 is amended to read:

215.503. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) [*Except as otherwise provided by county charter:*]

[*(a)*] All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.

[*(b)*] **(3) Except as provided in subsection (6) of this section and** in addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

[*(c)*] **(4)** In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

[*(3)*] **(5)** An additional individual notice of land use change required by subsection [*(2)(b) or (c)*] **(3) or (4)** of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. [*The notice shall be mailed by first class mail to the affected owner at the address shown on the last available complete tax assessment roll.*] **The notice shall:**

(a) Contain substantially the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:

This is to notify you that (governing body of the county) has proposed a land use regulation that will affect the permissible uses of your land.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (governing body) will hold a public hearing regarding the adoption of Ordinance Number ______. The (governing body) has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number ______ is available for inspection at the __________ County Courthouse located at __________. A copy of Ordinance Number ______ also is available for purchase at a cost of ______.

For additional information concerning Ordinance Number ______, you may call the (governing body) Planning Department at ___-______.

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(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by the governing body of a county pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628 to 197.636, the governing body of the county shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment will affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:

This is to notify you that (governing body of the county) has proposed a land use that will affect the permissible uses of your land.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (governing body) has proposed Ordinance Number ______. (Governing Body) has determined that the adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number ______ will become effective on (date).

Ordinance Number ______ is available for inspection at the __________ County Courthouse located at __________. A copy of Ordinance Number ______ also is available for purchase at a cost of ______.

For additional information concerning Ordinance Number ______, you may call the (governing body) Planning Department at ___-______.

CONTINUED

Measure No. 56

(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, the governing body of a county may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the governing body of the county:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the county resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under section 5 of this 1997 Act, or resulting from a decision of a court of competent jurisdiction.

(11) The governing body of the county is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse the governing body of a county for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section.

SECTION 2. Section 3 of this Act is added to and made a part of ORS 227.160 to 227.185.

SECTION 3. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

(3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the city and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:

This is to notify you that (city) has proposed a land use regulation that will affect the permissible uses of your land.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (city) will hold a public hearing regarding the adoption of Ordinance Number ______. The (city) has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number ______ is available for inspection at the ________ City Hall located at ________. A copy of Ordinance Number ______ also is available for purchase at a cost of ______.

For additional information concerning Ordinance Number ______, you may call the (city) Planning Department at ___-______.

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(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628 to 197.636, the city shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment will affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:

This is to notify you that (city) has proposed a land use that will affect the permissible uses of your land.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (city) has proposed Ordinance Number ______. (City) has determined that the adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number ______ will become effective on (date).

Ordinance Number ______ is available for inspection at the ________ City Hall located at ________. A copy of Ordinance Number ______ also is available for purchase at a cost of ______.

For additional information concerning Ordinance Number ______, you may call the (city) Planning Department at ___-______.

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(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the city:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the city resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under section 5 of this 1997 Act, or resulting from a court of competent jurisdiction.

(11) The governing body of the city is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse a city for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section.

SECTION 4. Section 5 of this Act is added to and made a part of ORS chapter 197.

CONTINUED

Measure No. 56

SECTION 5. (1) At least 50 days prior to the effective date of a new or amended administrative rule of the Land Conservation and Development Commission or a new or amended land use planning statute enacted by the Legislative Assembly, as described in subsection (3) of this section, the Department of Land Conservation and Development shall cause a written notice of land use change, in substantially the form described in subsection (2) of this section, to be mailed to every local government that exercises land use planning authority under ORS 197.175.

(2) The notice shall contain substantially the following language in the body of the notice:

(a) On (date of rule adoption), the Land Conservation and Development Commission adopted administrative rule (number). The commission has determined that this rule will affect the permissible uses of property in your jurisdiction and may reduce the value of subject property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of ______.

For additional information, contact the Department of Land Conservation and Development at (telephone number); or

(b) On (date of enactment) the Legislative Assembly adopted (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) will affect the permissible uses of property in your jurisdiction and may reduce the value of subject property.

A copy of (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of ______.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

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(3) The provisions of this section apply to all statutes and administrative rules of the Land Conservation and Development Commission that limit or prohibit otherwise permissible land uses.

(4) A local government that receives notice under this section shall cause a copy of the notice to be mailed to every owner of real property that will be rezoned as a result of the adoption or enactment of the rule or statute. Notice to a landowner under this subsection shall be mailed at least 30 days prior to the effective date of the subject rule or statute.

(5) The department shall reimburse the local government for all usual and reasonable costs of providing notice required under subsection (4) of this section.

SECTION 6. Section 7 of this Act is added to and made a part of ORS chapter 268.

SECTION 7. (1) At least 50 days prior to the effective date of a new or amended land use planning ordinance of a metropolitan service district, the district shall cause written notice of the new or amended ordinance to be mailed to every government located within the district that exercises land use planning authority under ORS 197.175.

(2) The notice described in this section shall contain substantially the following language in the body of the notice:

On (date of ordinance adoption), the Metropolitan Service District adopted ordinance (number). The district has determined that this ordinance will affect the permissible uses of property in your jurisdiction and may reduce the value of subject property.

Ordinance (number) is available for inspection at the Metropolitan Service District offices located at (address). A copy of the ordinance (number) also is available for purchase at a cost of ______.

For additional information, contact the Metropolitan Service District at (telephone number).

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(3) A local government that receives notice under this section shall cause a copy of the notice to be mailed to every owner of real property that will be rezoned as a result of the adoption of the ordinance. Notice to a landowner under this subsection shall be mailed at least 30 days prior to the effective date of the subject ordinance.

(4) The district shall reimburse the local government for all usual and reasonable costs of providing notice required under subsection (3) of this section.

SECTION 8. ORS 215.508 is repealed.

SECTION 9. This Act shall be submitted to the people for their approval or rejection at the next regular general election held throughout this state.

NOTE: **Boldfaced** type indicates new language; [*brackets and italic*] type indicates deletions or comments.

EXPLANATORY STATEMENT

This measure requires cities and counties to provide individual written notice to every landowner when the city or county proposes a new or amended zoning ordinance if the proposed ordinance will limit or prohibit the uses of the landowner's property. This notice must be mailed to the landowner between 20 and 40 days prior to a local hearing on the proposed zoning ordinance. The measure requires individual notice for proposed changes to a city or county comprehensive land use plan that will require changes to existing zoning designations.

The measure also requires the Department of Land Conservation and Development to notify cities and counties when the legislature enacts a new law or the department adopts a new administrative rule that limits or prohibits permissible land uses. Cities and counties that receive notice from the department are required to forward a copy of the notice to each landowner affected by the new rule or statute.

The measure also requires that individual written notice be provided to every landowner affected by a new or amended land use planning ordinance adopted by a metropolitan service district (Metro) if the new or amended ordinance will require changes to local zoning designations in a manner that limits or restricts land uses in the affected area.

The Department of Land Conservation and Development is required to reimburse cities and counties for all costs of providing notice of changes in state land use statutes or state agency rules regulating land use.

Committee Members:	Appointed By:
Senator Veral Tarno	President of the Senate
Representative Leslie Lewis	Speaker of the House
Representative Chris Beck	Secretary of State
Arthur J. Schlack	Secretary of State
Roy Burns	Members of the Committee

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)

NO ARGUMENTS IN OPPOSITION TO THIS BALLOT MEASURE WERE FILED WITH THE SECRETARY OF STATE.

CONTINUED

Measure No. 56

LEGISLATIVE ARGUMENT IN SUPPORT

A "Yes" vote on Ballot Measure 56 will:

Ensure that property owners have a "right to know" and receive notice when adverse zoning changes the allowable use of your property

For many Oregonians, home and land are the most valuable property owned. Currently, local governments are not required to provide notice to individual landowners when comprehensive plan or land use and zoning changes affect allowable uses of their land. Restrictions on allowable uses often have tremendous financial effects on landowners. BM 56 requires written notice to affected landowners prior to the effective date of state, local or metropolitan service district changes in land use and zoning regulations.

Save taxpayer money and needless lawsuits

Each year, lawsuits are filed by taxpayers against state and local governments as a result of comprehensive plan or land use and zoning changes. These lawsuits costs individual citizens and local governments thousands of dollars. BM 56 will reduce these lawsuits by providing people with information about proposed land use changes and an opportunity to react to those changes before they take effect.

Increase citizen involvement in and governmental accountability for land use planning

Currently, counties are required to publish notice of planned changes in a local newspaper, and affected landowners may learn of land use changes only after the decision has been made. Individual notice prior to the proposed change means landowners can participate in the decision-making process. Government benefits from greater citizen involvement.

Provide funding to local governments for the costs of mandated notice

When proposed changes in the comprehensive plan or land use and zoning ordinances are mandated by the state or a metropolitan service district, the state or district must reimburse affected cities and counties for the costs of notice incurred.

Provide cost effective options for individual notice

BM 56 authorizes local governments to reduce costs associated with individual written notice to landowners by using bulk mail or including notice in property tax statements.

Committee Members:	Appointed By:
Senator Veral Tarno	President of the Senate
Representative Mike Fahey	Speaker of the House
Representative Leslie Lewis	Speaker of the House

(This Joint Legislative Committee was appointed to provide the legislative argument in support of the ballot measure pursuant to ORS 251.245.)

ARGUMENT IN FAVOR

VOTE YES ON MEASURE 56

Ask yourself this question:

If your state or local government was considering changing the zoning laws on your land...
Changes that would affect the value of your land...
Changes that would restrict what you could do on your own property...
Wouldn't you want to know about it?

That's all Measure 56 requires...
A postcard to inform you in writing that the rules on your land are changing.
Nothing more, nothing less.

It's fair...It's good government...It's long overdue

Please Vote Yes on Measure 56.

If you would like more information on Ballot Measure 56, please call Citizens For an Informed Public at (503) 620-0258.

(This information furnished by David Hunnicutt, Citizens for An Informed Public.)

(This space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

CONTINUED

Measure No. 56

ARGUMENT IN FAVOR

SUPPORT LOCAL PLANNING AND CITIZEN INVOLVEMENT

The Oregon Association of Realtors® asks you to Vote Yes on Ballot Measure 56.

We believe that local citizens should be allowed to participate in designing their own communities. Too often, important zoning changes are made in communities and neighborhoods, without citizen involvement.

But how can citizens be involved if they don't know that changes are being proposed? Ballot Measure 56 will help fix this problem.

Ballot Measure 56 will ensure that you receive a notice of proposed changes to the zoning laws before the uses on your property are restricted or eliminated.

In most instances, notices could be included in the yearly tax statement, eliminating the cost of a separate mailing.

Too often Oregonians purchase property unaware of zoning changes made by local government. Proper notification will help reduce expensive litigation.

That's why we support Ballot Measure 56, and urge you to Vote Yes on this important measure.

(This information furnished by John F. Scott, President, Oregon Association of Realtors.)

(This space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

ARGUMENT IN FAVOR

I lost my land and life savings.
And I didn't even know it was happening.

It started in 1986, when I bought 40 acres of land in Central Oregon
Filled with stone, sage and juniper, the land was divided into three buildable lots.
I planned to build my retirement home there one day.

But my life changed on a dime one day when I was injured on the job and was unable to work as a heavy equipment operator.

A year later, I put one of the parcels up for sale,
hoping to use the proceeds to pay for job re-training and living expenses while I continued to look for work.

Within days, I had an offer of $150,000 for just one of the parcels. But I soon learned that the year before, the rules governing my land had changed, and I could no longer build on my property
My land is now worthless.

I was never notified the rules governing my property had changed.
I was never notified that I could no longer build on my land.
I never had the chance to register my concerns or complaints.
I never had the chance to be involved in the process that stripped my land of all its value.

That's why I support Measure 56.

All Measure 56 does is make sure state and local governments notify landowners in writing that changes to their land are being considered, that the use of their property may be restricted.
It's that simple.

All I wanted was a chance to state my case.
If Measure 56 had been law back then, I would have had the chance to speak my piece.

Please ... Vote Yes on Measure 56
Protect Your Land.
Protect Your Future.

Jim Watts

(This information furnished by Jim Watts.)

(This space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

CONTINUED

Measure No. 56

ARGUMENT IN FAVOR

The Oregon State Grange Asks You to Vote Yes on Measure 56

The Oregon State Grange is the largest grassroots, rural-based fraternal organization in Oregon.

Grange members throughout Oregon support Ballot Measure 56. Ballot Measure 56 will increase citizen involvement and participation with state and local government, and will cut down on needless litigation and taxpayer spending.

An Ounce Of Prevention Is Worth A Pound Of Cure!

Every year, average Oregon landowners spend thousands of dollars in legal fees to fix zoning mistakes made by state and local governments. At this same time, state and local governments spend thousands of tax dollars in these cases.

In many instances, these mistakes could have been avoided for the cost of a postcard. A postcard which informed the landowner that the zoning laws on his property were being changed, and giving the landowner a telephone number to call for additional information.

The cost to mail these postcards is less than twenty-five cents, but the savings to the landowner and to state and local governments can be tremendous.

Is a simple postcard too much to ask for?

We don't think so, and neither should you.

Do we as taxpayers have a right to know when government is changing the zoning of our property?

Yes, of course we do, and by voting yes we can reclaim that right!

Ballot Measure 56 is about fairness and good government. Vote "Yes" on Measure 56.

(This information furnished by Edward L. Luttrell, Oregon State Grange.)

(This space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

ARGUMENT IN FAVOR

The Oregon AFL-CIO urges you to vote yes on Ballot Measure 56.

IT'S ALL ABOUT FAIRNESS

We support Measure 56 because it's fair and simple.

Like all other Oregonians, our members deserve to know that laws are being changed that will affect their homes and property. They deserve the opportunity to participate with their elected officials in creating the new rules and regulations. They deserve the right to be involved in the decision making process.

Ballot Measure 56 will help guarantee these rights. Written notification of pending changes to your property gives everyone the right to be a part of the process.

We appreciate the hard work and efforts of our state and local governments.

But our system won't work unless all Oregonians are entitled to be heard.

That is why Ballot Measure 56 is important.

Please Vote Yes on Ballot Measure 56.

Sincerely,

Irv Fletcher
President, Oregon AFL-CIO

(This information furnished by Irv Fletcher, President, Oregon AFL-CIO.)

(This space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

CONTINUED

Measure No. 56

ARGUMENT IN FAVOR

From the Desk of State Senator Veral Tarno

Dear Voter:

I ask you to join me in voting "Yes" on Ballot Measure 56.

Ballot Measure 56 is a simple measure. It requires state and local governments to notify landowners in writing that changes to zoning laws affecting their land are being considered.

I believe very strongly in Ballot Measure 56. As a member of the Oregon legislature, I believe that we have an obligation to every Oregonian to keep you informed of changes we make that will affect your home and property. The same goes for state agencies and local governments.

As the Chairman of the Senate Water and Land Use Committee, I heard all of the arguments concerning Ballot Measure 56. During this time, not one person argued that it was a bad idea to notify landowners of changes that affect their property. Not one.

If we are going to change the law, the least we can do is let you know about it.

Please join me in voting "Yes" on Measure 56.

Very Truly Yours,

Veral Tarno
State Senator, District 24

(This information furnished by Senator Veral E. Tarno.)

(This space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

ARGUMENT IN FAVOR

Oregonians In Action is an organization representing individual home and landowners. Oregonians In Action asks that you Vote Yes on Ballot Measure 56, a measure designed to encourage citizen participation and opens lines of communication between landowners and state and local government.

PROTECT YOUR HOME AND LAND

If you are like most Oregonians, your home and your land are the most valuable asset you own. Ballot Measure 56 will protect the value of your home and land by requiring that you receive a postcard before the state or local government restricts the uses that you can make on you property.

DOESN'T GOVERNMENT ALREADY DO THAT?

Under our current laws, state and local governments are not required to notify you before they make changes to their zoning laws that affect your property. This is unfair. All of us have the right to know that changes are being proposed that will affect what we can do with our property.

BALLOT MEASURE 56 REQUIRES MAILED NOTICE

Ballot Measure 56 does not change any zoning laws.

It doesn't make it easier or more difficult to use your property.

What it does, however, is tremendously important. Ballot Measure 56 ensures that you are informed of changes to zoning laws that affect your property, before the changes take effect. If you are notified, you can participate in any meetings on the proposed zoning changes, and you can join together with friends and neighbors who share your concerns.

Ballot Measure 56 is about fairness.
It's about citizen involvement.
It's about good government.

If you would like more information about Ballot Measure 56, please contact Oregonians In Action at (503) 620-0258.

Vote Yes on Ballot Measure 56.

(This information furnished by Larry George, Oregonians In Action.)

(This space purchased for $300 in accordance with ORS 251.255.)

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Measure No. 56

ARGUMENT IN FAVOR

Goal #1 of Oregon's Land Use Planning System is Citizen Involvement.

The founders of our land use planning system believed in the preservation of our resource lands. In order to achieve success, they granted the government power to influence the way in which people use their land. Their intention was to have those who owned the land work in partnership with the government for the benefit of all.

Oftentimes it is argued that involving the public is too cumbersome and takes too much time. **Measure 56 will help put an end to the rush decisions made by government officials behind closed doors.** Measure 56 was designed precisely to involve those citizens in our land use process who will be most affected by the decisions of our government.

Measure 56 merely states that if our government wishes to alter the way in which we currently are able to use our property, they must inform us. Period. **Simple, logical, reasonable.** That is what Measure 56 really is. A plain and simple, common sense adjustment to help citizens become involved and knowledgeable partners in our land use planning system.

Please join me in helping pass Measure 56, the cornerstone necessary to make Goal #1 of our planning system something more than mere words on a piece of paper. Citizen involvement is something for which we should strive in all areas of government. Make it part of our land use system.

Vote Yes on Measure 56

Senator Thomas Wilde
Portland

(This information furnished by Senator Thomas Wilde.)

(This space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

ARGUMENT IN FAVOR

Twenty years ago, I spent $60,000 on a 2 acre parcel of land in Multnomah County. Today, that land is worthless.

That is the reason I support Measure 56 - the landowner notification measure.

Back then, $60,000 was a lot of money for anyone to spend, especially for a recently retired Army Major.

I did everything I could to be careful before I bought the property. I checked with the county and made sure that they would let me build a home there. I was assured that I could.

Three years ago, I decided to sell my land.
It was then I discovered that the county had changed the zoning on my property without my knowledge
It was then that I learned for the first time I could no longer build a home on the land I had owned for almost two decades.

Worst of all, I was never notified the rules on my land had changed.
It would have been a simple matter to send me a postcard telling me the county was considering changing the rules.

- **I deserved the right to know the county was changing the zoning on my property.**
- **I deserved the right to participate in the hearings when the county rezoned my property.**
- **But I didn't get that right...and now my land is worthless.**

Vote YES on 56

Measure 56 will guarantee that every landowner receives written notice if the rules governing their land are about to change. It will guarantee your right to be involved when government is making decisions about your property.

I'm not a politician...and I don't represent any special interest groups. I'm just an average Oregon who fell victim to an unfair practice.

Ballot Measure 56 is about fairness.
That's why I support it.
I hope you will too.

Sincerely,

Bill Hackett

(This information furnished by Bill Hackett.)

(This space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

Chapter 348 Oregon Laws 1999
Session Law

AN ACT

HB 2282

Relating to conforming changes in certain land use statutes; creating new provisions; and amending ORS 92.044, 92.046, 197.005, 197.175, 197.274, 197.314, 197.380, 197.625, 197.825, 197.830, 197.840, 215.503 and 215.780 and section 3, chapter 1, Oregon Laws 1999 (referred House Bill 2515 (1997)).

Be It Enacted by the People of the State of Oregon:

<u>**SECTION 1.**</u> ORS 197.005 is amended to read:
197.005. The Legislative Assembly finds that:
(1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.
(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, city, county and special district land conservation and development plans for compliance with goals.
(3) Except as otherwise provided in subsection (4) of this section, cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.
(4) The promotion of coordinated statewide land conservation and development requires the creation of a statewide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state.
(5) City and county governments are responsible for the development of local comprehensive plans. The purpose of ORS [*195.065 to 195.075 and 197.020*] **195.065, 195.070 and 195.075** is to enhance coordination among cities, counties and special districts to assure effectiveness and efficiency in the delivery of urban services required under those local comprehensive plans.
<u>**SECTION 2.**</u> **ORS 197.020, 197.070, 197.178, 197.183, 197.195, 197.200, 197.274, 197.277, 197.279 and 197.283 are added to and made a part of ORS 197.005 to 197.465.**
<u>**SECTION 3.**</u> **ORS 197.467 is added to and made a part of ORS 197.005 to 197.465 and 197.435 to 197.467.**
<u>**SECTION 4.**</u> ORS 197.175 is amended to read:
197.175. (1) Cities and counties shall exercise their planning and zoning responsibilities, including, but not limited to, a city or special district boundary change which shall mean the annexation of unincorporated territory by a city, the incorporation of a new city and the formation or change of organization of or annexation to any special district authorized by ORS 198.705 to 198.955, 199.410 to [*199.519*] **199.534** or 451.010 to [*451.600*] **451.620**, in accordance with ORS chapters 195, 196 and 197 and the goals approved under ORS chapters 195, 196 and 197. The Land Conservation and Development Commission shall adopt rules clarifying how the goals apply to the incorporation of a new city. Notwithstanding the provisions

of section 15, chapter 827, Oregon Laws 1983, the rules shall take effect upon adoption by the commission. The applicability of rules promulgated under this section to the incorporation of cities prior to August 9, 1983, shall be determined under the laws of this state.

(2) Pursuant to ORS chapters 195, 196 and 197, each city and county in this state shall:

(a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved by the commission;

(b) Enact land use regulations to implement their comprehensive plans;

(c) If its comprehensive plan and land use regulations have not been acknowledged by the commission, make land use decisions and limited land use decisions in compliance with the goals;

(d) If its comprehensive plan and land use regulations have been acknowledged by the commission, make land use decisions and limited land use decisions in compliance with the acknowledged plan and land use regulations; and

(e) Make land use decisions and limited land use decisions subject to an unacknowledged amendment to a comprehensive plan or land use regulation in compliance with those land use goals applicable to the amendment.

(3) Notwithstanding subsection (1) of this section, the commission shall not initiate by its own action any annexation of unincorporated territory pursuant to ORS 222.111 to 222.750 or formation of and annexation of territory to any district authorized by ORS [*198.010 to 198.430 and*] 198.510 to 198.915 or 451.010 to [*451.600*] **451.620**.

<u>SECTION 5.</u> ORS 197.274 is amended to read:

197.274. The Metro regional framework plan and Metro planning goals and objectives are subject to review:

(1) For compliance with the statewide planning goals in the same manner as a comprehensive plan for purposes of:

(a) Acknowledgment of compliance with the goals under ORS 197.251; **and**

(b) Post-acknowledgment procedures under ORS 197.610 to [*197.646*] **197.650**; and

(2) As a land use decision under ORS 197.805 to **197.855 and** 197.860.

<u>SECTION 6.</u> ORS 197.299, 197.301, 197.302 and 197.314 are added to and made a part of ORS 197.295 to 197.314.

<u>SECTION 7.</u> ORS 197.314 is amended to read:

197.314. (1) Notwithstanding [*ORS 197.295 to 197.313*] **ORS 197.296, 197.298, 197.299, 197.301, 197.302, 197.303, 197.307, 197.312 and 197.313**, within urban growth boundaries each city and county shall amend its comprehensive plan and land use regulations for all land zoned for single-family residential uses to allow for siting of manufactured homes as defined in ORS 446.003 (26)(a)(C). A local government may only subject the siting of a manufactured home allowed under this section to regulation as set forth in ORS 197.307 (5).

(2) Cities and counties shall adopt and amend comprehensive plans and land use regulations under subsection (1) of this section according to the provisions of ORS 197.610 to 197.650.

(3) Subsection (1) of this section does not apply to any area designated in an acknowledged comprehensive plan or land use regulation as a historic district or residential land immediately adjacent to a historic landmark.

(4) Manufactured homes on individual lots zoned for single-family residential use in subsection (1) of this section shall be in addition to manufactured homes on lots within designated manufactured dwelling subdivisions.

(5) Within any residential zone inside an urban growth boundary where a manufactured

dwelling park is otherwise allowed, a city or county shall not adopt, by charter or ordinance, a minimum lot size for a manufactured dwelling park that is larger than one acre.

(6) A city or county may adopt the following standards for the approval of manufactured homes located in manufactured dwelling parks that are smaller than three acres:

(a) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

(b) The manufactured home shall have exterior siding and roofing that, in color, material and appearance, is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or that is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

(7) This section shall not be construed as abrogating a recorded restrictive covenant.

SECTION 8. ORS 197.380 is amended to read:

197.380. [*Within 120 days of September 9, 1995,*] Each city and county shall establish an application fee for an expedited land division. The fee shall be set at a level calculated to recover the estimated full cost of processing an application, including the cost of appeals to the referee under ORS 197.375, based on the estimated average cost of such applications. Within one year of establishing the fee required under this section, the city or county shall review and revise the fee, if necessary, to reflect actual experience in processing applications under [*chapter 595, Oregon Laws 1995*] **ORS 197.360 to 197.380**.

SECTION 9. ORS 197.625 is amended to read:

197.625. (1) If no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (8), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period. An amendment to an acknowledged comprehensive plan or land use regulation is not acknowledged unless the adopted amendment has been submitted to the Director of the Department of Land Conservation and Development as required by ORS 197.610 to 197.625 and the 21-day appeal period has expired, the board affirms the decision or the appellate courts affirm the decision.

(2) If the decision adopting an amendment to an acknowledged comprehensive plan or land use regulation or a new land use regulation is affirmed on appeal under ORS 197.830 to 197.855, the amendment or new regulation shall be considered acknowledged upon the date the appellate decision becomes final.

(3)(a) Prior to its acknowledgment, the adoption of a new comprehensive plan provision or land use regulation or an amendment to a comprehensive plan or land use regulation is effective at the time specified by local government charter or ordinance and is applicable to land use decisions, expedited land divisions and limited land use decisions if the amendment was adopted in accordance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.

(b) Any approval of a land use decision, expedited land division or limited land use decision subject to an unacknowledged amendment to a comprehensive plan or land use regulation shall include findings of compliance with those land use goals applicable to the amendment.

(c) The issuance of a permit under an effective but unacknowledged comprehensive plan or land use regulation shall not be relied upon to justify retention of improvements so permitted if the comprehensive plan provision or land use regulation does not gain acknowledgment.

(d) The provisions of this subsection apply to applications for land use decisions, expedited land divisions and limited land use decisions submitted after February 17, 1993, and to comprehensive plan and land use regulation amendments adopted:

(A) After June 1, 1991, pursuant to periodic review requirements under ORS 197.628**, 197.633 and** [*to*] 197.636;

(B) After June 1, 1991, to meet the requirements of ORS 197.646; and

(C) After November 4, 1993.

(4) The director shall issue certification of the acknowledgment upon receipt of an affidavit from the board stating either:

(a) That no appeal was filed within the 21 days allowed under ORS 197.830 (8); or

(b) The date the appellate decision affirming the adoption of the amendment or new regulation became final.

(5) The board shall issue an affidavit for the purposes of subsection (4) of this section within five days of receiving a valid request from the local government.

(6) After issuance of the notice provided in ORS 197.633, nothing in this section shall prevent the Land Conservation and Development Commission from entering an order pursuant to ORS 197.633, 197.636 or 197.644 to require a local government to respond to the standards of ORS 197.628.

SECTION 10. ORS 215.503, as amended by section 1, chapter 1, Oregon Laws 1999 (referred House Bill 2515 (1997)), is amended to read:

215.503. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.

(3) Except as provided in subsection (6) of this section and in addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:

This is to notify you that (governing body of the county) has proposed a land use regulation that will affect the permissible uses of your land.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (governing body) will hold a public hearing regarding the adoption of Ordinance Number ____. The (governing body) has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number ____ is available for inspection at the _____ County Courthouse located at ______. A copy of Ordinance Number ____ also is available for purchase at a cost of ____.

For additional information concerning Ordinance Number ____, you may call the (governing body) Planning Department at ___-____.

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(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by the governing body of a county pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628**, 197.633 and** [*to*] 197.636, the governing body of the county shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment will affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:

This is to notify you that (governing body of the county) has proposed a land use that will affect the permissible uses of your land.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (governing body) has proposed Ordinance Number ____. (Governing Body) has determined that the adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number ____ will become effective on (date).

Ordinance Number ____ is available for inspection at the ____ County Courthouse located at ____. A copy of Ordinance Number ____ also is available for purchase at a cost of ____.

For additional information concerning Ordinance Number ____, you may call the (governing body) Planning Department at ____-____.

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(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, the governing body of a county may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the governing body of the county:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the county resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under section 5**, chapter 1, Oregon Laws 1999 (referred House Bill 2515 (1997)),** [*of this 1997 Act,*] or resulting from a decision of a court of competent jurisdiction.

(11) The governing body of the county is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse the governing body of a county for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section.

SECTION 11. Section 3, chapter 1, Oregon Laws 1999 (referred House Bill 2515 (1997)), is amended to read:

Sec. 3. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

(3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the city and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:

This is to notify you that (city) has proposed a land use regulation that will affect the permissible uses of your land.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (city) will hold a public hearing regarding the adoption of

Ordinance Number ____. The (city) has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number ____ is available for inspection at the _____ City Hall located at ______. A copy of Ordinance Number ____ also is available for purchase at a cost of ____.

For additional information concerning Ordinance Number ____, you may call the (city) Planning Department at ___-____.

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(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628**, 197.633 and** [*to*] 197.636, the city shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment will affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:

This is to notify you that (city) has proposed a land use that will affect the permissible uses of your land.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (city) has proposed Ordinance Number ____. (City) has determined that the adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number ____ will become effective on (date).

Ordinance Number ____ is available for inspection at the ____ City Hall located at ____. A copy of Ordinance Number ____ also is available for purchase at a cost of ____.

For additional information concerning Ordinance Number ____, you may call the (city) Planning Department at ____-____.

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(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the city:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the city resulting from action of the Legislative Assembly or the Land Conservation and

Development Commission for which notice is provided under section 5 [*of this 1997 Act*], **chapter 1, Oregon Laws 1999 (referred House Bill 2515 (1997))** or resulting from a court of competent jurisdiction.

(11) The governing body of the city is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse a city for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section.

SECTION 12. ORS 92.044 is amended to read:

92.044. (1) The governing body of a county or a city shall, by regulation or ordinance, adopt standards and procedures, in addition to those otherwise provided by law, governing, in the area over which the county or the city has jurisdiction under ORS 92.042, the submission and approval of tentative plans and plats of subdivisions, tentative plans and plats of partitions in exclusive farm use zones established under ORS 215.203.

(a) Such standards may include, taking into consideration the location and surrounding area of the proposed subdivisions or the partitions, requirements for:

(A) Placement of utilities, for the width and location of streets or for minimum lot sizes and such other requirements as the governing body considers necessary for lessening congestion in the streets;

(B) Securing safety from fire, flood, slides, pollution or other dangers;

(C) Providing adequate light and air including protection and assurance of access to incident solar radiation for potential future use;

(D) Preventing overcrowding of land;

(E) Facilitating adequate provision of transportation, water supply, sewerage, drainage, education, recreation or other needs; or

(F) Protection and assurance of access to wind for potential electrical generation or mechanical application.

(b) Such ordinances or regulations shall establish the form and contents of tentative plans of partitions and subdivisions submitted for approval.

(c) The procedures established by each such ordinance or regulation shall provide for the coordination in the review of the tentative plan of any subdivision or partition with all affected city, county, state and federal agencies and all affected special districts.

(2)(a) The governing body of a city or county may provide for the delegation of any of its lawful functions with respect to subdivisions and partitions to the planning commission of the city or county or to an official of the city or county appointed by the governing body for such purpose.

(b) If an ordinance or regulation adopted under this section includes the delegation to a planning commission or appointed official of the power to take final action approving or disapproving a tentative plan for a subdivision or partition, such ordinance or regulation may also provide for appeal to the governing body from such approval or disapproval.

(c) The governing body may establish, by ordinance or regulation, a fee to be charged for an appeal under ORS chapter 197, 215 or 227, except for an appeal under 197.805 to **197.855** [*197.860*].

(3) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon proposed subdivisions that

are submitted for approval pursuant to this section. As used in this subsection, "costs" does not include costs for which fees are prescribed under ORS 92.100 and 205.350.

(4) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon proposed partitions that are submitted for approval pursuant to this section.

(5) Ordinances and regulations adopted under this section shall be adopted in accordance with ORS 92.048.

(6) Any ordinance or regulation adopted under this section shall comply with the comprehensive plan for the city or county adopting the ordinance or regulation.

(7) For the purposes of this section:

(a) "Incident solar radiation" means solar energy falling upon a given surface area.

(b) "Wind" means the natural movement of air at an annual average speed measured at a height of 10 meters of at least eight miles per hour.

SECTION 13. ORS 92.046 is amended to read:

92.046. (1) The governing body of a county or a city may, as provided in ORS 92.048, when reasonably necessary to accomplish the orderly development of the land within the jurisdiction of such county or city under ORS 92.042 and to promote the public health, safety and general welfare of the county or city, adopt regulations or ordinances governing approval, by the county or city of proposed partitions. Such regulations or ordinances shall be applicable throughout the area over which the county or city has jurisdiction under ORS 92.042, or over any portion thereof. Such ordinances or regulations may specify the classifications of such partitions which require approval under this section and may establish standards and procedures governing the approval of tentative plans for such partitions. The standards may include all, or less than all, of the same requirements as are provided or authorized for subdivisions under ORS 92.010 to 92.190 and may provide for different standards and procedures for different classifications of such partitions so long as the standards are no more stringent than are imposed by the city or county in connection with subdivisions.

(2) Such ordinances or regulations may establish the form and contents of the tentative plans of partitions submitted for approval.

(3)(a) The governing body of a city or county may provide for the delegation of any of its lawful functions with respect to partitions to the planning commission of the city or county or to an official of the city or county appointed by the governing body for such purpose.

(b) If an ordinance or regulation adopted under this section includes the delegation to a planning commission or appointed official of the power to take final action approving or disapproving a tentative plan for a partition, such ordinance or regulation may also provide for appeal to the governing body from such approval or disapproval and require initiation of any such appeal within 10 days after the date of the approval or disapproval from which the appeal is taken.

(c) The governing body may establish, by ordinance or regulation, a fee to be charged for an appeal under ORS chapter 197, 215 or 227, except for an appeal under ORS 197.805 to **197.855** [*197.860*].

(4) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon applications for approval of proposed partitions.

(5) No tentative plan of a proposed partition may be approved unless the tentative plan complies with the applicable zoning ordinances and regulations and the ordinances or regulations

adopted under this section that are then in effect for the city or county within which the land described in the tentative plan is situated.

(6) Any ordinance or regulation adopted under this section shall comply with the comprehensive plan for the city or county adopting the ordinance or regulation.

SECTION 14. ORS 215.780 is amended to read:

215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or parcel sizes apply to all counties:

(a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

(b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

(c) For land designated forestland, at least 80 acres.

(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:

(a) By demonstrating to the Land Conservation and Development Commission that it can do so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

(b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed farm and forest use, subject to the following requirements:

(A) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

(B) The dwelling existed prior to June 1, 1995;

(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or

(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone; and

(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

(c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for mixed farm and forest use the following requirements apply:

(A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

(B) The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321.

(C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

(d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

(A) Shall not be eligible for siting of a new dwelling;

(B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of resource lands;

(D) Shall not result in a parcel of less than 35 acres, except:

(i) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or

(ii) Where the purpose of the land division is to allow transactions in which at least one

participant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

(E) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum lot or parcel size of the zone.

(3) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628**, 197.633 and** [*to*] 197.636 that is smaller than those prescribed in subsection (1) of this section need not comply with subsection (2) of this section.

(4)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. An applicant for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.

(5) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

SECTION 15. ORS 197.649 and 197.650 are added to and made a part of ORS 197.628 to 197.646.

SECTION 16. ORS 197.825 is amended to read:

197.825. (1) Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the Land Use Board of Appeals shall have exclusive jurisdiction to review any land use decision or limited land use decision of a local government, special district or a state agency in the manner provided in ORS 197.830 to 197.845.

(2) The jurisdiction of the board:

(a) Is limited to those cases in which the petitioner has exhausted all remedies available by right before petitioning the board for review;

(b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Appeals;

(c) Does not include those matters over which the Department of Land Conservation and Development or the Land Conservation and Development Commission has review authority under ORS 197.251, 197.430**,** [*to*] **197.445, 197.450,** 197.455[*,*] **and** 197.628 to [*197.644, 197.649 and*] 197.650;

(d) Does not include those land use decisions of a state agency over which the Court of Appeals has jurisdiction for initial judicial review under ORS 183.400, 183.482 or other statutory provisions;

(e) Does not include any rules, programs, decisions, determinations or activities carried out

under ORS 527.610 to 527.770, 527.990 (1) and 527.992;

(f) Is subject to ORS 196.115 for any county land use decision that may be reviewed by the Columbia River Gorge Commission pursuant to sections 10(c) or 15(a)(2) of the Columbia River Gorge National Scenic Area Act, P.L. 99-663; and

(g) Does not include review of expedited land divisions under ORS 197.360.

(3) Notwithstanding subsection (1) of this section, the circuit courts of this state retain jurisdiction:

(a) To grant declaratory, injunctive or mandatory relief in proceedings arising from decisions described in ORS 197.015 (10)(b) or proceedings brought to enforce the provisions of an adopted comprehensive plan or land use regulations; and

(b) To enforce orders of the board in appropriate proceedings brought by the board or a party to the board proceeding resulting in the order.

SECTION 17. ORS 197.830 is amended to read:

197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Appeals.

(2) Except as provided in ORS 197.620 (1) and (2), a person may petition the board for review of a land use decision or limited land use decision if the person:

(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section; and

(b) Appeared before the local government, special district or state agency orally or in writing.

(3) If a local government makes a land use decision without providing a hearing or the local government makes a land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(4) If a local government makes a limited land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(5)(a) Except as provided in paragraph (b) of this subsection, the appeal period described in subsection (3) of this section shall not exceed three years after the date of the decision.

(b) If notice of a hearing or an administrative decision made pursuant to ORS 197.195, 197.763, 215.416 (11) or 227.175 (10) is required but has not been provided, the provisions of paragraph (a) of this subsection do not apply.

(6)(a) Within 21 days after a notice of intent to appeal has been filed with the board under subsection (1) of this section, any person may intervene in and be made a party to the review proceeding upon a showing of compliance with subsection (2) of this section.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, persons who may intervene in and be made a party to the review proceedings, as set forth in subsection (1) of this

section, are:

(A) The applicant who initiated the action before the local government, special district or state agency; or

(B) Persons who appeared before the local government, special district or state agency, orally or in writing.

(c) Failure to comply with the deadline set forth in paragraph (a) of this subsection shall result in denial of a motion to intervene.

(7) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on the same date the respondent's brief is due.

(8) A notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed not later than 21 days after **notice of** the decision sought to be reviewed is mailed to parties entitled to notice under ORS 197.615. Copies of the notice of intent to appeal shall be served upon the local government, special district or state agency and the applicant of record, if any, in the local government, special district or state agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule of the board and shall be accompanied by a filing fee of $175 and a deposit for costs to be established by the board. If a petition for review is not filed with the board as required in subsections (9) and (10) of this section, the filing fee and deposit shall be awarded to the local government, special district or state agency as cost of preparation of the record.

(9)(a) Within 21 days after service of the notice of intent to appeal, the local government, special district or state agency shall transmit to the board the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding the record may be shortened. The board may require or permit subsequent corrections to the record; however, the board shall issue an order on a motion objecting to the record within 60 days of receiving the motion.

(b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860. Any person moving to intervene shall be provided such notice within seven days after a motion to intervene is filed. The notice required by this paragraph shall be accompanied by a statement that mediation information or assistance may be obtained from the Department of Land Conservation and Development, the coordinating agency for the Natural Resources Section of the Public Policy Dispute Resolution Program.

(10) A petition for review of the land use decision or limited land use decision and supporting brief shall be filed with the board as required by the board under subsection (12) of this section.

(11) The petition shall include a copy of the decision sought to be reviewed and shall state:

(a) The facts that establish that the petitioner has standing.

(b) The date of the decision.

(c) The issues the petitioner seeks to have reviewed.

(12)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for oral argument.

(b) At any time subsequent to the filing of a notice of intent and prior to the date set for filing the record, the local government or state agency may withdraw its decision for purposes of

reconsideration. If a local government or state agency withdraws an order for purposes of reconsideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the petitioner is dissatisfied with the local government or agency action after withdrawal for purposes of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon the revised order. An amended notice of intent shall not be required if the local government or state agency, on reconsideration, affirms the order or modifies the order with only minor changes.

(13) The board shall issue a final order within 77 days after the date of transmittal of the record. If the order is not issued within 77 days the applicant may apply in Marion County or the circuit court of the county where the application was filed for a writ of mandamus to compel the board to issue a final order.

(14)(a) Upon entry of its final order the board may, in its discretion, award costs to the prevailing party including the cost of preparation of the record if the prevailing party is the local government, special district or state agency whose decision is under review. The deposit required by subsection (8) of this section shall be applied to any costs charged against the petitioner.

(b) The board shall also award reasonable attorney fees and expenses to the prevailing party against any other party who the board finds presented a position without probable cause to believe the position was well-founded in law or on factually supported information.

(15) Orders issued under this section may be enforced in appropriate judicial proceedings.

(16)(a) The board shall provide for the publication of its orders that are of general public interest in the form it deems best adapted for public convenience. The publications shall constitute the official reports of the board.

(b) Any moneys collected or received from sales by the board shall be paid into the Board Publications Account established by ORS 197.832.

(17) Except for any sums collected for publication of board opinions, all fees collected by the board under this section that are not awarded as costs shall be paid over to the State Treasurer to be credited to the General Fund.

SECTION 18. ORS 197.840 is amended to read:

197.840. (1) The following periods of delay shall be excluded from the 77-day period within which the board must make a final decision on a petition under ORS 197.830 (13):

(a) Any period of delay up to 120 days resulting from the board's deferring all or part of its consideration of a petition for review of a land use decision or limited land use decision that allegedly violates the goals if the decision has been:

(A) Submitted for acknowledgment under ORS 197.251; or

(B) Submitted to the Department of Land Conservation and Development as part of a periodic review work program task pursuant to ORS 197.628 to [*197.644*] **197.646** and not yet acknowledged.

(b) Any period of delay resulting from a motion, including but not limited to, a motion disputing the constitutionality of the decision, standing, ex parte contacts or other procedural irregularities not shown in the record.

(c) Any reasonable period of delay resulting from a request for a stay under ORS 197.845.

(d) Any reasonable period of delay resulting from a continuance granted by a member of the board on the member's own motion or at the request of one of the parties, if the member granted the continuance on the basis of findings that the ends of justice served by granting the continuance outweigh the best interest of the public and the parties in having a decision within 77 days.

(2) No period of delay resulting from a continuance granted by the board under subsection (1)(d) of this section shall be excludable under this section unless the board sets forth in the record, either orally or in writing, its reasons for finding that the ends of justice served by granting the continuance outweigh the best interests of the public and the other parties in a decision within the 77 days. The factors the board shall consider in determining whether to grant a continuance under subsection (1)(d) of this section in any case are as follows:

(a) Whether the failure to grant a continuance in the proceeding would be likely to make a continuation of the proceeding impossible or result in a miscarriage of justice; or

(b) Whether the case is so unusual or so complex, due to the number of parties or the existence of novel questions of fact or law, that it is unreasonable to expect adequate consideration of the issues within the 77-day time limit.

(3) No continuance under subsection (1)(d) of this section shall be granted because of general congestion of the board calendar or lack of diligent preparation or attention to the case by any member of the board or any party.

(4) The board may defer all or part of its consideration of a land use decision or limited land use decision described in subsection (1)(a) of this section until the Land Conservation and Development Commission has disposed of the acknowledgment proceeding described in subsection (1)(a) of this section. If the board deferred all or part of its consideration of a decision under this subsection, the board may grant a stay of the comprehensive plan provision, land use regulation, limited land use decision or land use decision under ORS 197.845.

Approved by the Governor June 25, 1999

Filed in the office of Secretary of State June 25, 1999

Effective date October 23, 1999

Chapter 668 Oregon Laws 2003

AN ACT

SB 516

Relating to land use planning requirements; amending ORS 197.047, 215.503, 227.186 and 268.393.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 197.047 is amended to read:

197.047. **(1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.**

(2) At least 90 days prior to the final public hearing on a proposed new or amended administrative rule of the Land Conservation and Development Commission described in subsection (10) of this section, the Department of Land Conservation and Development shall cause the notice set forth in subsection (3) of this section to be mailed to every affected local government that exercises land use planning authority under ORS 197.175.

(3) The notice required in subsection (2) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that the Land Conservation and Development Commission has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of properties in your jurisdiction.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of the rule may change the zoning classification of properties in your jurisdiction or may limit or prohibit land uses previously allowed on properties in your jurisdiction.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of $___.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

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(4) A local government that receives notice under subsection (2) of this section shall

cause the notice set forth in subsection (5) of this section to be mailed to every owner of real property that will be rezoned as a result of the proposed rule. Notice to an owner under this subsection must be mailed at least 45 days prior to the final public hearing on the proposed rule.

(5) The notice required in subsection (4) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that the Land Conservation and Development Commission has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of the rule may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of $___.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

[*(1) At least 50 days prior to the effective date of a new or amended administrative rule of the Land Conservation and Development Commission or a new or amended land use planning statute enacted by the Legislative Assembly, as described in subsection (3) of this section, the Department of Land Conservation and Development shall cause a written notice of land use change, in substantially the form described in subsection (2) of this section, to be mailed to every local government that exercises land use planning authority under ORS 197.175.*]

(6) At least 90 days prior to the effective date of a new or amended statute or administrative rule described in subsection (10) of this section, the department shall cause the notice set forth in subsection (7) of this section to be mailed to every affected local government that exercises land use planning authority under ORS 197.175 unless the statute or rule is effective within 90 days of enactment or adoption, in which case the department shall cause the notice to be mailed not later than 30 days after the statute or rule is effective.

(7) The notice required in subsection (6) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

(Check on the appropriate line:)

___This is to notify you that the Land Conservation and Development Commission has adopted an administrative rule that may affect the permissible uses of properties in your jurisdiction; or

___This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of properties in your jurisdiction.

[*(2)*] **(b)** [*The notice shall*] Contain substantially the following language in the body of the notice:

(Check on the appropriate line:)

[*(a)*] **___**On (date of rule adoption), the Land Conservation and Development Commission adopted administrative rule (number). The commission has determined that this rule [*will affect the permissible uses of property in your jurisdiction and may reduce the value of subject property*] **may change the zoning classification of properties in your jurisdiction or may limit or prohibit land uses previously allowed on properties in your jurisdiction**.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of **$___**.

For additional information, contact the Department of Land Conservation and Development at (telephone number); or

[*(b)*] **___**On (date of enactment) the Legislative Assembly [*adopted*] **enacted** (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) [*will affect the permissible uses of property in your jurisdiction and may reduce the value of subject property*] **may change the zoning classification of properties in your jurisdiction or may limit or prohibit land uses previously allowed on properties in your jurisdiction**.

A copy of (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of **$___**.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

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(8) A local government that receives notice under subsection (6) of this section shall cause a copy of the notice set forth in subsection (9) of this section to be mailed to every owner of real property that will be rezoned as a result of adoption of the rule or enactment of the statute, unless notification was provided pursuant to subsection (4) of this section. The local government shall mail the notice to an owner under this subsection at least 45 days prior to the effective date of the rule or statute unless the statute or rule is effective within 90 days of enactment or adoption, in which case the local government shall mail the notice to an owner under this subsection not later than 30 days after the local government receives notice under subsection (6) of this section.

(9) The notice required in subsection (8) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of

the face page extending from the left margin to the right margin:

(Check on the appropriate line:)

___This is to notify you that the Land Conservation and Development Commission has adopted an administrative rule that may affect the permissible uses of your property and other properties; or

___This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

(Check on the appropriate line:)

___On (date of rule adoption), the Land Conservation and Development Commission adopted administrative rule (number). The rule may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of $___.

For additional information, contact the Department of Land Conservation and Development at (telephone number); or

___On (date of enactment) the Legislative Assembly enacted (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A copy of (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of $___.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

[*(3)*] **(10)** The provisions of this section apply to all statutes and administrative rules of the Land Conservation and Development Commission that limit or prohibit otherwise permissible land uses **or cause a local government to rezone property. For purposes of this section, property is rezoned when the statute or administrative rule causes a local government to:**

(a) Change the base zoning classification of the property; or

(b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

[*(4) A local government that receives notice under this section shall cause a copy of the notice to be mailed to every owner of real property that will be rezoned as a result of the adoption or enactment of the rule or statute. Notice to a landowner under this subsection shall be mailed at least 30 days prior to the effective date of the subject rule or statute.*]

[*(5)*] **(11)** The Department **of Land Conservation and Development** shall reimburse the local government for**:**

(a) The actual costs incurred responding to questions from the public related to a proposed new or amended administrative rule of the Land Conservation and Development Commission and to notice of the proposed rule; and

(b) All usual and reasonable costs of providing [*notice*] **the notices** required under subsection [*(4) of this section*] **(4) or (8) of this section**.

SECTION 2. ORS 215.503 is amended to read:

215.503. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.

(3) Except as provided in subsection (6) of this section and in addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type **across the top of the face page** extending from the [*left-hand*] **left** margin to the [*right-hand*] **right** margin [*across the top of the face page of the notice*]:

This is to notify you that (governing body of the county) has proposed a land use regulation that [*will*] **may** affect the permissible uses of your [*land*] **property and other properties**.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (governing body) will hold a public hearing regarding the adoption of Ordinance Number___. The (governing body) has determined that adoption of this ordinance [*will affect the permissible uses of your property and may reduce the value of your property*] **may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property**.

Ordinance Number ___ is available for inspection at the ____ County Courthouse located at_____. A copy of Ordinance Number ___ also is available for purchase at a cost of___.

For additional information concerning Ordinance Number___, you may call the (governing body) Planning Department at __-___.

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(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by the governing body of a county pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the governing body of the county shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment [*will*] **may** affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type **across the top of the face page** extending from the [*left-hand*] **left** margin to the [*right-hand*] **right** margin [*across the top of the face page of the notice*]:

This is to notify you that (governing body of the county) has proposed a land use that [*will*] **may** affect the permissible uses of your [*land*] **property and other properties**.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (governing body) has proposed Ordinance Number___. (Governing Body) has determined that the adoption of this ordinance [*will affect the permissible uses of your property and may reduce the value of your property*] **may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property**.

Ordinance Number ___ will become effective on (date).

Ordinance Number ___ is available for inspection at the ___ County Courthouse located at___. A copy of Ordinance Number ___ also is available for purchase at a cost of___.

For additional information concerning Ordinance Number___, you may call the (governing body) Planning Department at ___-___.

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(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, the governing body of a county may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the governing body of the county:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the county resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047, or resulting from [*a decision*] **an order** of a court of competent jurisdiction.

(11) The governing body of the county is not required to provide more than one notice

under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse the governing body of a county for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section.

SECTION 3. ORS 227.186 is amended to read:

227.186. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

(3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the city and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type **across the top of the face page** extending from the [*left-hand*] **left** margin to the [*right-hand*] **right** margin [*across the top of the face page of the notice*]:

This is to notify you that (city) has proposed a land use regulation that [*will*] **may** affect the permissible uses of your [*land*] **property and other properties**.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (city) will hold a public hearing regarding the adoption of Ordinance Number___. The (city) has determined that adoption of this ordinance [*will affect the permissible uses of your property and may reduce the value of your property*] **may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property**.

Ordinance Number ___ is available for inspection at the ____ City Hall located at_____. A copy of Ordinance Number ___ also is available for purchase at a cost of___.

For additional information concerning Ordinance Number___, you may call the (city) Planning Department at __-__.

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(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the city shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment [*will*] **may** affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type **across the top of the face page** extending from the [*left-hand*] **left** margin to the [*right-hand*] **right** margin [*across the top of the face page of the notice*]:

This is to notify you that (city) has proposed a land use **regulation** that [*will*] **may** affect the permissible uses of your [*land*] **property and other properties**.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (city) has proposed Ordinance Number ___. (City) has determined that the adoption of this ordinance [*will affect the permissible uses of your property and may reduce the value of your property*] **may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property**.

Ordinance Number ___ will become effective on (date).

Ordinance Number ___ is available for inspection at the ___ City Hall located at___. A copy of Ordinance Number ___ also is available for purchase at a cost of___.

For additional information concerning Ordinance Number___, you may call the (city) Planning Department at __-__.

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(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the city:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the city resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047 or resulting from **an order of** a court of competent jurisdiction.

(11) The governing body of the city is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local

comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse a city for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section.

SECTION 4. ORS 268.393 is amended to read:

268.393. **(1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.**

[*(1)*] **(2)** At least [*50*] **45** days prior to [*the effective date of a*] **the final public hearing on a proposed** new or amended land use planning ordinance of a metropolitan service district, the district shall cause written notice of the [*new or amended*] **proposed** ordinance to be mailed to every [*government located within the district that exercises land use planning authority under ORS 197.175*] **owner of real property that will be rezoned as a result of the proposed ordinance**.

[*(2)*] **(3)** The notice [*described in this section shall*] **required in subsection (2) of this section must:**

(a) Contain substantially the following language in boldfaced text extending across the top of the face page from the left margin to the right margin:

This is to notify you that the metropolitan service district has proposed a land use planning ordinance that may affect the permissible use of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of [*ordinance adoption*] **public hearing**), the metropolitan service district [*adopted*] **will hold a public hearing regarding the adoption of** ordinance (number). The district has determined that **adoption of** this ordinance [*will affect the permissible uses of property in your jurisdiction and may reduce the value of subject property*] **may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property**.

Ordinance (number) is available for inspection at the metropolitan service district offices located at (address). A copy of the ordinance (number) [*also*] is available for purchase at a cost of **$___**.

For additional information, contact the metropolitan service district at (telephone number).

[*(3) A local government that receives notice under this section shall cause a copy of the notice to be mailed to every owner of real property that will be rezoned as a result of the adoption of the ordinance. Notice to a landowner under this subsection shall be mailed at least 30 days prior to the effective date of the subject ordinance.*]

[*(4) The district shall reimburse the local government for all usual and reasonable costs of*

providing notice required under subsection (3) of this section.]

(4) If real property of an owner will be rezoned as a result of the adoption of the land use planning ordinance and the owner was not notified pursuant to subsection (2) of this section, at least 30 days prior to the effective date of a new or amended land use planning ordinance of a metropolitan service district, the district shall cause written notice of the new or amended ordinance to be mailed to the owner of the real property that will be rezoned.

(5) The notice required in subsection (4) of this section must:

(a) Contain substantially the following language in boldfaced text across the top of the face page extending from the left margin to the right margin:

This is to notify you that the metropolitan service district has adopted a land use planning ordinance that may affect the permissible use of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of ordinance adoption), the metropolitan service district adopted ordinance (number). The district has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance (number) is available for inspection at the metropolitan service district offices located at (address). A copy of the ordinance (number) is available for purchase at a cost of $___.

For additional information, contact the metropolitan service district at (telephone number).

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(6) For purposes of this section, property is rezoned by a land use planning ordinance adopted by a metropolitan service district if the ordinance directly or indirectly requires a local government to:

(a) Change the base zoning classification of the property; or

(b) Modify land use regulations applicable to the property in a manner that would limit or prohibit land uses previously allowed.

SECTION 4a. If House Bill 2278 becomes law, section 4 of this 2003 Act (amending ORS 268.393) is repealed and ORS 268.393, as amended by section 99, chapter 802, Oregon Laws 2003 (Enrolled House Bill 2278), is amended to read:

268.393. **(1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.**

[*(1)*] **(2)** At least [*50*] **45** days prior to [*the effective date of a*] **the final public hearing on a proposed** new or amended land use planning ordinance of a metropolitan service district, the

district shall cause written notice of the [*new or amended*] **proposed** ordinance to be mailed to every [*city and county located within the district that exercises land use planning authority under ORS 197.175*] **owner of real property that will be rezoned as a result of the proposed ordinance**.

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Ordinance (number) is available for inspection at the metropolitan service district offices located at (address). A copy of the ordinance (number) [*also*] is available for purchase at a cost of **$___**.

For additional information, contact the metropolitan service district at (telephone number).

[*(3) A city or county that receives notice under this section shall cause a copy of the notice to be mailed to every owner of real property that will be rezoned as a result of the adoption of the ordinance. Notice to a landowner under this subsection shall be mailed at least 30 days prior to the effective date of the subject ordinance.*]

[*(4) The district shall reimburse a city or county for all usual and reasonable costs of providing notice required under subsection (3) of this section.*]

(4) If real property of an owner will be rezoned as a result of the adoption of the land use planning ordinance and the owner was not notified pursuant to subsection (2) of this section, at least 30 days prior to the effective date of a new or amended land use planning ordinance of a metropolitan service district, the district shall cause written notice of the new or amended ordinance to be mailed to the owner of the real property that will be rezoned.

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(b) Contain substantially the following language in the body of the notice:

On (date of ordinance adoption), the metropolitan service district adopted ordinance (number). The district has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance (number) is available for inspection at the metropolitan service district offices located at (address). A copy of the ordinance (number) is available for purchase at a cost of $___.

For additional information, contact the metropolitan service district at (telephone number).

---

(6) For purposes of this section, property is rezoned by a land use planning ordinance adopted by a metropolitan service district if the ordinance directly or indirectly requires a local government to:

(a) Change the base zoning classification of the property; or

(b) Modify land use regulations applicable to the property in a manner that would limit or prohibit land uses previously allowed.

Approved by the Governor August 18, 2003
Filed in the office of Secretary of State August 18, 2003
Effective date January 1, 2004

City of
West Linn

Memorandum

Date: July 1, 2013

To: Chris Jordan, City Manager

From: Sara Javoronok, Associate Planner

Subject: Historic Code and Zoning Map Amendments (CDC 12-01)

Purpose

The purpose of the work session on July 8, 2013 is to brief the City Council regarding amendments to the Community Development Code (CDC) and zoning map on historic related issues prior to the public hearing scheduled for July 15, 2013. The proposed amendments, recommended for approval by the Planning Commission, address several issues with the existing historic code chapters. Two related brochures explain the proposed historic design review process and provide guidance. (See PC Meeting pages 112-113 of Attachment 2.)

Background

The proposed CDC and zoning map amendments under consideration are included in the Planning Department's work program. The Historic Review Board and Planning Commission reviewed the work program, including the public outreach strategy, for these amendments in Summer 2011. The City was awarded Certified Local Government grant funding to assist with this project and worked with KLK Consulting on the drafting of the initial set of amendments.

Public outreach and agency review. The process was guided by a Technical Committee that included representation from the Historic Review Board, Planning Commission, Willamette Historic District, Willamette Neighborhood, and historic landmark property owners. Members also had expertise in construction and real estate. Additional outreach included a targeted online survey and a homeowner and resident meeting held at the Willamette Fire Station. The State Historic Preservation Office reviewed drafts of the amendments as well. The Historic Review Board reviewed a draft on February 19, 2013 and recommended approval. The Planning Commission held public hearings on the draft on April 17, 2013 and May 1, 2013 and recommended approval. The only public testimony was from the co-chair of the Historic Review Board and it was in support of the proposed amendments.

Discussion

The majority of the proposed changes are to Chapter 25, Historic District and Chapter 26, Historic Landmarks in the CDC, including consolidating these two chapters, and there are related changes to other chapters of the CDC. In addition, there are amendments to the City's zoning map, as described below.

CDC Amendments. The CDC amendments are discussed in additional detail in the Memorandum to the Planning Commission (see PC Meeting pages 3 and 4 of Attachment 2). The significant changes include the following:

- Consolidating chapters 25 and 26 to a single new Chapter 25
- Refining and clarifying the standards that guide the rehabilitation and alteration of historic structures and adding specific requirements for features like porches and gutters that are not currently addressed in the code.
- Allowing for exemptions and staff review of relatively minor projects to minimize unnecessary burdens on property owners
- Adding application requirements for designation of a historic resource
- Adding application requirements and approval criteria for the removal of a historic resource designation
- Adding application requirements and approval criteria for the relocation of a historic resource
- Changing the requirements for accessory dwelling units and accessory structures for consistency
- Clarifying the difference between a demolition and an alteration and allowing for two types of demolition review commensurate with the historic value to the structure.
- Following the use and dimensional requirements of the underlying zone unless specified
- Removing unnecessary language

Map Amendments. The proposed amendments change the boundaries of the historic district and adopt them to the zoning map. The adopted map would also have the classifications of properties within the historic district that notes their status as contributing, non-contributing, or not in period.

The boundary change also removes a single property from the district. Staff became aware of this with a building permit application when the applicant stated that their property, 1293 14th Street, was not in the District. They provided documentation to that effect and staff also found documentation in a City project file. The new boundary and property classifications are shown on PC Meeting page 37 of Attachment 2.

The project proposes removing historic landmark designation from four properties. This is reflected on the Historic Landmark Map on PC Meeting page 38 of Attachment 2. Details for each are provided in the attachments to the Planning Commission staff report, and a summary is below:

- 1352 Willamette Falls Drive - This residence has been substantially remodeled. The 2011 survey of the Willamette Neighborhood reported that it was non-contributing and that it had been resided, had vinyl windows, remodeled, and had a large addition to the west.

- 4918 Summit Street - This is the address of a former landmark that staff understands burned in the early 1990s. The site was redeveloped in approximately 2000 and the address changed.

- 1739 Dollar Street - This address was the site of a landmark barn that was moved to 1296 12th Street when the property was redeveloped. 1296 12th Street is within the Willamette Historic District and the barn is included on the survey form for this address.

- 1850 Buck Street/6533 Lowry Drive - The house currently at 6533 Lowry Drive was moved to the site in 2009. The new Bolton Fire Station was constructed on its former site. Staff discussed the designation with property owner who does not wish to retain it. For reference, the 1988 Inventory Form is attached. Staff and the HRB commend those involved in moving the property – the HRB awarded one of its first Preservation Awards to Sue Smith, who, in partnership with TVF&R, was responsible for moving it. However, many of

the characteristics that enabled the designation of the property have been altered since its designation. It is no longer on Buck Street and surrounded by similar scale and style of properties. Its orientation has changed and the outbuildings on the site were not retained.

Procedural requirements. CDC Chapter 98 provides administrative procedures for legislative amendments such as those being proposed. Notice requirements, have been met, and are discussed below. CDC Section 98.100 lists factors (goals and polices) to be addressed when considering legislative amendments. The applicable factors along with staff's assessment of the proposed amendments compliance with them are listed in the Addendum to the Planning Commission staff report (see PC Meeting, page 6 of Attachment 2).

Options:

1. Receive the briefing and ask questions to prepare for the public hearing.
2. Identify alternative code language to be presented in a memo for public comment at the hearing.
3. Give staff direction as desired.

Recommendation: Option 1.

Attachments:

1. Public Hearing Draft of CDC amendments as recommended by the Planning Commission
2. Staff report and attachments for Planning Commission for April 17, 2013
3. Memo and attachments for Planning Commission for May 1, 2013
4. Minutes of April 17 and May 1, 2013 Planning Commission public hearings

Willamette Historic District

District Map

Legend

Building Outlines, by type

- EC: Eligible Contributing
- NC: Non-Contributing
- NP: Not in Period

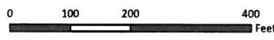
Proposed Local District Boundary

Existing Local District Boundary

Taxlots

Streets

Address Numbers



1293 14th St. - 31E02BD01600

16TH ST
DOLLAR ST
15TH ST
14TH ST
13TH ST
12TH ST
11TH ST
10TH ST
8TH AVE
WILLAMETTE FALLS DR
KNAPPS ALLEY
6TH AVE
5TH AVE
4TH AVE
CHERYL DR
KIMBERLY DR
EVAH LN
TUALATIN AVE

Historic Survey: Amy McFeeters-Krone and Kimberli Fitzgerald, July 2008
Modified after Survey: Tom Soppe and Ian Johnson, October 2008
Historic Survey: SWCA Environmental Consultants, December 2011
Modified after Survey: Sara Javoronok, October/November 2012 & January 2013

HISTORIC/WILLAMETTEHISTORICDISTRICT_DISTRICTMAPEXPANDED_FORCODECHANGES_201301JANUARY_V4.MXD | KAHA | 2-1-2013 v4

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes.
Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Taxlot Base Source: Clackamas County GIS
Map Produced by West Linn GIS

935-13-0835

City of West Linn Building Permit Application

22500 Salamo Rd. Box 900; West Linn OR 97068; Phone: 503-656-4211; Fax: 503-656-4106
Inspection Line: 503-722-5509(Call by 7AM); E-mail: bldg@westlinnoregon.gov
Forms available at http://westlinnoregon.gov

TYPE OF WORK	
☐ New construction	☐ Demolition
☒ Addition/alteration/replacement	☐ Other:
CATEGORY OF CONSTRUCTION	
☒ 1- and 2-family dwelling	☐ Commercial/industrial
☐ Accessory building	☐ Multi-family
☐ Master builder	☐ Other:
JOB SITE INFORMATION AND LOCATION	
Job site address: 1344 14th	
City/State/ZIP: WEST Linn OR 97068	
Suite/bldg./apt. no.:	Project name:
Cross street/directions to job site:	
Subdivision:	Lot no.:
Tax map/parcel no.:	
DESCRIPTION OF WORK	
Remodel interior	
RAISE ROOF on 2nd floor	
NOTE: this permit excludes Area under Historic Review	
☒ PROPERTY OWNER	☐ TENANT
Name: Kristen WEBB	
Address: 1294 14th ST.	
City/State/ZIP: WEST Linn OR 97068	
Phone: (503) 333-2010	Fax: ( )
☒ APPLICANT	☐ CONTACT PERSON
Business name: SAME AS OWNER	
Contact name:	
Address:	
City/State/ZIP:	
Phone: ( )	Fax: ( )
E-mail:	
CONTRACTOR	
Business name: JEFF FRANCIS	
Address: 1234 11th ST.	
City/State/ZIP: WEST Linn OR 97068	
Phone: (503) 708-3444	Fax: ( )
CCB lic.: 93707	West Linn Lic #: ____ or Metro Lic #: ____
Authorized signature: [signature]	
Print name: JEFF FRANCIS	Date: 9-20-13

REQUIRED DATA: 1- AND 2-FAMILY DWELLING	
Permit fees* are based on the value of the work performed. Indicate the value (rounded to the nearest dollar) of all equipment, materials, labor, overhead, and the profit for the work indicated on this application.	
Valuation ~~$150,000.~~ $25,000.–	
Number. of bedrooms:	
Number of bathrooms:	
Total number of floors:	
New dwelling area: 45	square feet
Garage/carport area:	square feet
Covered porch area:	square feet
Deck area:	square feet
Other structure area:	square feet

REQUIRED DATA: COMMERCIAL USE CHECKLIST	
Permit fees* are based on the value of the work performed. Indicate the value (rounded to the nearest dollar) of all equipment, materials, labor, overhead, and the profit for the work indicated on this application.	
Valuation	
Existing building area:	square feet
New building area:	square feet
Number of stories:	
Type of construction:	
Occupancy groups:	
Existing:	
New:	

NOTICE
All contractors and subcontractors are required to be licensed with the Oregon Construction Contractors Board under ORS 701 and may be required to be licensed in the jurisdiction in which work is being performed. If the applicant is exempt from licensing, the following reasons apply:

BUILDING PERMIT FEES*	
Please refer to fee schedule	
Fees due upon application (Plan Review)	
Amount received	
Date received:	

This permit application expires if a permit is not obtained within 180 days after it has been accepted as complete

* Fee methodology set by Tri-County Building Industry Service Board
(updated 4/12) 440-4613T (10/02/COM/WEB)

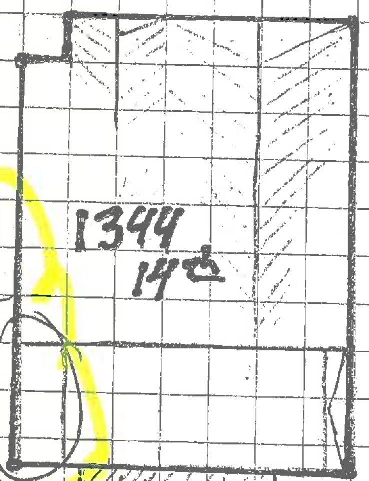
APPROVED PLAN
City of West Linn
Building Department
DATE: 10-22-2013
BY: [signature]

THIS PLAN REVIEW APPROVAL DOES NOT PREVENT THE FIELD INSPECTOR FROM REQUIRING FURTHER CODE CORRECTIONS.

approx ▨ = 5'

DRIVE WAY

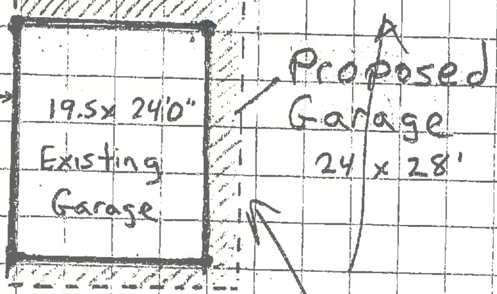
blue berries



- windows - side req. review if replacement

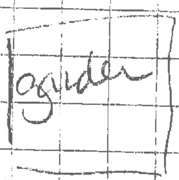
16 x 20' Proposed Porch 120 SQFT

* there is at least a 7' set back from the existing garage to the property line. This proposal would keep the garage on the existing spot but extend in toward the property (away from line)



later date, but reviewing in pre-app.

7'+



This Plan has been Reviewed & Complies w/

	By	Date
Building:	[signature]	10/2/13
Planning:	[signature]	10/2/13 → as noted
Engineering:	[signature]	10/2/13
Parks:	MP	10-2-13

Record ID: 935-13-0835

A notice was added to this record on 2013-08-08.
Condition: Severity: Notice
Total conditions: 1 (Notice: 1)

View notice

Menu | New | Supervisor | Task Activation | Help

Workflow Tasks

- Application Acceptance
- Initial Review
- Fire Review
- Engineering Review
- Tree Review
- Erosion Control Review
- Building Review
- Planning Review
- Completeness
- Permit Issuance
- Inspection
- Certificate of Occupancy
- Close Out

Task	Status	Status Date	Action By
Application Acceptance	Application accepted	09/20/2013	Front Counter
Initial Review	Approved	09/24/2013	Jim Clark
Fire Review			
Engineering Review			
Tree Review			
Erosion Control Review			
Building Review	Routed	09/24/2013	Jim Clark
Planning Review	Routed	09/24/2013	Jim Clark
Completeness			
Permit Issuance			
Inspection			
Certificate of Occupancy			
Close Out			

On Hold for Historic – See Sara
may need H2O upgrade

Record ID: 935-13-0835

A notice was added to this record on 2013-08-08.
Condition: Severity: Notice
Total conditions: 1 (Notice: 1)

View notice

Menu New Supervisor Task Activation Help

Workflow Tasks

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Fire Review			
Engineering Review			
Tree Review			
Erosion Control Review			
Building Review	Approved	10/23/2013	Jim Clark
Planning Review	Approved	10/08/2013	Tom Soppe
Completeness			
Permit Issuance			
Inspection			
Certificate of Occupancy			
Close Out			

OK TO ISSUE

NOTE: this Permit excludes any area under Historic review ... JC 10-22-13

CITY OF West Linn BUILDING

BUILDING Inspection Report

Inspection Request Line: (503)722-5509
Office: (503)656-4211

Permit #	13-0835	Inspection Date	11/1/2013
Address	1344 14th Street		
Contact Phone	333-2010		
Notes	209-9032		

Inspection	Plumbing Rough In

APPROVED   APPROVED W/CORRECTIONS (circled)   NOT APPROVED

COMMENTS:

① Complete New plats

3/2/ 2 1/2

② upstairs pending historic Approval for [illegible]

INSPECTOR: Jim Clark   DATE: 11/1/2013

22500 Salamo Rd., Box 900 ♦ West Linn, OR 97068 ♦ bldg@westlinnoregon.gov

ThinkPermit
Protect your home. Protect your family.

520 SW Yamhill St.
Suite 235
Portland, OR 97204

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

chriskoback@hkcllp.com

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 <u>with the concurrence of the owner</u>, 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, <u>with the concurrence of the property owner</u>, 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 <u>withhold</u> 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.

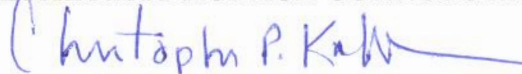
Based upon the evidence in the record, the Board must find that Ms. Bernert did not receive individual notice that her property would be included. Because the evidence establishes that she was not given notice of the proposed designation, she was not given any meaningful opportunity to object to the 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 CP
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).

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

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.

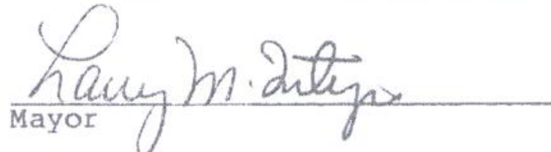
(6) Fire/Policy Facilities Study, September, 1981.

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.

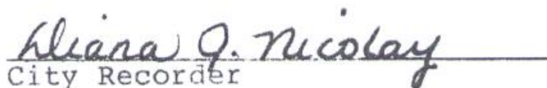
Section 4. Certified copies of the West Linn Comprehensive Plan shall be filed with the City Recorder, Clackamas County, the Metropolitan Service District, and the Land Conservation and Development Commission of the State of Oregon.

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.


Mayor

ATTEST:


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.

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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Exhibit 1
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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

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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Exhibit 1

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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.

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.

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.

City of West Linn

1800 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

Use	Standard
(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"

7th Ave

6th Ave

5th Ave

4th Ave

14th St

13th St

12th St

TUALATIN RIVER

Tualatin Ave

Willamette Park

LEGEND

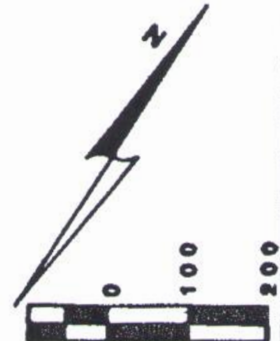
PRIMARY STRUCTURES

SECONDARY STRUCTURES

BOUNDARY

ADOPTED SEPT.11, 1985

PROPOSED BOUNDARY



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
Greshman	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 service area
new garages	-	-	1.50	1.00	-	-	
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 **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 3/4/87)

FORM NO. SP540NCR

STANDARD ACCOUNTING SYSTEMS (12-84)

STATEMENT

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	✓	CREDITS	BALANCE
	BALANCE FORWARDED				3607
4/2 4/9	Plan. Comm- MISC 86-06	61 80			9787
4/9	Plan. Comm. CU86-02/SUB-07	20 60			1184
4/9	Plan. Comm. etc. ZC86-4 SUB86-3	27 03			1455

1½% Charge Monthly on Past Due Accounts. 21% Annual Percentage Rate [illegible]

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

PUBLIC NOTICES

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

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Patricia A. Rich
Planning commission Secretary
Publish West Linn Tidings, Dec. 11, 1985.

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 Commission - Community Dev. Code 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:

December 11, 1985

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

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	✓	CREDITS	BALANCE
	PREVIOUS BALANCE				135 18
12/5/85	Pd ck #34497			51 49	83 69
12/11	Tidings 14½" @ 5.15	74 68			158 37
12/12/85	Pd ck #34596			135 18	23 19
12/11	Notice - Community Dev. Code	21 88			45 07

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Date December 18, 1985

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Public Hearing Notice

December 13, 1985

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