Chapter 68
Historic Preservation

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Section 68.010 Purpose.

It is the purpose of this chapter to establish procedures and standards to preserve, protect, maintain and enhance those landmark resources which represent or reflect elements of the City's cultural, social, economic, political and architectural history and to provide educational value, enjoyment and economic diversification as well as beautification of the City and enhancement of property values. [Ord. 844-91, § 7, 10/14/91]

Section 68.020 Landmark Designation or Removal of Landmark Designation.

(1) A request for Landmark Designation or Removal of Landmark Designation is subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

(2) The process for designating a landmark or removing a landmark designation shall be through the plan amendment process as described in TDC 31.080.

(3) Notice of the public hearing and property owner identification shall be as described in TDC 31.081.

(4) In making their decision the Council shall use the criteria of TDC 31.082 and additional criteria pertaining specifically to landmark designation in TDC 68.030.

(5) The following information shall be required in an application for landmark designation or request for removal of a landmark designation:

(a) The applicant's name and address.

(b) The property owner's name(s) and address(s), if different from the applicant's and a statement of authorization to act on behalf of the owner signed by the owner. City initiated applications do not require a property owner signature.

(c) The street address or other easily understood geographical reference to the property.

(d) A drawing or site map illustrating the location of the structure on the property.

(e) A statement explaining compliance or non-compliance with the applicable approval criteria contained in TDC 31.082 and 68.030.

(f) A list recipients pursuant to TDC 31.064(1).

(g) Any other information deemed necessary by the Planning Director.

(6) The applicant shall post a sign pursuant to TDC 31.064(2).

(7) The burden of proof in all cases is upon the applicant seeking approval. Failure to provide a complete application is sufficient reason to deny the application. [Ord. 844-91, §7, 10/14/91; Ord. 1304-10 §25, 6/14/10]

Section 68.030 Criteria For Designation of a Landmark.

(1) The City Council shall consider the following criteria in determining whether to approve, approve with conditions or deny an application for landmark designation or a request to remove a landmark designation:

(a) Approval criteria of TDC 31.082.

(b) The site or structure shall have a primary or secondary ranking. A structure less than 50 years of age may be designated a landmark upon application by the owner; and

(c) The site or structure shall meet one or more of the following:

(i) The resource is listed on the National Register of Historic Places;

(ii) The site or structure is associated with the life of a person significant in local, state or national history;

(iii) The site or structure is associated with events that have significantly affected past social or economic activities in the community, state or nation;

(iv) The structure is in its original setting and remains substantially as originally constructed;

(v) The structure embodies the distinctive characteristic of a type, period or method of construction that was used in the past;

(vi) The structure's original workmanship and material remain to show the construction technique and stylistic character of a given period;

(vii) The structure represents the work of a master, i.e., is a noteworthy example of the work of a craftsman, builder, architect or engineer significant in local, state or national history;

(viii) The structure possesses high artistic values in its workmanship and materials;

(ix) The immediate setting of the site retains the planting scheme, plant materials or land uses of the relevant historic period or the landscaping is consistent with that period;

(x) The site or structure yields or may be likely to yield information important in history or prehistory; or

(xi) The site or structure is significant as a visual landmark. [Ord. 844-91, §7, 10/14/91]

Section 68.040 Landmark Inventory.

Each site, structure, building or object designated a landmark as provided herein shall be included on the Landmark Inventory and shall be subject to the provisions of this chapter.

Landmark Inventory

Luster House (c.1857) 9030 SW Sagert Street (2S126AB, 102)

Sweek House (1858) 18815 SW Boones Ferry Road (2S123, 300)

Byrom House (1878) 9385 SW Arikara Street (2S126CD, 5600)

Jurgens Barn (c.1880) 17700 SW Shasta Trail (2S114CD, 9700)

Francis House (1885) 8430 SW Avery Street (2S125BC, 5401)

Zeke Eddy House (c.1890) 9005 SW Avery Street (2S126AA, 700)

Little White House (c.1890) 8570 SW Cherokee Street (2S123AA, 1500)

Wesch House (c.1890) 18400 SW 86th Avenue (2S123AA, 1601)

Smith/Boone House (c.1895) 18815 SW Boones Ferry Road (2S123, 300)

Barngrover Barn (c.1899) 20130 SW 65th Avenue (2S1E30B, 600)

Winona Cemetery (1900) 9900 SW Tualatin Road (2S123BA, 2700)

Black House (1900) 11640 SW Myslony Street (2S122C, 1500)

Nyberg House (1905) 7445 SW Nyberg Street (2S124A, 2502)

Richardson House (1910) 20195 SW Boones Ferry Road (2S126AA, 2000)

Robinson Store (1912) 18810 SW Boones Ferry Road (2S124BC, 3001)

Elmer House (1914) 11450 SW Elmer Court (2S114DC, 1100)

Wager House (1915) 12075 SW Tualatin-Sherwood Road (2S127B, 300)
Minnie Skog House (1916) 6001 SW Borland Road (2S1E19C, 1700)
Logan House (1917) 19930 SW Boones Ferry Road (2S123DD, 1600)
(1918) 11325 SW Tualatin-Sherwood Road (2S127B, 700)
Sherburn House (1925) 19840 SW Boones Ferry Road (2S123DD, 1400)
Methodist Church (1926) 19100 SW Boones Ferry Road (2S124CB, 900)
(c.1930) 6825 SW Childs Road (2S124AA, 2400)
Avery Chicken Hatchery (1939) 8385 SW Avery Street (2S125BB, 601)
Tualatin Grade School (1939) 19945 SW Boones Ferry Road (2S123DD, 500)
Winona Grange (1940) 8340 SW Seneca Street (2S124BC, 4700) [Ord. 844-91, §7, 10/14/91; Ord. 1109-02, 4/22/02]

Section 68.050 Demolition and Relocation Applications.

(1) A request to demolish or relocate a Landmark is subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

(2) The Planning Director and City Council shall have the authority to issue a Certificate of Appropriateness regarding demolition or relocation of designated landmarks. Only after issuance of a Certificate of Appropriateness stating approval or approval with conditions, compliance with imposed conditions and approval from other applicable historic preservation reviews shall a demolition or relocation permit be issued by the Building Official.

(3) Applications for demolition or relocation shall be on forms provided by the Planning Director and be accompanied by an application fee in accordance with 31.100.

(4) Applications for relocation of landmarks to sites other than in a Low Density Residential (RL) Planning District shall require Architectural Review approval in addition to a relocation certificate of appropriateness.

(5) Relocated landmarks, which also are to be altered, shall also obtain alteration approval as per 68.090, 68.100 and 68.110.

(6) The following information shall be required in an application for demolition or relocation of a landmark:

(a) The applicant's name and address.

(b) The property owner's name(s) and address(s), if different from the applicant's, and a statement of authorization to act on behalf of the owner signed by the owner.

(c) The street address or other easily understood geographical reference to the landmark property.

(d) A drawing or site map illustrating the location of the landmark.

(e) A statement explaining compliance with the applicable approval criteria (68.060 or 68.070, as appropriate).

(f) Five sets of plan drawings to include site, landscaping and elevations, drawn to scale.

(g) Photographs of the landmark which show all exterior elevations.

(h) A list of recipients pursuant to TDC 31.064(1).

(i) Any other information deemed necessary by the Planning Director.

(7) For the purpose of identifying property owners, the requirements of 31.071(8) shall apply.

(8) The applicant shall post a sign pursuant to TDC 31.064(2).

(9) At the time a demolition or relocation application is made, the Planning Director shall review alternatives to demolition or relocation with the owner of the landmark, including local, state and federal preservation programs. [Ord. 844-91, §7, 10/14/91; Ord. 1304-10 §26, 6/14/10]

Section 68.060 Demolition Criteria.

(1) In determining whether or not a request for demolition of a landmark shall be approved or approved with conditions, the Community Development Director shall find

that one of the criteria (a), (b), or (c) has been met. If the request meets none of the criteria, the Community Development Director shall deny the request.

(a)The landmark is no longer historically significant.

(b) The landmark is no longer architecturally significant.

(c) The benefits of demolishing the landmark and the construction of the identified conflicting permitted use(s) outweigh the value to the community of preserving the landmark.

(2) The following factors shall be used by the Community Development Director in making a decision on demolitions:

(a) The information used in the original designation of the landmark;

(b) Any evidence the applicant or property owner has provided demonstrating that there would be no reasonable, long-term economic benefit to the property owner from preservation of the landmark. In making this determination, the owner must show that all uses or adaptive uses of the landmark have been thoroughly examined. For example:

(i) The fact that a higher economic return would result from demolition than preservation on its own is insufficient to meet criterion (b).

(ii) A lack of adequate funds to pursue potential uses or adaptive uses is insufficient to meet the criterion (i.e., selling, partially preserving, or moving the landmark are options that shall be considered).

(c) Whether issuance of a Certificate of Appropriateness approving the demolition request would act to the detriment of the public welfare;

(d) The Economic, Social, Environmental and Energy consequences to the community of demolishing the landmark as compared to pre-serving it; and

(e) The physical condition of the landmark.

(f) Whether the landmark is identified as a primary or secondary resource. Additional importance shall be accorded to preserving landmarks with a primary designation. [Ord. 844-91, §7, 10/14/91; Ord. 1268-08 §1, 8/11/08]

Section 68.070 Relocation Criteria.

(1) In determining whether a request for relocation of a landmark shall be approved, approved with conditions or denied the Planning Director shall make a decision that:

(a) The proposed relocation site will not compromise the historical and architectural significance of the landmark, and

(b) Relocation is the only alternative for preservation of the landmark.

(2) The following factors shall be used by the Planning Director in making a decision on relocation:

(a) The information used in the original designation of the landmark.

(b) Whether the landmark is within a Planning District that allows higher density or intensity of development than currently exists on the site, or is on land that is needed to accommodate the planned widening or realignment of a public road or transportation facility.

(c) Whether the landmark can reasonably be used in conjunction with a use permitted in the Planning District.

(d) Whether the continued location of the landmark on a proposed development site precludes development of other uses permitted on the site.

(e) Whether the designated landmark is structurally capable of relocation.

(f) Whether the proposed relocation site is an appropriate setting for the designated landmark.

(g) Whether the proposed relocation site is within the City limits or preferably within the neighborhood within which it is currently located.

(h) The Economic, Social Environmental and Energy consequences to the

community of relocating the landmark as compared to preserving it. [Ord. 844-91, §7, 10/14/91]

Section 68.080 Demolition and Relocation Approval Process.

(1) The Planning Director shall issue a Certificate of Appropriateness within 30 days of receipt of a complete application regarding a demolition or relocation request unless the applicant consents to an extension of time. The Planning Director's decision shall become final ten (10) City business days after the date the notice of decision is given unless within said ten (10) days the Planning Director receives a written request for review.

(2) Notice of a decision by the Planning Director concerning demolitions and relocations shall conform to the requirements of 31.074(2), (3) and (4).

(3) The burden of proof in all cases is upon the applicant seeking approval. Failure to provide a complete application is sufficient reason to deny the application.

(4) The Planning Director may approve, approve with conditions or deny the demolition or relocation request after considering the applicable criteria and factors in TDC 68.060 or 68.070, as appropriate.

(5) As conditions of approval for demolition the applicant shall:

(a) List the landmark for sale with a real estate agent for a period of not less than 90 days. The landmark shall be advertised in at least one local or state newspaper of general circulation in the City for a minimum of 10 days over a 5-week period. A copy of the advertisement shall be submitted to the Planning Department prior to issuance of a demolition permit from the Building Official.

(b) Post a sign pursuant to TDC 31.064(2) offering the building "For Sale" as follows: HISTORIC BUILDING TO BE DEMOLISHED - FOR SALE. The applicant shall post the sign within ten feet of a public street on the parcel on which the landmark is located. The applicant is responsible for assuring that the sign is posted for a continuous 90-day period in conjunction with (a) above. Marketing conducted by the applicant or property owner prior to application for demolition or relocation which meets requirements of 5(a) and (b) above may be applied towards meeting the requirements.

(c) Prepare and make available through the City any information related to the history and sale of the property to all individuals, organizations and agencies who inquire.

(d) Prepare photographic documentation, architectural drawings, and other graphic data or history as deemed necessary by the Planning Director to preserve an accurate record of the landmark. The basic format to be followed will be guidelines from the Historic American Building Survey (HABS, December 1973). The historical documentation materials shall be the property of the City or other party determined appropriate by the Planning Director.

(6) As conditions of approval for relocation the applicant shall comply with 68.080(5)(c) and (d).

(7) When a landmark is approved for demolition it shall automatically be deleted from the Landmark Inventory and shall not require approval through 68.020 and 68.030.

(8) When a landmark is relocated to another site within the City limits the landmark status is automatically retained for that landmark at the new site unless an application for landmark designation removal is submitted and approved by the City Council under 68.020 and 68.030.

(9) This ordinance shall not be construed to make it unlawful for any person, without prior approval of the Planning Director, to comply with an order by the City Council to remove or demolish any landmark determined by the City Council to be dangerous to life, health, or property.

(10) In addition to any other persons entitled to notice, the Community Development Director or designee shall mail notice of application to demolish a landmark to the president of the Tualatin Historical Society.

Such notice shall begin a comment period of two weeks. [Ord. 844-91, §7, 10/14/91; Ord. 1268-08 §2, 2/11/08; Ord. 1304-10 §27, 6/14/10]

Section 68.090 Alteration and New Construction Applications.

(1) A request for Landmark Alteration or New Construction is subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

(2) The Planning Director and City Council shall have the authority to issue a Certificate of Appropriateness regarding alteration or new construction of designated landmarks. Only after issuance of a Certificate of Appropriateness stating approval or approval with conditions, compliance with imposed conditions and approval from other applicable historic preservation reviews shall a building permit be issued by the Building Official.

(3) Applications for alteration and new construction shall be on forms provided by the Planning Director and be accompanied by an application fee in accordance with 31.100.

(4) Applications for new construction on landmark sites other than in a Low Density Residential (RL) Planning District shall require Architectural Review approval in addition to an alteration Certificate of Appropriateness.

(5) The following information shall be required in an application for alteration or new construction of a landmark:

(a) The applicant's name and address.

(b) The property owner's name(s) and address(s), if different from the applicant's and a statement of authorization to act on behalf of the owner signed by the owner.

(c) The street address or other easily understood geographical reference to the landmark property.

(d) A drawing or site map illustrating the location of the landmark.

(e) A statement explaining compliance with the applicable approval criteria (68.100(3) or (4)), as appropriate.

(f) Five sets of plan drawings to include site, landscaping and elevations, drawn to scale.

(g) Photographs of the landmark which show all exterior features.

(h) A list of owners of property (fee title) within 300 feet of the subject property together with their current mailing addresses.

(i) Any other information deemed necessary by the Planning Director.

(6) For the purpose of identifying property owners, the requirements of 31.064(1) shall apply.

(7) The applicant shall post a sign pursuant to TDC 31.064(2). [Ord. 844-91, §7, 10/14/91; Ord. 1304-10 §28, 6/14/10]

Section 68.100 Alteration and New Construction Criteria.

(1) Nothing in this section shall be construed to prevent the maintenance or repair of any exterior architectural feature which does not involve a change in design, material or appearance of such feature or which the Building Official shall determine is required for the public safety due to an unsafe or dangerous condition.

(2) Maintenance and repair are not subject to TDC 68.090 or 68.100 and include, but are not limited to:

(a) Replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match either existing materials or those that were typically used on similar style buildings;

(b) Repairing, or providing a new foundation that does not result in raising or lowering the building elevation unless the foundation materials and craftsmanship contributes to the historical and architectural significance of the landmark;

(c) Replacement of wood siding, when required due to deterioration of materi-

al, with wood material that matches the appearance of the original siding;

(d) Repair and/or replacement of roof material with the same kind of roof materials existing, or with materials which replicate the original roof;

(e) Installation of storm windows and doors made with wood, bronze or flat finished anodized aluminum or baked enamel frames which complement or match the color, detail and proportions of the building;

(f) Replacement of wood sashes with wood sashes, or the addition of wood sashes when such is consistent with the original historic appearance; and

(g) Painting and related preparation.

(3) In determining whether a request for alteration of a landmark shall be approved, approved with conditions or denied, the Planning Director shall make a decision that:

(a) The alteration will not diminish the historical significance of the landmark; and

(b) The alteration will not diminish the architectural significance of the landmark.

(4) In determining whether a request for new construction on a landmark site shall be approved, approved with conditions or denied the Planning Director shall make a decision that:

(a) The design of the proposed structure is compatible with the design of the landmark resource on the site considering scale, style, height, architectural detail, materials and colors.

(b) The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site considering setbacks, distances between structures, location of entrances and similar siting considerations.

(5) The following factors are to be used by the Planning Director in making a decision on alterations and new construction:

(a) The use of the landmark, the reasonableness of the proposed alteration, and the relationship of these factors to the public interest in preservation of the landmark;

(b) The value and significance of the landmark;

(c) The physical condition of the landmark;

(d) The United States Department of the Interior's Secretary of the Interior Standards:

(i) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(ii) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(iii) Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural elements from other buildings, shall not be undertaken.

(iv) Most properties change over time; those changes that have acquired significance in their own right shall be retained and preserved.

(v) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

(vi) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(vii) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(viii) Significant archeological resources affected by a project shall be pro-

tected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(ix) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

(x) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. [Ord. 844-91, §7, 10/14/91]

Section 68.110 Alteration and New Construction Approval Process.

(1) The Planning Director shall issue a Certificate of Appropriateness within 30 days of receipt of a complete application regarding an alteration or new construction request unless the applicant consents to an extension of time. The Planning Director's decision shall become final ten (10) City business days after the date the notice of decision is given unless within said ten (10) days the Planning Director receives a written request for review.

(2) Notice of a decision by the Planning Director concerning alteration and new construction shall comply with the requirements of 31.074(2), (3) and (4).

(3) The burden of proof in all cases is upon the applicant seeking approval. Failure to provide a complete application is sufficient reason to deny the application.

(4) The Planning Director may approve, approve with conditions or deny the alteration or relocation request after considering the applicable criteria and factors in TDC 68.100. [Ord. 844-91, § 7, 10/14/91]

Section 68.120 Appeals.

(1) A decision by the Planning Director to approve, approve with conditions or deny issuance of a demolition, relocation, alteration or new construction Certificate of Appropriateness may be appealed to the City Council. An appeal shall be in conformance with TDC 31.076 and 31.077. If no appeal is filed in accordance with 31.076, the Planning Director's decision will be final. [Ord. 844-91, §7, 10/14/91]

Section 68.130 Conformance.

No designated landmark of significance, or part thereof, shall be demolished, relocated or altered, nor shall any new construction take place on a landmark site except in conformity with this chapter. [Ord. 844-91, §7, 10/14/91]

Section 68.140 Time Limit of Approval.

Historic preservation approvals shall be void after one year unless:

(1) A building permit has been issued and substantial construction pursuant thereto has taken place as defined by the state Uniform Building Code; or

(2) The Planning Director finds that there have been no changes in any ordinances, standards, regulations or other conditions affecting the previous approval so as to warrant a new review. [Ord. 844-91, §7, 10/14/91; Ord. 894-93, § 5-9, 5/24/93]