



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/25/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Dayton Plan Amendment
DLCD File Number 001-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, November 04, 2010

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Debra Lien, City of Dayton
Gloria Gardiner, DLCD Urban Planning Specialist
Amanda Punton, DLCD Regional Representative
Steve Oulman, DLCD Regional Representative

<paa> YA



FORM

2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF
OCT 18 2010
LAND CONSERVATION
AND DEVELOPMENT
For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Dayton**

Local file number: **Code amendment 2010-01**

Date of Adoption: **10-04-10**

Date Mailed: **10-¹⁴10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: April 15, 2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Revision to section 7.2.112 Historical property overlay zone (HPO) of the Dayton Land Use and Development Code.

Does the Adoption differ from proposal? No.

Please select one

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment 45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-10 (18228) [16365]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

State Historic Preservation Office
National Register of Historic Places

Local Contact: Debra Lien

Phone: (503) 864-2221 Extension:

Address: PO Box 339

Fax Number: 503-864-2956

City: Dayton

Zip: 97114

E-mail Address: debralien@ci.dayton.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

ORDINANCE No. 600
CITY OF DAYTON, OREGON

AN ORDINANCE AMENDING THE CITY OF DAYTON LAND USE AND DEVELOPMENT CODE, SECTION 7.2.112,
HISTORIC PROPERTY OVERLAY ZONE (HPO) AND OTHER ASSOCIATED SECTIONS;

WHEREAS, the City of Dayton Planning Commission initiated text amendments to the City of Dayton Land Use and Development Code (DLUDC) pursuant to DLUDC Section 7.3.112 applicable to the Historic Property Overlay Zone and other associated sections as set forth in Exhibit 1 which is attached and incorporated by reference herein; and

WHEREAS, a public hearing was held before the Planning Commission on June 8, 2010; and

WHEREAS, the Planning Commission unanimously recommended that said Historic Property Overlay Zone text amendments be adopted; and

WHEREAS, the City has timely forwarded a copy of the proposed amendments to the Department of Land Conservation and Development of the State of Oregon and provided proper notice pursuant to DLUDC Section 7.3.204; and

WHEREAS, the City Council of the City of Dayton conducted a public hearing to consider the Historic Property Overlay Zone text amendments on September 7, 2010 and upholds the Planning Commission's recommendation pursuant to the findings within the Staff Report to the Planning Commission dated, April 29, 2010 attached as Exhibit 2 and incorporated by reference herein.

The City of Dayton ordains as follows:

Section 1. The City of Dayton declares that the proposed **HISTORIC PROPERTY OVERLAY ZONE (HPO) AND OTHER ASSOCIATED SECTIONS** text amendments to the DLUDC are hereby adopted as provided in Exhibit 1 attached and incorporated by reference herein.

First Reading: September 7, 2010

Second Reading: October 4, 2010

PASSED and adopted by the City Council of the City of Dayton on this 4th day of October, 2010 by the following votes and providing an **effective date of November 4, 2010.**

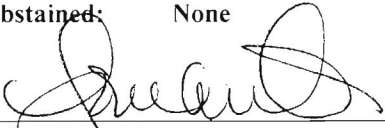
Final Vote:

In Favor: Blackburn, Dickson, Evers, Frank, Hensley & White

Opposed: None

Absent: Wytoski

Abstained: None



Jolie White, Mayor

10/13/10

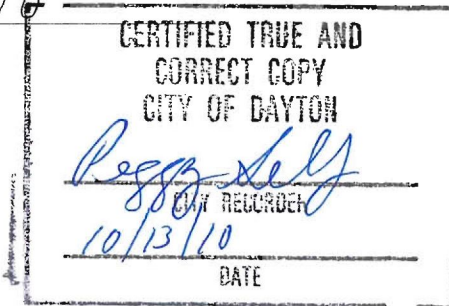
Date of Signing

Attest:


Peggy Selberg, City Recorder

10/4/10

Date of Enactment



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Text marked with a ~~double strike-through~~ is proposed for deletion.
Text marked with a double underline is proposed as new text.

7.2.112 HISTORICAL PROPERTY OVERLAY ZONE (HPO)

7.2.112.01 Purpose

The purpose of this Overlay Zone is to:

A. Promote the historic, educational, architectural, cultural, economic, and general welfare of the public through the preservation, restoration and protection of those buildings, structures, sites, districts, and objects of historic interest within the city;

B. Foster civic pride in the accomplishments of the past; and

C. Carry out the provisions of the Land Conservation and Development Commission, Statewide Planning Goal 5.

7.2.112.02 Conformance Required

No land shall be used, and no building, site, object, district, or structure of significance, or part thereof, shall be demolished, moved, or altered, nor shall any new construction take place within a district or on a landmark site except in conformity with this Code.

7.2.112.03 Definitions

The following definitions shall apply to this Section: otherwise:

Affirmative Maintenance: Maintaining a building in such a manner as to not create deterioration of the structure and/or dwelling unit. See Deterioration, Prohibited.

Alteration: A change, addition, or modification to the exterior of a building. An addition, removal, or reconfiguration which significantly changes the exterior character (including windows and doors) of a historic resource.

Archaeological Artifact: An item being at least 75 years old and is the physical record of an indigenous or other cultures or the material remains of past human life or activity.

Archaeological Site: A site with 10 or more artifacts or a feature likely to have been generated by patterned cultural activity.

Archaeological Site of Significance: An archaeological site that is currently, or potentially eligible to be included on the National Register of Historic Places, or any archaeological site that has been on the National Register of Historic Places, or any archaeological site that has been determined significant by any of Oregon's nine federally designated Native American Tribes.

Cultural Resource Survey and Inventory: Historical buildings or sites identified as "significant" on the Goal 5 historical resource inventory. The record of information about resources evaluated for listing in the Designated Landmarks Register or National Register of Historic Places within the City of Dayton.

Demolish Demolition: To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district. The

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razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.

Designated Landmarks Register: The list of historic building or sites and archeological resources identified as “significant” and the record of information about properties officially recognized by the City of Dayton as important in its prehistory and history.

Deterioration, Prohibited: Prohibited conditions of deterioration include, but are not limited to moisture infiltration through the exterior roof, walls, openings and foundations; unchecked damage by animals or vandalism, un-maintained or unsafe mechanical, electrical, or plumbing systems, and any conditions on the property that endangers the resource. See Affirmative Maintenance.

Historic District: A geographically defined area possessing a significant concentration of buildings, objects, and/or sites which are unified historically by plan or physical development, the boundaries of which have been adopted by the Council under Section 7.2.112.045.

Historic Preservation Committee (HPC): A committee established by the City Council under Ordinance No. 592 (October 2009) to work with the Planning Commission and City Council to make recommendations that will ensure that the City continues to preserve, protect, and identify properties with historic value.

Historic Resource: A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. Resource types are further described as:

*Building – A construction made for purposes of shelter or habitation, e.g. house, barn, store, theater, garage, school, and etc.

*Structure – A construction made for functions other than shelter or habitation, e.g. bridge, dam, highway, boat, and etc.

*Object – A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g. statue, fountain, milepost, monument, sign, and etc.

*Site – The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e. g. battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, and etc.

*District – See Historic District above.

Landmark, Designated: Any site, object, buildings, or structure officially recognized and designated by the City Council under Section 7.2.112.045.

Major Public Improvement: The expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of property within a district or on a landmark site, except for the repair or maintenance of existing public improvements.

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7.2.112.04 Cultural Resource Survey and Inventory

A. The Planning Commission and/or Historic Preservation Committee shall periodically survey and inventory resources potentially eligible for listing in the Designated Landmarks Register and/or National Register of Historic Places with the City of Dayton.

1. Survey and inventory documents shall be maintained, periodically updated, and open to the public.

2. Survey and inventory documents and processes shall be compatible with the practices of the Oregon State Historic Preservation Office for maintaining the Oregon Inventory of Historic Sites.

3. Records concerning archeological sites shall NOT be made available to the public.

Note: Correction per SHPO.

4. Properties included in the Cultural Resource Inventory are not subject to the provisions of 7.2.112.02 (Conformance Required), 7.2.112.06 (Demolition and Moving), 7.2.112.07 (Exterior Alteration and New Construction), or 7.2.112.08 (Notice of Public Hearing) of this Land Use and Development Code unless they are already listed on the National Register.

7.2.112.045 Landmark and District Designation

A. Process. The process for designating a landmark or historic district may be initiated by the Council, the Commission, or by any interested person who submits an application for designation to the City ~~Administrator~~ Manager. At the time of application the ~~Director~~ City Manager shall provide the property owner and applicant with information regarding the benefits and restriction of designation.

B. Information. The following information shall be required in an application:

1. The applicant's name and address;

2. The owner's name and address, if different from the applicant;

3. A written description of the boundaries of the proposed district or the location of the proposed landmark;

4. A map illustrating the boundaries of the proposed district or the location of the proposed landmark;

5. A statement explaining the following:

~~a. The reason(s) why the proposed district or landmark should be designated under the Decision Criteria specified in sub-section E., describing why the area is eligible or what event(s)/person(s) are associated with the property and if the resource's architecture or construction methods used are noteworthy;~~

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~~2~~b. The reason(s) why the boundaries of the proposed district are appropriate for designation;

~~3~~c. The potential impact, if any, which designation of the proposed district or landmark would have on the residents or other property owners in the area.

6. Any other information deemed necessary by the ~~Director~~ City Manager necessary to address approval criteria.

C. Historic Preservation Committee (HPC) Review: After the application is deemed complete, the Historic Preservation Committee shall review the application at either one of their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.

~~6~~D. Council Action. ~~Within seven days of receipt of a~~ After the application is deemed complete application, the City ~~Administrator~~ Manager shall forward ~~schedule~~ the request to be considered at the next available Council meeting. The Council shall ~~hold~~ conduct a public hearing (Type III) ~~within 45 days of receipt of the application~~ pursuant to Section 7.3.2 (Procedures) of this Code. The Council shall make a written record approving, approving with conditions, disapproving, or postponing final action on the request.

~~6~~E. Decision Criteria. The Council shall consider the following criteria ~~in determining~~ determine whether to approve a proposed landmark or district if the potential landmark or district is significant enough to grant the designation*.

~~1. Association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;~~

~~2. Association with an event that has made a significant contribution to the city, county, state, or nation;~~

~~3. Association with broad patterns of political, economic, or industrial history in the city, county, state, or nation;~~

~~4. Significance as an example of a particular architectural style, building type and/or convention;~~

~~5. Significance due to quality of composition, detailing, and/or craftsmanship;~~

~~6. Significance as an example of a particular material and/or method of construction;~~

~~7. Significance because the resource retains its original design features, materials, and/or character;~~

~~8. Significance as the only remaining, or one of the few remaining resources of a particular style, building type, design, material, or method of construction;~~

1. The property is associated with events that have made a significant contribution to the broad patterns of local, state, or national history;

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2. The property is associated with the lives, persons, or groups of people, significant in local, state, or national history;

3. The property is significant because it embodies the distinctive characteristics of an architectural type, style, period, or method of construction or that represents the work of a master, or that possesses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;

4. The property is significant because it yielded or is likely to yield information which is important to local, state, or national history;

~~95.~~ The property is of Ssignificance as a visual landmark;

~~10.~~ Significance because existing land use surrounding the resource contribute to the integrity of the historic period represented;

~~116.~~ The property is of Ssignificance because the resource contributes to the continuity or historic character of the street, neighborhood, and/or community;

~~12.~~ Significance because the property is 50 years old or older in conjunction with other criteria listed above;

~~137.~~ The resource is listed on the National Register of Historic Places; and

8. If testimony or comments are provided, the Council considers the recommendation from the Historic Preservation Committee (HPC).

~~EE.~~ Removal of Designation. The process for removing a landmark or historic district designation may be initiated by the Council, the Commission, property owners, or by any interested person who submits to the City Administrator Manager an application for removal of the designation. The Council may amend or rescind its designation by following procedures required by this Code for designating a landmark, including the adoption of appropriate findings.

G. If the property is listed on the National Registry of Historic Place, the removal shall be completed according to the Oregon State Statute and in cooperation with the State Historic Preservation Office (SHPO) and according to federal statute under CFR Part 60.15. Please Note: Change as recommended under review by SHPO.

7.2.112.056 Demolition and Moving

A. ~~City Administrator~~ Manager Approval. No person shall move, demolish, or cause to be demolished a landmark or a significant resource in an historic district, unless a permit to do so has first been obtained from the City ~~Administrator~~ Manager. Application for a permit shall be on a form provided by the City.

B. Application Process. Application for alteration of a landmark or new construction ~~isn~~ is an historic district or on a landmark site shall be filed on a form provided by the City.

The following information shall be required in an application:

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1. The applicant's name and address;
2. The owner's name and address, if different from the applicant;
3. A written description/explanation of the proposed relocation or demolition;
4. A site plan indicating the location of structures on the subject property;
5. Statements indicating the intended re-use of the subject property;
6. Any other information deemed necessary by the City Manager necessary to address approval criteria.

~~C. Decision Criteria. In determining whether the requested demolition or moving is appropriate, the Commission shall consider the following:~~

- ~~1. Plans, drawings, and photographs submitted by the applicant;~~
- ~~2. Information presented at the public hearing concerning the proposal;~~
- ~~3. The purpose of this Code as set forth in Section 2;~~
- ~~4. The criteria used in the original designation of the resource;~~
- ~~5. If within an historic district, the resource's contribution to the district and the subsequent integrity of the district if the resource is demolished or moved;~~
- ~~6. Whether denial of the request will involve substantial hardship to the applicant;~~
- ~~7. Whether issuance of the permit would act to the substantial detriment of the public welfare and be contrary to the purpose and scope of this Code;~~
- ~~8. The economic, social, environmental and energy consequences of demolishing or moving the resource compared to preserving it; and~~
- ~~9. The physical condition of the resource.~~
- ~~10. Comments of the City Historical Preservation Committee.~~

C. Historic Preservation Committee (HPC): After the application is deemed complete, the Historic Preservation Committee may review the application at either one of their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.

BD. Review Process. Upon receipt of a complete application, the City Administrator Manager shall include the demolition request on the agenda for consideration at the next available Commission meeting. The Commission shall hold a Type II public hearing pursuant to Section 7.3.2 (Procedures) of this Code within 45 days after an application

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~~has been deemed complete by the City.~~ The Commission shall ~~request~~ consider, if available, comments from the City's ~~Historical Preservation Commission Committee.~~

E. Decision Criteria. In order to approve an application for the relocation or demolition of a Designated Landmark, the Commission must find that:

1. No prudent and feasible alternative exists, or
2. The designated property is deteriorated beyond repair, or
3. The value to the community of the proposed use of the property outweighs the value of retaining the Designated Landmark.

~~DE.~~ Planning Commission Approval. The Commission may approve the demolition or moving request after considering the criteria in this section. If no appeal is filed, the ~~Administrator~~ City Manager shall issue the permit in compliance with all other codes and ordinances of the City.

A permit shall not be issued unless the applicant provides evidence of legal and recorded ownership of the subject property.

~~EG.~~ Planning Commission Denial. The Commission may disapprove the demolition or removal request if after considering the criteria in this section and based upon not satisfying the criteria, it determines that in the interest of preserving historical or architectural values, the resource should not be demolished or moved.

~~FH.~~ Planning Commission Postponement Continuance. The Commission may ~~postpone taking~~ continue the final action on a request for issuance of a demolition or moving permit based on compliance with the State of Oregon 120-day rule for making a final decision on an application. ~~for a period fixed by the Commission as follows:~~

- ~~1. No more than 60 days following the date of public hearing. Further postponements may be made for a period not to exceed a total of 120 days from the date of hearing, if the Commission makes the findings specified in subsection (c) of this section.~~
- ~~2. Further postponements as stated above may only be made if the Commission finds:~~
 - ~~a. There is a program of project underway that could result in public or private acquisition of the landmark or resource; and~~
 - ~~b. There is a reasonable ground for believing the program or project may be successful.~~
- ~~3. After granting a further postponement, the Commission may order the Administrator to issue the permit if it finds:~~
 - ~~a. All programs or projects to save the resource have been unsuccessful;~~
 - ~~b. The application for demolition or moving has not been withdrawn; and~~
 - ~~c. The application otherwise complies with City Codes and state law.~~

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~~G~~I. Appeals. A decision by the Commission to approve, or disapprove, or ~~postpone issuance of a demolition or moving permit or to grant a further postponement~~ an application to relocate or demolish an historic resource may be appealed to the Council by any aggrieved party who appeared orally or in writing, in person or through an attorney at the Commission hearing and presented or submitted testimony related to the request under consideration. The appeal shall comply with the requirements in Section 7.3.2. (Procedures)

~~H~~. Final Decision. ~~If no decision on the application is made by the Commission within the periods specified above, the City Administrator shall issue the permit.~~

~~I~~J. Alternative Actions. At the time a demolition or moving application is ~~made~~ filed the ~~Administrator~~ Manager shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.

~~J~~K. Additional Requirements. During a period of ~~postponement~~ continuance, the Commission may require the property owner to:

1. List the resource for sale with a real estate agent for a period of ~~not less than 90 days~~ time to allow for a final decision within 120 days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of 10 days and over a 5-week period of time that allows for a final decision within 120 days.

2. Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. Lettering on the sign shall be at least one foot in height. The sign shall be provided by the City and be posted in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the resource is located. The applicant is responsible for assuring that the sign is posted ~~for a continuously 90-day period in conjunction~~ within the time frame specified in Number 1., above.

3. Prepare and ~~made~~ make available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.

4. Assure that the owner has not rejected the highest bona fide offer for sale and removal of the resource.

~~K~~L. Press Notification. Prior to issuance of a demolition permit, the ~~Director~~ City Manager shall issue a press release to local ~~and~~ or state newspapers of general circulation in the county. The press release shall include, but not limited to, a description of the significance of the resource, the reasons for the proposed demolition or removal, and possible options for preserving the resource.

~~L~~M. Permit Conditions. As a condition for approval of a demolition permit, the Commission may:

1. Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the county or other party determined appropriate by the Commission.

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2. Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials. The applicant shall be provided with a list of persons capable of salvaging the resource.

~~4.1.~~ Dangerous Building. This Code shall not be construed to make it unlawful for any person, without prior approval of the Commission, to comply with an order by the City Council to remove or demolish any landmark determined by the Council to be dangerous to life, health, or property.

7.2.112.067 Exterior Alteration and New Construction

A. Scope. No person shall alter a landmark or any significant resource in an historic district nor shall any new building or structure be constructed in an historic district or on a landmark site unless approval is first obtained under this section. In addition, no major public improvements shall be made on a landmark site or in an historic district unless approved by the Planning Commission.

B. Application Process. Application for alteration of a landmark or new construction ~~is~~ in an historic district or on a landmark site shall be filed ~~made to the City Administrator. The application shall be~~ on a form provided by the City.

The following information shall be required in an application:

1. The applicant's name and address;
2. The owner's name and address, if different from the applicant;
3. Name of the person(s), title, or relationship to the project who will verify that the alteration or new construction (if approved) has been completed according to the City's requirements.
4. A written description/explanation of the proposed exterior alteration or new construction;
5. A site plan indicating the location or proposed location of structures on the subject property;
6. Photographs, other pictorial/schematics, sample materials/colors (if available) to represent the proposed changes or additions for a new or to a remodeled structure;
7. Written explanation of the intended alteration in comparison with the City's 1993 Advisory Guidelines and the US Secretary of Interior Guidelines. (An on-line copy of the latter document is available for review at the following site: www.nps.gov/history/hps/tps/standguide/index.htm.)
8. Any other information deemed necessary by the City Manager to address approval criteria.

C. Historic Preservation Committee (HPC): After the application is deemed complete, the City Manager requests a review by the Historic Preservation Committee. The review is conducted at their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the

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application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.

~~ED.~~ Approval Requirements. The ~~Administrator~~ City Manager shall ~~may~~ approve the alteration request if determined a minor alteration based upon:

- ~~1. There is a~~ No change in the appearance or material of the resource as it exists and/or includes building maintenance; or
- The proposed alteration duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials with the provision that the City Manager may refer the interpretation to the Planning Commission; or
- The alteration work is on a side or sides of a building not visible from public rights-of-way.

~~DE.~~ Planning Commission Action. If a request for alteration does not meet the provisions of subsection ~~(C)~~ (D) of this section, the ~~Administrator~~ City Manager shall forward the application and the comments from the Historic Preservation Committee to the Planning Commission. The Commission, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Procedures) of this Code, shall approve or disapprove issuance of the requested permit. The Commission may attach conditions to the approval which must be adhered to for the approval to remain valid.

~~EF.~~ Decision Criteria. The Commission shall consider the following standards, comments, and criteria in determining whether to approve an alteration request~~s~~.

- ~~1. The purpose of this Code;~~
- ~~2. The use of the resource, the reasonableness of the proposed alteration, and the relationship of these factors to the public interest in the preservation of the resource;~~
- ~~3. The value and significance of the resource;~~
- ~~4. The physical condition of the resource;~~
- ~~5. The effect of requested changes related to the original exterior design, arrangement, proportion, detail, scale, color, texture, and/or materials;~~
- ~~6. Pertinent aesthetic factors as identified by the Commission;~~
- ~~7. Economic, social, environmental and energy consequences of the proposed alteration; and~~

1. Use of the property is historically similar or new use requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

2. Historic character of a property is retained and preserved. The relocation of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property shall be avoided.

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3. Use of property recognizes physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.

4. Changes acquiring historic significance in their own right are retained and preserved.

5. Alterations preserve distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the property.

6. Historic features are repaired versus replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.

7. Use of chemical and physical treatments, if appropriate, are undertaken by the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

8. Alteration, including new additions, exterior alterations, or related new construction, do not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale, and proportions, and massing to protect the integrity of the property and environment.

9. New additions and adjacent or related new construction is undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment are unimpaired.

~~10.~~ The Planning Commission considers design guidelines adopted recommended by the Planning Commission or Historic Preservation Committee, such as applicable sections of the City's 1993 Advisory Guidelines or the U. S. Secretary of Interior's Standards (www.nps.gov/history/hps/tps/standguide/index.htm).

11. The Planning Commission considers comments submitted by the Historic Preservation Committee.

~~FG.~~ Repair and Maintenance Provisions. Nothing in No provision of this Code shall be construed to prevent the ordinary maintenance or repair of a Designated Landmark such as any exterior architectural feature which does not involve a change in design, material or appearance of such feature, or which the Administrator City Manager determines if the proposed activity is required for the public safety due to an unsafe or dangerous condition.

~~GH.~~ Building Code Leniency. Property owners may request that the City Building Official or his/her designee grant leniency for non-conforming alterations, repairs, additions, and changes of occupancy for existing designated landmark structures in accordance with Section 3403.5 (or its most current replacement/update) of the Uniform Building Code/Oregon Structural Speciality Code. The City Manager and/or his/her designee shall have the final authority to grant such variances. In accordance with the statute, the Building Official or his/her designee may seek guidance from the Oregon State Historic Preservation Office in the application of this provision.

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7.2.112.078 Notice and Public Hearing

~~A. Notice. Within 45 days of receipt of a complete application for designation, alteration, demolition or moving of a landmark, or for undertaking such activities or new construction in a historic district, the Commission shall conduct a public hearing to consider the application.~~

~~BA.~~ Application Process. The hearing shall be conducted by the Planning Commission as a Type II hearing and subject to the notice, procedural and appeal provisions in Section 7.3.2 (Procedures).

7.2.112.089 Affirmative Maintenance.

Structures and sites designated by the City to be of historic significance shall be maintained. See See 7.2.112.03, Definitions—Affirmative Maintenance and Deterioration, Prohibited.

Properties deemed deficient in maintenance are subject to the violation provisions and other applicable ordinances of the City. (See Section 7.1.102.06 of the Development Regulations and the Municipal Code, Section 4.5.)

7.2.112.10 Enforcement of State Preservation Laws

The City of Dayton City Council and Planning Commission shall support the enforcement of all State laws relating to historic preservation. These include but are not limited to ORS 197.772 (Consent for designation for historic property), ORS 358.653 (Conservation Programs, Leases), and ORS 358.475 through 358.541 (Special Assessment).

OTHER CODE SECTIONS WITH REFERENCES TO HISTORIC PROPERTIES needing amendments include:

7.1.200.01 - GENERAL PROVISIONS – Change as noted under the historic category.

A. General and Specific Terms. The definitions contained in this Section include those that are applicable to the entire Code (general), and those terms that apply to specific Sections (specific). Terms used in specific Sections are identified as follows:

[Flood]	Flood plain Overlay Zone; Section 7.2.1.
[Historic]	Historical Landmark <u>Property</u> Overlay Zone; Section 7.2.1.
[RV Park]	Recreational Vehicle Park; Section 7.2.4.

7.1.200.03 DEFINITIONS – See changes as noted to maintain consistency between this section of the Code and Historic Property Overly zone.

The following words and phrases, when used in this Code, shall have the meanings ascribed to them in this Section:

~~**Demolish [Historic]:** To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district.~~

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Demolition (Historic): The razing, destruction, or dismantling of an historic resource to the degree that its historic character is substantially obliterated.

~~**Historic Building or Site [Historic]:** A building, structure or site identified as a significant historical resource in the Dayton Comprehensive Plan.~~

Historic Resource: A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. See Chapter 7.2.112. Resource types are further described as:

*Building – A construction made for purposes of shelter or habitation, e.g. house, barn, store, theater, garage, school, and etc.

*Structure – A construction made for functions other than shelter or habitation, e.g. bridge, dam, highway, boat, and etc.

*Object – A construction which is primarily artistic or commemorative in nature and normally movable or part of a building or structure, e.g. statue, fountain, milestone, monument, sign, and etc.

*Site – The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e. g. battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, and etc.

*District – See Historic District below.

~~**Historic District [Historic]:** A geographically definable area, the boundaries of which have been adopted by the Council.~~

Historic District: A geographically defined area possessing a significant concentration of buildings, objects, and/or sites which are unified historically by plan or physical development, the boundaries of which have been adopted by the Council under Section 7.2.112.05.

~~**Landmark [Historic]:** Any site, object, buildings, or structure designated by the Council under Section 7.2.112.04.~~

Designated Landmarks Register: The list of historic building or sites and archeological resources identified as "significant" and the record of information about properties officially recognized by the City of Dayton as important in its prehistory and history.

7.2.113 FLOOD PLAIN OVERLAY DISTRICT (FPO)

7.2.113.02 Definitions

For purposes of this Overlay Zone, the following terms shall mean:

HH. **Substantial Improvement:** Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:

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1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:
 - a. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.
 - b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure as determined by the City Manager or Planning Commission using alteration criteria.

RESTRICTED DEVELOPMENT OVERLAY DISTRICT (RD)

7.2.114.01 Purpose

There are environmentally sensitive areas within the City of Dayton which include unique natural habitat areas, lands valued for their aesthetic qualities and lands which cannot be developed under ordinary standards due to physical limitations. It is the intent and purpose of this zone boundary to maintain and protect the integrity of the natural resources of the City by implementing the goals and policies of the Comprehensive Plan.

7.2.114.03 Review of Uses

Within the RD Overlay a conditional use permit shall be required for all new uses, use changes, intensification of uses or site alteration for uses otherwise permitted in the underlying zone except for the following activities which are not subject to review:

- A. Reasonable emergency procedures necessary for the safety or protection of property.
- B. Maintenance and repair necessary, and usual, for the continuance of an existing use.
- C. The placing by a public agency of signs, markers, aids, etc. to serve the public.
- D. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical and natural uses of public lands, identified in a public park master plan approved by the City Council. Also see Chapter 7.2.112. (Note: The City has a separate process (Chapter 7.2.112) for reviewing changes to the properties listed on the National Register.)
- E. Public utilities and facilities in conjunction with an approved development or identified as part of a master utility plan approved by the City Council.

The Accessory Structure and Manufactured Housing sections are referenced because the requirements were discussed during the PC/HPC work sessions.

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7.2.309 ACCESSORY STRUCTURES

7.2.309.01 Single Family and Duplex – No changes recommended.

For single family residential and duplex uses on an individual lot:

E. *(Added by Ordinance #510, 12/7/98 – Effective 12/7/98)* **Historic Structures** - Accessory structures located on an individual lot or parcel adjacent to a significant historic resource identified in the Dayton Comprehensive Plan shall comply with the following:

1. The exterior of the accessory structure shall be residential in appearance. No specific siding material is required, except that use of vertical metal siding shall be prohibited.
2. The height of the accessory structure shall not exceed the height of the adjacent historical building. If the site of the historical resource does not contain a building, the accessory structure shall not exceed the height of the residence which the structure will be located.
3. These provisions shall apply to all accessory structures regardless of whether a building permit is required.

7.2.404 MANUFACTURED HOMES ON INDIVIDUAL LOTS – No changes recommended.

Where permitted as a special use, manufactured homes located on individual lots outside of a mobile home park shall meet the following requirements:

J. *(As Revised by Ordinance #510, 12/07/98 – Effective 12/07/98)*. A Conditional Use permit shall be required to place a manufactured home on an individual lot or parcel **adjacent to a significant historical resource** as identified in the Dayton Comprehensive Plan. The application shall be subject to the decision criteria contained in Section 7.3.107 as well as the following factors:

1. Location - The dwelling shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.
2. Orientation - If the primary entrance of the adjacent historical building faces a public street, the primary entrance to the manufactured home shall also face the same public street. This provision does not apply if either lot or parcel is a "corner lot" as defined by this Code.
3. Screening - Screening and buffering shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.
4. Intent - It is not the intent of this section to grant a conditional use permit in all circumstances, even if factors 1 to 3 above are successfully met. The Conditional Use shall be granted only under those circumstances which are unique to the subject property and will not impair or adversely impact the integrity of the adjacent historical site. The burden of proof shall be placed by the applicant to ensure these concerns are adequately addressed.

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7.3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures. See Land Use Application process, Table 1.

7.3.101.01 Type I Action

Type I actions are administrative reviews processed by the City staff. The review standards are generally clear and objective and allow little or no discretion. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

A. Minor Variance

B. Property Line Adjustment

C. Partitions

D. Historic Exterior Alteration or New Construction (unless determined to required a Type II procedure by the City Manager)

7.3.101.02 Type II Actions

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Staff has an advisory role. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

A. Site Plan Review

B. Conditional Use, including Flood Plain

C. Major Variance, including Flood Plain

D. Subdivision, Planned Unit Development and a Partition including a Private Street
(Revised by Ordinance #541, 06/03/02 - Effective 07/03/02)

E. Historic Demolition and Moving

F. Historic Exterior Alteration or New Construction (if referred to the Planning Commission by the City Manager)

7.3.101.03 Type III Actions

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. Staff and the Planning Commission have advisory roles. Public notice is provided and public hearings are held before the Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the

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Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- A. Comprehensive Plan Map Amendments (involving 5 or fewer adjacent land ownerships or less than 10 acres)
- B. Zone Changes (involving 5 or fewer adjacent land ownerships or less than 10 acres)
- C. Annexation
- D. Historic Landmark and District Designation

LAND USE APPLICATION PROCESS

LAND USE ACTION	TYPE	STAFF	PLANNING COMMISSION	CITY COUNCIL
Minor Variance	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Lot Line Adjustment	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Partition (inc. Expedited Review)	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Site Plan Review	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Conditional Use (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Major Variance (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Subdivision (inc. Expedited Review)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision

CITY OF DAYTON
416 Ferry Street – P O Box 339
Dayton, OR 97114-0039
503-864-2221 FAX: 503-864-2956

STAFF REPORT
 April 29, 2010
(for May 11, Planning Commission Hearing)

FILE: Code Amendments 2010-01

Applicant: City of Dayton

Request: A text amendment to the City of Dayton Land Use and Development Code, Section 7.2.112, Historical Property Overlay Zone (ZHO). See Attachment A.

Criteria: Dayton Land Use and Development Code, Section 7.3.112.03

Procedure: Type IV (Land Use and Development Code, Section 7.3.112)

Attachments: Attachment A: Draft Code amendments
 Attachment B: Comprehensive Plan, selected pages

I. PROCESS

According to the Dayton Land Use and Development Code (DLUDC), subsection 3.101.04, a Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. The amendments are initiated as part of the process toward the City of Dayton seeking recognition from the State Historic Preservation Office (SHPO) as a Certified Local Government (CLG). According to a Type IV process a public hearing is conducted before the Planning Commission and the Commission makes a recommendation to the City Council. City Council conducts a public hearing toward making a final decision. Newspaper publications provide notice for the hearings.

II. BACKGROUND

In 2009, the City of Dayton filed an application with SHPO in an effort to become endorsed as a Certified Local Government.

As part of the process, City representative requested review by SHPO of the section of the City's Development Code applicable to properties designated on the National Historic Register. Suggestions were made for change.

In the year 2009 and 2010, the City of Dayton processed several applications using Section 7.2.112. City staff, the Planning Commission, and a representative of the City's informally recognized Historic Preservation Committee determined that sections of the Development

Regulations needed updating to allow better review guidelines for processing requests related to properties of historic significance. (By passing an Ordinance 592, the City Council formally recognized the Historic Preservation Committee.)

The City of Dayton Planning Commission reviews the proposed amendments on Tuesday, May 11, 2010, and the City Council is scheduled to conduct a public hearing on Monday, June 7, 2010.

In summary the changes include revised and new definitions and including references to the City's prehistory and archeological resources, revised criteria for determining historic resources, listing more specifically application submittal items, revising criteria for processing applications (alterations, construction, demolition) on properties within the Historic Property Overlay zone, adding provisions to address affirmative maintenance. In addition to the reviewing the Historic Overlay Zone chapter, the remainder of the Code was checked for consistency with the proposed text amendments and changes made were applicable.

The Planning Commission (PC) and the Historic Preservation Committee (HPC) conducted workshops to review the DLUDC, Chapter 7.2.112. The joint work sessions between the PC and HPC and analysis by SHPO staff initiated further changes. Attachment A presents the results of the meetings and the numerous reviews by the members and the State Historic Preservation Office.

III. CRITERIA

Amendments to the Development Code text shall be reviewed in accordance with the Type IV review procedure. Text shall be approved if evidence can substantiate the following:

- A. Impact of the proposed amendment on land use and development patterns within the City, as measured by:
 - 1. Traffic generation and circulation patterns;
 - 2. Demand for public facilities and services;
 - 3. Level of park and recreation facilities;
 - 4. Economic activities;
 - 5. Protection and use of natural resources; and
 - 6. Compliance of the proposed with existing and adopted special purpose plans or programs, such as public facilities improvements.

Finding: Changes to the LUUDC related to reviewing activities on properties under an historic designation do not negatively impact traffic, increase demand on public facilities and service, change the level of needed park/recreational facilities, or diminish protection and use of natural resources. Providing directions toward maintaining and appropriately rehabilitating structures consider historic resources had the potential to increase activities within the community that can cause an economic benefit. At the time of development review, the City reviews for compliance with needed public facility improvements and any applicable special programs.

B. A demonstrated need exists for the product of the proposed amendment.

Finding: Review of land use applications over the last calendar year and the City's efforts to become a Certified Local Government under SHPO, provides the impetus for initiating the code amendments.

C. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

Finding: Citizens (Goal 1) is used in the process upon considering the code amendments during the public hearing process. The changes are being proposed as a way to better protect the City's historic resources (Goal 5).

The City of Dayton Comprehensive Plan helps to ensure compliance with Statewide Planning Goals. Amendments are in conformance with Section 3.9 of the document, Goal 1.—To conserve open spaces, and preserve natural, scenic and cultural resources; and Goal 6.—To preserve significant historic land marks, sites and structures.

D. The amendment is appropriate as measured by at least one of the following criteria:

1. It corrects identified error(s) in the provision of the plan.
2. It represents a logical implementation of the plan.
3. It is mandated by changes in federal, state, or local law.
4. It is otherwise deemed by the council to be desirable, appropriate, and proper.

Finding: Updating and expanding the Historic Properties Overlay Zone of the DLUDC represents a logical implementation of the plan as the City endeavors to become a CLG that has been deemed desirable by the City Council.

IV. PLANNING COMMISSION ACTION

Based upon the findings as indicated above, the Planning Commission makes a recommendation to City Council to take one of the following actions:

- A. Adopt the code amendments as presented in Attachment A based upon the findings and conclusions as indicated in the staff report; or
- B. Adopt the code amendments with modifications to Attachments A indicating the changes and stating the findings and conclusions to support the modifications; or
- C. Reconsider the code amendments as presented in Attachment A indicating the basis for not recommending adoption and the additional information needed to complete the adoption process.

Please Note: The City Council final decision also requires the adoption of an ordinance before the Code Amendments are considered officially adopted.

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Text marked with a ~~double strike through~~ is proposed for deletion.
Text marked with a double underline is proposed as new text.

7.2.112 HISTORICAL PROPERTY OVERLAY ZONE (HPO)

7.2.112.01 Purpose

The purpose of this Overlay Zone is to:

A. Promote the historic, educational, architectural, cultural, economic, and general welfare of the public through the preservation, restoration and protection of those buildings, structures, sites, districts, and objects of historic interest within the city;

B. Foster civic pride in the accomplishments of the past; and

C. Carry out the provisions of the Land Conservation and Development Commission, Statewide Planning Goal 5.

7.2.112.02 Conformance Required

No land shall be used, and no building, site, object, district, or structure of significance, or part thereof, shall be demolished, moved, or altered, nor shall any new construction take place within a district or on a landmark site except in conformity with this Code.

7.2.112.03 Definitions

The following definitions shall apply to this Section: otherwise:

Affirmative Maintenance: Maintaining a building in such a manner as to not create deterioration of the structure and/or dwelling unit. See Deterioration, Prohibited.

Alteration: A change, addition, or modification to the exterior of a building. An addition, removal, or reconfiguration which significantly changes the exterior character (including windows and doors) of a historic resource.

Archaeological Artifact: An item being at least 75 years old and is the physical record of an indigenous or other cultures or the material remains of past human life or activity.

Archaeological Site: A site with 10 or more artifacts or a feature likely to have been generated by patterned cultural activity.

Archaeological Site of Significance: An archaeological site that is currently, or potentially eligible to be included on the National Register of Historic Places, or any archaeological site that has been on the National Register of Historic Places, or any archaeological site that has been determined significant by any of Oregon's nine federally designated Native American Tribes.

Cultural Resource Survey and Inventory: Historical buildings or sites identified as "significant" on the Goal 5 historical resource inventory. The record of information about resources evaluated for listing in the Designated Landmarks Register or National Register of Historic Places within the City of Dayton.

~~**Demolish Demolition:** To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district. The~~

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razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.

Designated Landmarks Register: The list of historic building or sites and archeological resources identified as "significant" and the record of information about properties officially recognized by the City of Dayton as important in its prehistory and history.

Deterioration, Prohibited: Prohibited conditions of deterioration include, but are not limited to moisture infiltration through the exterior roof, walls, openings and foundations; unchecked damage by animals or vandalism, un-maintained or unsafe mechanical, electrical, or plumbing systems, and any conditions on the property that endangers the resource. See Affirmative Maintenance.

Historic District: A geographically definable area possessing a significant concentration of buildings, objects, and/or sites which are unified historically by plan or physical development, the boundaries of which have been adopted by the Council under Section 7.2.112.045.

Historic Preservation Committee (HPC): A committee established by the City Council under Ordinance No. 592 (October 2009) to work with the Planning Commission and City Council to make recommendations that will ensure that the City continues preserve, protect, and identify properties with historic value.

Historic Resource: A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. Resource types are further described as:

***Building – A construction made for purposes of shelter or habitation, e.g. house, barn, store, theater, garage, school, and etc.**

***Structure – A construction made for functions other than shelter or habitation, e.g. bridge, dam, highway, boat, and etc.**

***Object – A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g. statue, fountain, milepost, monument, sign, and etc.**

***Site – The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e. g. battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, and etc.**

***District – See Historic District above.**

Landmark, Designated: Any site, object, buildings, or structure officially recognized and designated by the City Council under Section 7.2.112.045.

Major Public Improvement: The expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of property within a district or on a landmark site, except for the repair or maintenance of existing public improvements.

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7.2.112.04 Cultural Resource Survey and Inventory

A. The Planning Commission and/or Historic Preservation Committee shall periodically survey and inventory resources potentially eligible for listing in the Designated Landmarks Register and/or National Register of Historic Places with the City of Dayton.

1. Survey and inventory documents shall be maintained, periodically updated, and open to the public.

2. Survey and inventory documents and processes shall be compatible with the practices of the Oregon State Historic Preservation Office for maintaining the Oregon Inventory of Historic Sites.

3. Records concerning archeological sites shall be made available to the public.

4. Properties included in the Cultural Resource Inventory are not subject to the provisions of 7.2.112.02 (Conformance Required), 7.2.112.06 (Demolition and Moving), 7.2.112.07 (Exterior Alteration and New Construction), or 7.2.112.08 (Notice of Public Hearing) of this Land Use and Development Code unless they are already listed on the National Register.

7.2.112.045 Landmark and District Designation

A. Process. The process for designating a landmark or historic district may be initiated by the Council, the Commission, or by any interested person who submits an application for designation to the City ~~Administrator~~ Manager. At the time of application the ~~Director~~ City Manager shall provide the property owner and applicant with information regarding the benefits and restriction of designation.

B. Information. The following information shall be required in an application:

1. The applicant's name and address;
2. The owner's name and address, if different from the applicant;
3. A written description of the boundaries of the proposed district or the location of the proposed landmark;
4. A map illustrating the boundaries of the proposed district or the location of the proposed landmark;
5. A statement explaining the following:

~~1a. The reason(s) why the proposed district or landmark should be designated under the Decision Criteria specified in sub-section E., describing why the area is eligible or what event(s)/person(s) are associated with the property and if the resource's architecture or construction methods used are noteworthy;~~

~~2b. The reason(s) why the boundaries of the proposed district are appropriate for designation;~~

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~~3c.~~ The potential Impact, if any, which designation of the proposed district or landmark would have on the residents or other property owners in the area.

6. Any other information deemed necessary by the ~~Director~~ City Manager necessary to address approval criteria.

C. Historic Preservation Committee (HPC) Review: After the application is deemed complete, the Historic Preservation Committee shall review the application at either one of their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.

~~6D.~~ Council Action. ~~Within seven days of receipt of a~~ After the application is deemed complete application, the City ~~Administrator~~ Manager shall ~~forward~~ schedule the request ~~to be considered at the next available Council meeting.~~ The Council shall ~~not~~ conduct a public hearing (Type III) ~~within 45 days of receipt of the application~~ pursuant to Section 7.3.2 (Procedures) of this Code. The Council shall make a written record approving, approving with conditions, disapproving, or postponing final action on the request.

~~DE.~~ Decision Criteria. The Council shall consider the following criteria ~~in to determining~~ determine whether to approve a proposed landmark or district if the potential landmark or district is significant enough to grant the designation.

~~1. Association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;~~

~~2. Association with an event that has made a significant contribution to the city, county, state, or nation;~~

~~3. Association with broad patterns of political, economic, or industrial history in the city, county, state, or nation;~~

~~4. Significance as an example of a particular architectural style, building type and/or convention;~~

~~5. Significance due to quality of composition, detailing, and/or craftsmanship;~~

~~6. Significance as an example of a particular material and/or method of construction;~~

~~7. Significance because the resource retains its original design features, materials, and/or character;~~

~~8. Significance as the only remaining, or one of the few remaining resources of a particular style, building type, design, material, or method of construction;~~

1. The property is associated with events that have made a significant contribution to the broad patterns of local, state, or national history;

2. The property is associated with the lives, persons, or groups of people, significant in local, state, or national history;

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3. The property is significant because it embodies the distinctive characteristics of an architectural type, style, period, or method of construction or that represents the work of a master, or that possesses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;

4. The property is significant because it yielded or is likely to yield information which is important to local, state, or national history;

~~95. The property is of significance as a visual landmark;~~

~~10. Significance because existing land use surrounding the resource contribute to the integrity of the historic period represented;~~

~~116. The property is of significance because the resource contributes to the continuity or historic character of the street, neighborhood, and/or community;~~

~~12. Significance because the property is 50 years old or older in conjunction with other criteria listed above;~~

~~137. The resource is listed on the National Register of Historic Places; and~~

8. If testimony or comments are provided, the Council considers the recommendation from the Historic Preservation Committee (HPC).

~~EE. Removal of Designation. The process for removing a landmark or historic district designation may be initiated by the Council, the Commission, property owners, or by any interested person who submits to the City Administrator Manager an application for removal of the designation. The Council may amend or rescind its designation by following procedures required by this Code for designating a landmark, including the adoption of appropriate findings.~~

G. If the property is listed on the National Registry of Historic Place, the removal shall be completed according to the Oregon State Statute and in cooperation with the State Historic Preservation Office (SHPO).

7.2.112.056 Demolition and Moving

~~A. City Administrator Manager Approval. No person shall move, demolish, or cause to be demolished a landmark or a significant resource in an historic district, unless a permit to do so has first been obtained from the City Administrator Manager. Application for a permit shall be on a form provided by the City.~~

~~B. Application Process. Application for alteration of a landmark or new construction isn an historic district or on a landmark site shall be filed on a form provided by the City.~~

The following information shall be required in an application:

1. The applicant's name and address;

2. The owner's name and address, if different from the applicant;

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3. A written description/explanation of the proposed relocation or demolition;

4. A site plan indicating the location of structures on the subject property;

5. Statements indicating the intended re-use of the subject property;

6. Any other information deemed necessary by the City Manager necessary to address approval criteria.

~~C. Decision Criteria. In determining whether the requested demolition or moving is appropriate, the Commission shall consider the following:~~

~~1. Plans, drawings, and photographs submitted by the applicant;~~

~~2. Information presented at the public hearing concerning the proposal;~~

~~3. The purpose of this Code as set forth in Section 2;~~

~~4. The criteria used in the original designation of the resource;~~

~~5. If within an historic district, the resource's contribution to the district and the subsequent integrity of the district if the resource is demolished or moved;~~

~~6. Whether denial of the request will involve substantial hardship to the applicant;~~

~~7. Whether issuance of the permit would act to the substantial detriment of the public welfare and be contrary to the purpose and scope of this Code;~~

~~8. The economic, social, environmental and energy consequences of demolishing or moving the resource compared to preserving it; and~~

~~9. The physical condition of the resource;~~

~~10. Comments of the City Historical Preservation Committee;~~

C. Historic Preservation Committee (HPC): After the application is deemed complete, the Historic Preservation Committee may review the application at either one of their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.

~~B.D. Review Process. Upon receipt of a complete application, the City Administrator Manager shall include the demolition request on the agenda for consideration at the next available Commission meeting. The Commission shall hold a Type II public hearing pursuant to Section 7.3.2 (Procedures) of this Code ~~within 45 days after an application has been deemed complete by the City.~~ The Commission shall ~~request~~ consider, if available, comments from the City's ~~Historical Preservation Commission~~ Historical Preservation Committee.~~

E. Decision Criteria. In order to approve an application for the relocation or demolition of a Designated Landmark, the Commission must find that:

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1. No prudent and feasible alternative exists, or
2. The designated property is deteriorated beyond repair, or
3. The value to the community of the proposed use of the property outweighs the value of retaining the Designated Landmark.

~~DE.~~ Planning Commission Approval. The Commission may approve the demolition or moving request after considering the criteria in this section. If no appeal is filed, the ~~Administrator~~ City Manager shall issue the permit in compliance with all other codes and ordinances of the City.

A permit shall not be issued unless the applicant provides evidence of legal and recorded ownership of the subject property.

~~EG.~~ Planning Commission Denial. The Commission may disapprove the demolition or removal request if after considering the criteria in this section and based upon not satisfying the criteria, it determines that in the interest of preserving historical or architectural values, the resource should not be demolished or moved.

~~FH.~~ Planning Commission ~~Postponement~~ Continuance. The Commission may ~~postpone~~ take continue the final action on a request for issuance of a demolition or moving permit based on compliance with the State of Oregon 120-day rule for making a final decision on an application. ~~for a period fixed by the Commission as follows:~~

- ~~1. No more than 60 days following the date of public hearing. Further postponements may be made for a period not to exceed a total of 120 days from the date of hearing, if the Commission makes the findings specified in subsection (c) of this section.~~
- ~~2. Further postponements as stated above may only be made if the Commission finds:~~
 - ~~a. There is a program of project underway that could result in public or private acquisition of the landmark or resource; and~~
 - ~~b. There is a reasonable ground for believing the program or project may be successful;~~
- ~~3. After granting a further postponement, the Commission may order the Administrator to issue the permit if it finds:~~
 - ~~a. All programs or projects to save the resource have been unsuccessful;~~
 - ~~b. The application for demolition or moving has not been withdrawn; and~~
 - ~~c. The application otherwise complies with City Codes and state law;~~

~~GI.~~ Appeals. A decision by the Commission to approve, or disapprove ~~or postpone issuance of a demolition or moving permit or to grant a further postponement~~ an application to relocate or demolish an historic resource may be appealed to the Council by any aggrieved party who appeared orally or in writing, in person or through an attorney at the Commission hearing and presented or submitted testimony related to the request under

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consideration. The appeal shall comply with the requirements in Section 7.3.2.
(Procedures)

~~H. Final Decision. If no decision on the application is made by the Commission within the periods specified above, the City Administrator shall issue the permit.~~

~~F. Alternative Actions. At the time a demolition or moving application is made filed the Administrator Manager shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.~~

~~J. Additional Requirements. During a period of postponement continuance, the Commission may require the property owner to:~~

~~1. List the resource for sale with a real estate agent for a period of not less than 90 days time to allow for a final decision within 120-days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of 10 days and over a 5-week period of time that allows for a final decision within 120 days.~~

~~2. Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. Lettering on the sign shall be at least one foot in height. The sign shall be provided by the City and be posted in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the resource is located. The applicant is responsible for assuring that the sign is posted for a continuously 90-day period in conjunction within the time frame specified in Number 1., above.~~

~~3. Prepare and made make available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.~~

~~4. Assure that the owner has not rejected the highest bona fide offer for sale and removal of the resource.~~

~~K. Press Notification. Prior to issuance of a demolition permit, the Director City Manager shall issue a press release to local and or state newspapers of general circulation in the county. The press release shall include, but not limited to, a description of the significance of the resource, the reasons for the proposed demolition or removal, and possible options for preserving the resource.~~

~~L. Permit Conditions. As a condition for approval of a demolition permit, the Commission may:~~

~~1. Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the county or other party determined appropriate by the Commission.~~

~~2. Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials. The applicant shall be provided with a list of persons capable of salvaging the resource.~~

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~~MN.~~ Dangerous Building. This Code shall not be construed to make it unlawful for any person, without prior approval of the Commission, to comply with an order by the City Council to remove or demolish any landmark determined by the Council to be dangerous to life, health, or property.

7.2.112.067 Exterior Alteration and New Construction

A. Scope. No person shall alter a landmark or any significant resource in an historic district nor shall any new building or structure be constructed in an historic district or on a landmark site unless approval is first obtained under this section. In addition, no major public improvements shall be made on a landmark site or in an historic district unless approved by the Planning Commission.

B. Application Process. Application for alteration of a landmark or new construction ~~in~~ an historic district or on a landmark site shall be filed ~~made to the City Administrator. The application shall be~~ on a form provided by the City.

The following information shall be required in an application:

1. The applicant's name and address;
2. The owner's name and address, if different from the applicant;
3. Name of the person(s), title, or relationship to the project who will verify that the alternation or new construction (if approved) has been completed according to the City's requirements.
4. A written description/explanation of the proposed exterior alternation or new construction;
5. A site plan indicating the location or proposed location of structures on the subject property;
6. Photographs, other pictorial/schematics, sample materials/colors (if available) to represent the proposed changes or additions for a new or to a remodeled structure;
7. Written explanation of the intended alternation in comparison with the City's 1993 Advisory Guidelines and the US Secretary of Interior Guidelines. (An on-line copy of the latter document is available for review at the following site: www.nps.gov/history/hps/tps/standguide/index.htm.)
8. Any other information deemed necessary by the City Manager to address approval criteria.

C. Historic Preservation Committee (HPC): After the application is deemed complete, the City Manager requests a review by the Historic Preservation Committee. The review is conducted at their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.

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~~ED.~~ Approval Requirements. The ~~Administrator~~ City Manager ~~shall~~ may approve the alteration request if determined a minor alteration based upon:

- ~~1. There is a~~ No change in the appearance or material of the resource as it exists and/or includes building maintenance; or
- The proposed alteration duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials with the provision that the City Manager may refer the interpretation to the Planning Commission; or
- The alteration work is on a side or sides of a building not visible from public rights-of-way.

~~DE.~~ Planning Commission Action. If a request for alteration does not meet the provisions of subsection ~~(C)~~ (D) of this section, the ~~Administrator~~ City Manager shall forward the application and the comments from the Historic Preservation Committee to the Planning Commission. The Commission, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Procedures) of this Code, shall approve or disapprove issuance of the requested permit. The Commission may attach conditions to the approval which must be adhered to for the approval to remain valid.

~~EE.~~ Decision Criteria. The Commission shall consider the following standards, comments, and criteria in determining whether to approve an alteration request~~;~~

- ~~1. The purpose of this Code;~~
- ~~2. The use of the resource, the reasonableness of the proposed alteration, and the relationship of these factors to the public interest in the preservation of the resource;~~
- ~~3. The value and significance of the resource;~~
- ~~4. The physical condition of the resource;~~
- ~~5. The effect of requested changes related to the original exterior design, arrangement, proportion, detail, scale, color, texture, and/or materials;~~
- ~~6. Pertinent aesthetic factors as identified by the Commission;~~
- ~~7. Economic, social, environmental and energy consequences of the proposed alteration;~~
and
1. Use of the property is historically similar or new use requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. Historic character of a property is retained and preserved. The relocation of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property shall be avoided.

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3. Use of property recognizes physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
 4. Changes acquiring historic significance in their own right are retained and preserved.
 5. Alterations preserve distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the property.
 6. Historic features are repaired versus replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
 7. Use of chemical and physical treatments, if appropriate, are undertaken by the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
 8. Alteration, including new additions, exterior alterations, or related new construction, do not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale, and proportions, and massing to protect the integrity of the property and environment.
 9. New additions and adjacent or related new construction is undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment are unimpaired.
 10. The Planning Commission considers ~~design~~ design guidelines ~~adopted~~ recommended by the Planning Commission or Historic Preservation Committee, such as applicable sections of the City's 1993 Advisory Guidelines or the U. S. Secretary of Interior's Standards (www.nps.gov/history/hps/tps/standguide/index.htm).
 11. The Planning Commission considers comments submitted by the Historic Preservation Committee.
- FG. Repair and Maintenance Provisions. ~~Nothing in~~ No provision of this Code shall be construed to prevent the ordinary maintenance or repair of a Designated Landmark such as any exterior architectural feature which does not involve a change in design, material or appearance of such feature, or which ~~The Administrator~~ City Manager determines if the proposed activity is required for the public safety due to an unsafe or dangerous condition.
- GH. Building Code Leniency. Property owners may request that the City Building Official or his/her designee grant leniency for non-conforming alterations, repairs, additions, and changes of occupancy for existing designated landmark structures in accordance with Section 3403.5 (or its most current replacement/update) of the Uniform Building Code/Oregon Structural Speciality Code. The City Manager and/or his/her designee shall have the final authority to grant such variances. In accordance with the statute, the Building Official or his/her designee may seek guidance from the Oregon State Historic Preservation Office in the application of this provision.

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7.2.112.078 Notice and Public Hearing

~~A. Notice. Within 45 days of receipt of a complete application for designation, alteration, demolition or moving of a landmark, or for undertaking such activities or new construction in a historic district, the Commission shall conduct a public hearing to consider the application.~~

~~BA. Application Process. The hearing shall be conducted by the Planning Commission as a Type II hearing and subject to the notice, procedural and appeal provisions in Section 7.3.2 (Procedures).~~

7.2.112.089 Affirmative Maintenance.

Structures and sites designated by the City to be of historic significance shall be maintained. See See 7.2.112.03, Definitions—Affirmative Maintenance and Deterioration, Prohibited.

Properties deemed deficient in maintenance are subject to the violation provisions and other applicable ordinances of the City. (See Section 7.1.102.06 of the Development Regulations and the Municipal Code, Section 4.5.)

7.2.112.10 Enforcement of State Preservation Laws

The City of Dayton City Council and Planning Commission shall support the enforcement of all State laws relating to historic preservation. These include but are not limited to ORS 197.772 (Consent for designation for historic property), ORS 358.653 (Conservation Programs, Leases), and ORS 358.475 through 358.541 (Special Assessment).

OTHER CODE SECTIONS WITH REFERENCES TO HISTORIC PROPERTIES needing amending include:

7.1.200.01 - GENERAL PROVISIONS – Change as noted under the historic category.

A. General and Specific Terms. The definitions contained in this Section include those that are applicable to the entire Code (general), and those terms that apply to specific Sections (specific). Terms used in specific Sections are identified as follows:

[Flood]	Flood plain Overlay Zone; Section 7.2.1.
[Historic]	Historical Landmark <u>Property</u> Overlay Zone; Section 7.2.1.
[RV Park]	Recreational Vehicle Park; Section 7.2.4.

7.1.200.03 DEFINITIONS – See changes as noted to maintain consistency between this section of the Code and Historic Property Overly zone.

The following words and phrases, when used in this Code, shall have the meanings ascribed to them in this Section:

~~**Demolish [Historic]:** To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district.~~

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Demolition (Historic): The razing, destruction, or dismantling of an historic resource to the degree that its historic character is substantially obliterated.

~~**Historic Building or Site [Historic]:** A building, structure or site identified as a significant historical resource in the Dayton Comprehensive Plan.~~

Historic Resource: A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. See Chapter 7.2.112. Resource types are further described as:

*Building – A construction made for purposes of shelter or habitation, e.g. house, barn, store, theater, garage, school, and etc.

*Structure – A construction made for functions other than shelter or habitation, e.g. bridge, dam, highway, boat, and etc.

*Object – A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g. statue, fountain, milepost, monument, sign, and etc.

*Site – The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e. g. battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, and etc.

*District – See Historic District below.

~~**Historic District [Historic]:** A geographically definable area, the boundaries of which have been adopted by the Council.~~

Historic District: A geographically defined area possessing a significant concentration of buildings, objects, and/or sites which are unified historically by plan or physical development, the boundaries of which have been adopted by the Council under Section 7.2.112.05.

~~**Landmark [Historic]:** Any site, object, buildings, or structure designated by the Council under Section 7.2.112.04.~~

Designated Landmarks Register: The list of historic building or sites and archeological resources identified as "significant" and the record of information about properties officially recognized by the City of Dayton as important in its prehistory and history.

7.2.113 FLOOD PLAIN OVERLAY DISTRICT (FPO)

7.2.113.02 Definitions

For purposes of this Overlay Zone, the following terms shall mean:

HH. **Substantial Improvement:** Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:

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1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:
 - a. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.
 - b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure as determined by the City Manager or Planning Commission using alteration criteria.

RESTRICTED DEVELOPMENT OVERLAY DISTRICT (RD)

7.2.114.01 Purpose

There are environmentally sensitive areas within the City of Dayton which include unique natural habitat areas, lands valued for their aesthetic qualities and lands which cannot be developed under ordinary standards due to physical limitations. It is the intent and purpose of this zone boundary to maintain and protect the integrity of the natural resources of the City by implementing the goals and policies of the Comprehensive Plan.

7.2.114.03 Review of Uses

Within the RD Overlay a conditional use permit shall be required for all new uses, use changes, intensification of uses or site alteration for uses otherwise permitted in the underlying zone except for the following activities which are not subject to review:

- A. Reasonable emergency procedures necessary for the safety or protection of property.
- B. Maintenance and repair necessary, and usual, for the continuance of an existing use.
- C. The placing by a public agency of signs, markers, aids, etc. to serve the public.
- D. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical and natural uses of public lands, identified in a public park master plan approved by the City Council. Also see Chapter 7.2.112. (Note: The City has a separate process (Chapter 7.2.112) for reviewing changes to the properties listed on the National Register.)
- E. Public utilities and facilities in conjunction with an approved development or identified as part of a master utility plan approved by the City Council.

The Accessory Structure and Manufactured Housing sections are referenced because the requirements were discussed during the PC/HPC work sessions.

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7.2.309 ACCESSORY STRUCTURES

7.2.309.01 Single Family and Duplex – No changes recommended.

For single family residential and duplex uses on an individual lot:

E. *(Added by Ordinance #510, 12/7/98 – Effective 12/7/98)* **Historic Structures** -

Accessory structures located on an individual lot or parcel adjacent to a significant historic resource identified in the Dayton Comprehensive Plan shall comply with the following:

1. The exterior of the accessory structure shall be residential in appearance. No specific siding material is required, except that use of vertical metal siding shall be prohibited.
2. The height of the accessory structure shall not exceed the height of the adjacent historical building. If the site of the historical resource does not contain a building, the accessory structure shall not exceed the height of the residence which the structure will be located.
3. These provisions shall apply to all accessory structures regardless of whether a building permit is required.

7.2.404 MANUFACTURED HOMES ON INDIVIDUAL LOTS – No changes recommended.

Where permitted as a special use, manufactured homes located on individual lots outside of a mobile home park shall meet the following requirements:

J. *(As Revised by Ordinance #510, 12/07/98 – Effective 12/07/98)*. A Conditional Use permit shall be required to place a manufactured home on an individual lot or parcel ~~adjacent to a significant historical resource~~ as identified in the Dayton Comprehensive Plan. The application shall be subject to the decision criteria contained in Section 7.3.107 as well as the following factors:

1. Location - The dwelling shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.
2. Orientation - If the primary entrance of the adjacent historical building faces a public street, the primary entrance to the manufactured home shall also face the same public street. This provision does not apply if either lot or parcel is a "corner lot" as defined by this Code.
3. Screening - Screening and buffering shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.
4. Intent - It is not the intent of this section to grant a conditional use permit in all circumstances, even if factors 1 to 3 above are successfully met. The Conditional Use shall be granted only under those circumstances which are unique to the subject property and will not impair or adversely impact the integrity of the adjacent historical site. The burden of proof shall be placed by the applicant to ensure these concerns are adequately addressed.

7.3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures. See Land Use Application process, Table 1.

7.3.101.01 Type I Action

Type I actions are administrative reviews processed by the City staff. The review standards are generally clear and objective and allow little or no discretion. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

- A. Minor Variance
- B. Property Line Adjustment
- C. Partitions
- D. Historic Exterior Alteration or New Construction (unless determined to required a Type II procedure by the City Manager)

7.3.101.02 Type II Actions

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Staff has an advisory role. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. Site Plan Review
- B. Conditional Use, including Flood Plain
- C. Major Variance, including Flood Plain
- D. Subdivision, Planned Unit Development and a Partition including a Private Street
(Revised by Ordinance #541, 06/03/02 - Effective 07/03/02)
- E. Historic Demolition and Moving
- F. Historic Exterior Alteration or New Construction (if referred to the Planning Commission by the City Manager)

7.3.101.03 Type III Actions

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. Staff and the Planning Commission have advisory roles. Public notice is provided and public hearings are held before the Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

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A. Comprehensive Plan Map Amendments (involving 5 or fewer adjacent land ownerships or less than 10 acres)

B. Zone Changes (involving 5 or fewer adjacent land ownerships or less than 10 acres)

C. Annexation

D. Historic Landmark and District Designation

LAND USE APPLICATION PROCESS

LAND USE ACTION	TYPE	STAFF	PLANNING COMMISSION	CITY COUNCIL
Minor Variance	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Lot Line Adjustment	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Partition (inc. Expedited Review)	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Site Plan Review	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Conditional Use (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Major Variance (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Subdivision (inc. Expedited Review)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Comprehensive Plan Map Amendment	III	Recommendation to Commission	Recommendation to Council	Final Decision

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Zone Change	III	Recommendation to Commission	Recommendation to Council	Final Decision
Annexation	III	Recommendation to Commission	Recommendation to Council	Final Decision
Text Amendments Legislative Zone and Plan Map Changes	IV	Recommendation to Commission	Recommendation to Council	Final Decision

Add to above table:

Historic Exterior Alteration or New Construction (unless determined to required a Type II procedure by the City Manager) Type I Same as other Type I's for Staff, Planning Commission and City

Historic Demolition and Moving Type II Same as other Type II's for Staff, Planning Commission and City

F. Historic Exterior Alteration or New Construction (if referred by the City Manager) Type II Same as other Type II's for Staff, Planning Commission and City

Historic Landmark and District Designation Type III Same as other Type III's for Staff, Planning Commission and City

DAYTON ATLAS AND COMPREHENSIVE PLAN

City of Dayton
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Website: www.ci.dayton.or.us

3.8 Historic and Cultural Resources

Early settlers established land claims in the Dayton area in the mid-1840s. One of the earliest settlers, Joel Palmer, platted a 450-acre town site in the fall of 1850, with the original land survey of the town site completed in 1852. At this time in history, Lafayette, which is located just a few miles northwest of Dayton, was the most prosperous settlement in the County. However, Joel Palmer felt that Dayton would thrive due to year round navigation on the Yamhill River.

Due to the year round navigation on the Yamhill River, the community experienced substantial growth and prosperity in the early years. Dayton was the main shipping point for nearly all the grain that was exported from the Yamhill valley. A water-powered flour mill, a steam-powered sawmill and a fruit dryer and packing company are examples of early industries that operated in the area.

High water and flooding was a continual problem on the Yamhill River. A severe flood in 1861 destroyed a large number of farms and businesses along the River. With perseverance and optimism, the community rebuilt and repaired bridges and structures after severe storms and floods.

In 1877-78 the Willamette Valley Railroad Company constructed and operated a narrow gauge railroad from Dayton to Sheridan. For a short period of time, Dayton benefitted from the availability of railway access; however, due to inconveniences created by water problems, the railroad extended the line to Fulquartz Landing on the Willamette River, limiting the use of the local port.

Dayton was noted throughout the County for the exceptional architectural style and fine construction of its buildings. In 1870, there weren't any merchants in Dayton that had been there in 1860. The flood of 1861 had taken a huge toll and many people went bankrupt. However, by 1871 the community showed remarkable signs of recovery. A McMinnville paper listed the following enterprises in Dayton on February 1871: two general merchandising stores, one saddle shop, one saloon, one blacksmith shop, one reaper manufactory, one iron foundry, two livery stables, one hotel, one church, one flour mill, one steam sawmill, two warehouses and a school. According to the paper, in spite of the substantial threat of natural disaster to the community, there was an exceptional amount of community pride and persistence. Dayton was finally incorporated in 1880, with a population of 375 people.

A significant number of historical sites and structures are still evident in the community. The Oregon State Historic Preservation Office has the following Dayton historical sites and structures listed in their statewide inventory:

- (1) Edwin Avery House (1895)
- (2) John Baxter House (1890)
- (3) Berry-Sigler Investment Property (1916)
- (4) Henry Betram House (1892)
- (5) Brookside Cemetery (1846)
- (6) William Cain House (1895)
- (7) Carter-Goodrich House (1908)
- (8) Commercial Club - Stuckey Bldg. (1911)
- (9) Amos Cook House (1853)
- (10) Courthouse Square (1850)
- (11) Dayton Common School (1850)
- (12) Dayton High School (1935)
- (13) Dayton Methodist Episcopal Church (1862)
- (14) Diehl-Seitters House (1860)
- (15) Evangelical United Brethren Church (1883)
- (16) First Baptist Church (1886)
- (17) Carl Fischer Meats (1918)

- (18) Fletcher-Stretch House (1880)
- (19) Foster Oil Co. (1936)
- (20) Free Methodist Church (1885)
- (21) Gabriel-Filer House (1916)
- (22) Gabriel-Will House (1885)
- (23) Daniel Harrington House (1879)
- (24) Harris Building (1913)
- (25) John Hash House (1912)
- (26) W.S. Hibbert House (1906)
- (27) Frank Hole House (1910)
- (28) Jessen-Goodrich House (1890)
- (29) Krietz House (1895)
- (30) Lewis-Shippy House (1891)
- (31) Gottlieb Londershausen House (1907)
- (32) Paul Londershausen House (1921)
- (33) Mabee-Mayberry House (1890)
- (34) McNamar Building (1912)
- (35) Thomas McNish House (1910)
- (36) James Mellinger House (1904)
- (37) Mellinger-Ponnay House (1891)
- (38) Methodist Episcopal Parsonage (1868)
- (39) Benjamin Morse House (1881)
- (40) Robert Morse House (1880)
- (41) J.C. Nichols House (1883)
- (42) Oregon Mutual Merchant Fire Insurance Association (1910)
- (43) Joel Palmer House (1857)
- (44) Curtis Powell House (1917)
- (45) O.B. Rippey House (1890)
- (46) Samuel Sigler House (1904)
- (47) Andrew Smith House (1859)

The community believes other sites and buildings that have historical significance should be identified and preserved. Under certain conditions, sites and buildings on the Federal Register can be subject to federal assistance for preservation.

Goals

1. To conserve open spaces, and preserve natural, scenic and cultural resources.
2. To protect existing mineral processing operations while ensuring the development potential of adjacent land.
3. To protect and enhance the fisheries' potential and associated wildlife habitat of the South Yamhill River and associated tributaries.
4. To assure an adequate and safe water supply for the community.
5. In cooperation with State and Federal agencies, protect and enhance significant wetland resources.
6. To preserve significant historic land marks, sites and structures.

POLICIES

13. Consistent with ORS 227.350, the City will notify the Division of State Lands concerning applications for development permits, or other land use decisions, affecting identified or potential wetland areas within the City.
14. Utilization of historic structures shall be encouraged in order to achieve the maximum use of existing structures.
15. The City shall work toward continuing and enhancing community pride in respect to local heritage and history.
16. The City's designated historic sites shall be protected, promoted and enhanced as important community cultural resources.
17. The City shall investigate funding sources and incentives to owners for the preservation of historic sites and structures.
18. Utilization of historic structures shall be encouraged in order to achieve the maximum use of existing structures rather than encouraging new development.

Mattson, Marjorie

From: Ian Johnson [ian.johnson@state.or.us]
Sent: Tuesday, May 04, 2010 9:21 AM
To: Mattson, Marjorie
Cc: Kuri Gill
Subject: Re: Staff Report and Historic Code Amendments for 5/11 PC meeting
Attachments: Ian Johnson.vcf

Looks Good Marjorie. I especially like how the interaction between the landmarks board and the Planning Commission was handled. In fact, I think I might borrow it for our model ordinance. ;)

There are a couple of minor errors though. In 7.2.112.04 Cultural Resource Survey and Inventory, point 3. Archaeological Records, by state law, cannot be made available to the public. I suspect the omission is an editing error. I believe that the sentence was intended to read, "Records concerning archeological sites shall NOT be made available to the public."

In 7.2.112.045 Landmark and District Designation, part G, it is federal statute that governs the removal of National Register properties from the Register under 36 CFR Part 60.15. A simple word change is all that is needed.

Other than than those two minor points this looks great.

Ian

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>>> "Mattson, Marjorie" <MMattson@mwvcog.org> 4/29/2010 2:41 PM >>>
Debra - Attached is the Staff Report and the proposed code amendments for the Historic Property Overlay Zone (and a few other sections). Both are for inclusion with the May 11th Planning Commission meeting packet for the public hearing.

If there are questions, please let me know. Thanks - MM

ATTACHMENT C

CITY OF DAYTON
PO BOX 339
DAYTON, OR., 97114



Attn: Plan Amendment Specialist
Department of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem Oregon 97301-2540