

HRCP Issues Table for January 12 Work Session

*Note that issue numbers have been revised

PSC Issue	Code Citation(s)	Staff Response
Proposal 3.a Apply demolition review to all designated historic resources and expand demolition review approval criteria.		
Demolition Review Applicability		
<p>1. Add a provision that only Contributing Resources designated by a City land-use process are subject to historic demolition review. Applicable non-historic demolition review or delay criteria will apply to Contributing Resources not designated by a City land-use process. (Bachrach)</p>		<p>Since 2005, Title 33 has required demolition review for all contributing resources listed in the National Register of Historic Places (both individual landmarks and contributing resources in districts). In January 2017, new State Administrative Rules were adopted requiring demolition review for all National Register resources in Oregon, regardless of their local designation status. The proposal applies demolition review to all types of landmarks and contributing resources—those designated by the City and those listed in the National Register. For some resource types, the proposal exempts certain categories of contributing resources from demolition review (see issues below). The resource type Significant Resource is not a designated resource and, therefore, is not subject to demolition review, but 120-day demolition delay.</p> <p>Staff do not support changing the Proposed Draft approach that applies demolition review to all designated historic resource types.</p>
<p>2. Section 33.445.100.E.2.a. Is there any reason to include “Demolition of noncontributing resources” in this list? It would only arise if there’s a Historic Landmark that’s non-contributing; but I doubt that ever happens. (Spevak)</p>	<p>Page 59 33.445.100.E.2.a 33.445.110.E.2.a 33.445.120.E.2.a 33.445.200.E.2.a 33.445.210.E.2.a 33.445.220.E.2.a</p>	<p>Noncontributing resources are those elements of a landmark property or district that are not integral to the historic significance of the resource. To provide unambiguous clarity that these noncontributing resources are not appropriate for protection via demolition review, noncontributing resources are specifically identified as exempt from demolition review for each resource type.</p> <p>Staff support retaining the Proposed Draft demolition review exemption for noncontributing resources.</p>
<p>3. Concerns with the language that would allow proposals subject to Demolition Review, to be approved through Historic Resource Review if they meet certain exemptions which encompass everything other than total demolition but could alter a historic resource so substantially that it could lose its integrity and/or significance. (Bortolazzo)</p>	<p>Page 59 33.445.100.E.2.e 33.445.110.E.2.d 33.445.200.E.2.d 33.445.210.E.2.d</p>	<p>The proposal provides an exemption to demolition review for alterations that would otherwise qualify as demolition if those alterations are approved through historic resource review. The intent of this exemption is to allow major alterations—such as a seismic upgrade, intensive horizontal addition, or major façade reconstruction—to be reviewed against more applicable approval criteria than demolition review. BPS staff worked closely with BDS staff on refinements to an earlier iteration of this exemption, but BDS staff remained concerned about the proposed approach at the time of publication of the Proposed Draft. BDS staff included their concerns in an October 19 memo to PSC.</p> <p>BPS staff continue to support the Proposed Draft approach. This approach includes the exemption to streamline the review and approval of major alterations to landmarks and contributing resources in districts without requiring demolition review where it isn’t appropriate. This approach eliminates duplicative reviews and ensures only the germane approval criteria are applied to proposals. With respect to BDS staff, BPS staff believe the Proposed Draft approach is clearer and more consistent than the alternative approach offered in the October 19 BDS memo.</p>

<p>4. Allow garage demos without historic review, whether or not it's replaced by something new, unless it's specifically designated on an approved historic landmark application. (Spevak)</p>	<p>Page 59 33.445.100.E.2.d 33.445.200.E.2.c</p>	<p>The proposal offers new alternatives for demolition of accessory structures that are identified as contributing resources. The current regulations require Type IV demolition review for removal of contributing resources in Historic Districts and National Register Districts, including accessory structures (such as garages and sheds). The proposal would:</p> <ul style="list-style-type: none"> • Exempt contributing accessory structures from demolition review except for contributing accessory structures in Historic Districts and Historic Landmarks; • Exempt contributing accessory structures from demolition review in Historic Districts and Historic Landmarks when a new replacement accessory structure is approved through historic resource review (new approval criteria are included in 33.846.060.G towards this end) • Reduce the procedure type for demolition review in Historic Districts and Historic Landmarks when demolition of a contributing accessory structure is proposed without a replacement proposal. <p>BPS staff support retaining demolition review for those contributing accessory structures that are integral to the significance and integrity of designated historic resources (such as a carriage house associated with a landmark or a freestanding sign in a district). Staff are receptive to providing a new exemption to demolition review for a subset of contributing accessory structures (such as garages or small covered buildings) in all districts, but have concerns about exempting accessory structures associated with a landmark or exempting some types of accessory structures in districts (such as freestanding signs or statues).</p>
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Demolition Review Procedure Types and Application Requirements

<p>5. Amend 33.846.080.B to provide that demolition review for Contributing Resources in any District is processed by a Type III procedure. (Bachrach)</p>	<p>Page 241 33.846.080.B.2</p>	<p>The proposal scales the procedure type for demolition review based upon the hierarchy of historic resources included in Proposal 1.b. That scaling retains Type IV review for resources at the Historic level (landmarks and contributing resources in districts), establishes a new Type III procedure for resources at the Conservation and National Register levels (landmarks and contributing resources in districts), and establishes a new Type II procedure for accessory structures.</p> <p>BPS staff considered an alternative approach to procedure types—with individual landmarks subject to Type IV review, contributing resources in districts subject to Type III review, and accessory structures subject to Type II review—but elected to align the procedure types with the resource type hierarchy for consistency with Proposal 1.b. In addition to aligning with the hierarchy, the presence of highly visible contributing resources in those Historic Districts that have been subject to Type IV demolition review since 2005 (such as those in the Skidmore/Old Town District) was found to be compelling.</p> <p>Staff are receptive to changes to the demolition review procedure types provided there is consistency in the approach.</p>
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<p>6. The application requirements for demolition review in Section 33.846.080.C.2 are extremely onerous. Instead of being requirements for an application, they should be a list of suggested information applicants may want to consider including with an application depending on the nature of the demolition being requested. (Bachrach)</p>	<p>Page 245 33.846.080.C.2</p>	<p>Existing code includes a list of 11 supplemental application requirements for demolition review (found in existing subsection 33.445.805.B). The proposal refines the existing supplemental application requirements and incorporates the “factors” required by State Administrative Rule as follows:</p> <p><i>[A local government] Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: <u>condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan.</u></i></p> <p>Staff considered numerous approaches to addressing the factors required by State Admin Rule—including incorporation of the factors into each approval criterion—and ultimately found incorporation of the factors into the supplemental application requirements to be the clearest and most consistent approach to satisfying the expectations of State Admin Rule.</p> <p>Staff support reorganizing the supplemental application requirements to more directly align with each of the approval criteria.</p>
<p>Demolition Review Approval Criteria</p>		
<p>7. Section 33.846.080.D.1 should be amended to provide: Denial of a demolition permit would effectively deprive the owner of reasonable economic use of the resource. (Bachrach)</p>	<p>Page 247 33.846.080.D.1</p>	<p>Demolition review approval criterion D.1 was adopted in 2005. It reads: <i>Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site.</i> Staff did not consider changes to the criterion as it was not raised in public comments or identified as an implementation challenge.</p> <p>Staff do not support changes to this criterion as the existing language pertains to regulatory takings. Staff are concerned that removal of the word “all” implies that demolition could be approved if the one use an applicant prefers to have on the site would not be economically feasible even when another use could be feasible. Demolitions proposed for reasons other than a regulatory taking can be reviewed under the other applicable approval criteria.</p>
<p>8. Section 33.846.080.D.2 should be amended to provide: Demolition of the resource has been evaluated ... and, on balance, demolition has been found equally supportive of the goals and policies as would preservation, rehabilitation or reuse of the resource. (Bachrach)</p>	<p>Page 247 33.846.080.D.2</p>	<p>Staff amended the existing the existing demolition review criterion related to balancing preservation with the goals and policies for the comprehensive plan to provide greater specificity for decision-makers.</p> <p>Staff are receptive to further refinements to this criterion, but do not support use of the word “equally” as it does not provide decision-makers with clear direction for approving proposals.</p>

<p>9. For Demolition Review in National Register Districts, there should be more detailed examples to help HLC decide when other Comprehensive Plan goals, such as more housing at higher densities close-in, are more important than preserving a specific resource. (Bortolazzo)</p>	<p>Page 247 33.846.080.D.2</p>	<p>Demolition review balances many factors, including the unique attributes of specific historic resources. Decision-makers apply demolition review approval criteria on a case-by-case basis, weighing the unique circumstances surrounding each specific proposal. The current procedure type for demolition review—Type IV—requires the City Council to serve as the decision-maker. When applications are made for approval based on the criterion related to comprehensive plan goals and policies, City Council weighs the competing factors. The proposed Type III procedure would expect the Historic Landmarks Commission to assume that role in the future for certain resource types (City Council would serve as the review body for appeals to a Type III decision).</p> <p>Staff would support expanding the commentary to provide a series of examples of when demolition <i>may</i> be appropriate when balanced against other goals and policies.</p>
<p>10. Add Historic District to the list of Districts in 33.846.080.D.3. (Bachrach)</p>	<p>Page 247 33.846.080.D.3</p>	<p>The proposal expands the list of demolition approval criteria for resource types lower on the hierarchy (such as Conservation and National Register Districts) than those resource types higher on the hierarchy (such as Historic Districts). Historic Districts were not included in criterion D.3 because of their placement at the top of the hierarchy. Because many Historic Districts include resources that are themselves very significant and highly visible (such as the Weatherly Building in the East Portland/Grand Avenue Historic District), staff did not propose applying the new criterion D.3 to resources in Historic Districts.</p> <p>Staff do not support applying Criterion D.3 to resources in Historic Districts because the Proposed Draft approach aligns demolition review criteria with the hierarchy of historic resource protections, ensuring ‘gold standard’ Historic resources are given the fullest consideration before demolition.</p>
<p>11. Concerns over the proposed approval criterion related to affordable housing as “affordable housing” is not clearly defined relative to this approval criterion or in Title 33. (Bortolazzo)</p>	<p>Page 249 33.846.080.D.4</p>	<p>In the Concept Development and Discussion Draft phases of public involvement, staff received a wide range of feedback specifically related to residential districts listed in the National Register of Historic Places. Some of that earlier feedback sought to uphold the City’s previous approach to National Register district listings—automatically identifying such federally designated districts as Historic Districts. Other feedback expressed concern that automatically applying Historic District status to National Register listings lacked adequate public involvement, created conflicts with previous land use decisions, and limited opportunities for housing choice. Among comments received in the earlier phases, consequences for creation of affordable housing in residential areas was cited by many individuals as a primary concern for automatic protection of National Register listings.</p> <p>In alignment with the hierarchy of protections included in Proposal 1.b and in response to the comments received in earlier phases, the proposed Criterion D.4 provides an additional criterion that would apply only to residential areas listed in the National Register and not identified locally as a Historic or Conservation District. Staff explored numerous alternatives for an additional approval criterion specific to residential National Register Districts that would both meet the expectations of State Administrative Rule and provide for a meaningful weighing of policy objectives; testimony identified that the language of proposed criterion D.4 is unintentionally ambiguous.</p> <p>Staff support amending this approval criterion to provide greater clarity provided the revised criterion complies with State Administrative Rule.</p>

<p>12. Review the proposed affordable replacement housing criteria for demo review. Testimony pointed out that ‘more affordable housing’ is hard to evaluate and might be gamed. Re-reading this, I realize that it only applies in National Register Districts, which is pretty narrow in geography. So I’m less concerned about the impact of this clause, but still think it could use some discussion - and possible improvement for clarity. (Spevak)</p>	<p>Page 249 33.846.080.D.4</p>	<p>See above.</p>
<p>13. Section 33.846.080.D.4 should be amended to apply to all Districts and should allow demolition if it will result in more housing than is currently on the site. (Bachrach)</p>	<p>Page 249 33.846.080.D.4</p>	<p>The proposed Criterion D.4 intends to provide an additional path to approval demolitions in residential National Register Districts that have no City Historic District or Conservation District status. This narrow approval criterion was proposed as a response to public comments regarding National Register listings and affordable housing.</p> <p>Staff do not support applying Criterion D.4 to all levels of the hierarchy as the criterion was drafted to align with the hierarchy of historic resources (i.e. fewer criteria for the gold standard [Historic] than the bronze standard [National Register]). Additionally, staff do not support amending the criterion to read as a clear and objective standard. Finally, staff do not support the language “more housing” as such an approach would not necessarily better advance City goals than preservation or reuse of a resource, including the potential for conversion of that resource itself into more housing.</p>
<p>14. Section 33.846.080.D.5 should be deleted. (Bachrach)</p>	<p>Page 249 33.846.080.D.5</p>	<p>Criterion D.5 intends to provide a clear approval criterion specific to demolition of accessory structures (proposed to be reduced from a Type IV review to a Type II review).</p> <p>Staff support retaining the criterion if contributing accessory structures such as garages and sheds remain subject to demolition review in Historic Districts. Should garages and sheds be made exempt from demolition review (#4 above), staff support deletion of Criterion D.5.</p>