



CITY OF

**PORTLAND, OREGON**

OFFICE OF PUBLIC AFFAIRS

Mildred A. Schwab, Commissioner  
1220 S.W. Fifth Ave.  
Portland, Oregon 97204  
(503) 248-4180

April 12, 1982

## MEMORANDUM

TO: The Portland City Council

FROM: Commissioner Mildred Schwab

RE: Council Calender Item 1003, An Ordinance Streamlining  
the Downtown Review Process

Attached you will find a letter from David Soderstrom, the chairman of the City's Design Review Committee, requesting that variance review responsibility within the Downtown be placed with the Design Committee. Also attached is a listing of amendments necessary to make these changes in the ordinance on Downtown streamlining before us this Thursday (Council Calender Item 1003). Also attached is an ~~alternate~~ *substitute* ordinance implementing these amendments.

It is my intention to move these amendments for purposes of Council discussion.

MS:MH:sa

attachments

cc: David Soderstrom, Chairman, Design Review  
Terry Sandblast, Director  
Portland Bureau of Planning



CITY OF  
**PORTLAND, OREGON**

BUREAU OF PLANNING

**Mildred A. Schwab, Commissioner**  
 Terry D. Sandblast, Director  
 621 S.W. Alder  
 Portland, Oregon 97205  
 (503) 248-4253

Code Administration 248-4250

Land Use 248-4260

Transportation Planning 248-4254

April 12, 1982

Commissioner Mildred Schwab  
 City Hall  
 1220 SW Fifth Avenue  
 Portland, Oregon 97204

Dear Commissioner Schwab:

On April 15th the Council will hear an ordinance aimed at streamlining the Downtown Review process. This letter is to request that the ordinance be amended to further streamline the process.

As presently written the ordinance eliminates duplicate hearings before the Variance and Sign Committee on matters which also come before the Design Committee or the Landmarks Commission. However we, the Design Committee, believe the present ordinance does not go far enough. Imagining a worst case situation a controversial variance request could require three public hearings before Council consideration. First, it must come to the Design Committee who hold a full hearing and then forward their advice to the Hearings Officer. The Hearings Officer then holds a second public hearing after which he makes a decision. A third hearing would be required if the Planning Commission chooses to also hear the matter before it goes to Council. It is our opinion that the last two hearings are an unnecessary and redundant process.

The Design Committee is a body of unpaid citizens appointed by the Mayor and charged with review of designs of prospective development in the Downtown and within the City's other established design zones. The committee is in fact parallel with the Planning Commission in that the decisions of both groups are appealed directly to the City Council. Requiring a variance applicant to appear before two different citizen committees on the same issue in addition to the Hearings Officer imposes excessive trouble and delay on the applicant. The members of the Design Committee are fully competent and ready to make an initial decision. Their decision would be appealable to Council.

Downtown Portland is an area of special expertise to the Design Committee. Since the present committee was formed in 1979 the bulk of our attention has been focused on the Downtown. The Design Committee was also charged with initial interpretive responsibility for several of the provisions of the Z Downtown Development Zone including requiring building lines and limitations on blank walls. It seems incongruous that we are asked to interpret the code but are not permitted to grant variances on the sections we interpret.

The amendment we request is as follows:

To assign to the Design Committee or the Landmarks Commission, in the case of historic buildings, sites and districts, the responsibility for hearing and decision making on Variance requests within the boundaries of the Z Downtown Development Zone. This would mean that the Design Committee and the Landmarks Commission could grant or deny variances on the following issues:

- Maximum Height;
- Maximum Floor Area Permitted;
- Access to New Parking Facilities;
- Required Building Lines;
- Required Retail Uses;
- Limitations on Blank Walls; and
- Parking Requirements (not in the number of spaces but in the lay out of spaces)

Attached you will also find a detailed listing of amendments necessary to implement this change. Also, attached is an amended version of the ordinance, prepared by the Planning Bureau at my request for your consideration.

Sincerely,



David Soderstrom  
Chairman  
Portland Design Review Committee

DS:sa

attachments

cc: Terry Sandblast, Director  
Portland Bureau of Planning

## DOWNTOWN ORDINANCES

Code Citation	Planning Commission Recommendation	Alternative Recommendation
33.62.050	Design Committee grants sign review in Z zone	Design Committee grants sign review and variances in Z zone
33.74.040	Design Committe grants sign review consistent with Downtown Plan	Same as PC recommendation
33.74.060	Proceedure for sign review	Same as PC recommendation
33.74.070	Appeals of sign review decisions	Same as PC recommendation
33.98.025	Hearings Officer grants variance in Z zone	Design Committee or Historical Landmarks Commission grants variance in Z zone
33.98.035	Appeal of variance review	Same as PC recommendation
33.106.010	No change from present code	Variances considered separately from conditional uses in Z zone
3.114.040	Hearings Officer grants variance in Z zone	No change from present code
33.120.040	Historical Landmarks grants sign review in Z zone	Historical Landmarks authority referenced to 33.120.080
33.120.080	No change from present code	Historical Landmarks grants sign review and variances in Z zone

## ORDINANCE NO. 153108

An Ordinance amending Title 33, Planning and Zoning, of the Municipal Code of the City of Portland, Oregon, in order to streamline sign review and variance review in Z zones through elimination of duplicate reviews by amending Sections 33.62.050, 33.74.020, 33.74.040, 33.74.060, 33.74.070, 33.98.025, 33.98.035, 33.106.010, 33.120.040 and 33.120.080 and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. On February 15, 1981 the Council passed Ordinance No. 147239 in order to implement the Downtown Development Regulations, by establishing the Z, Downtown Development Overlay Zone, and making certain other amendments to Title 33.
2. The Z Downtown Development Zone promotes and encourages development in Downtown Portland in accordance with the public policies and downtown development goals expressed in the Planning Goals and Guidelines for Downtown Portland, adopted by the Council on February 15, 1979.
3. Review of signs, design, variances, and adjustments, is currently apportioned to the Sign Review Committee, Design Committee, Variance Committee, Historical Landmarks Commission and the Hearings Officer.
4. In the Z Downtown Development Zone, variances are heard by the Variance Committee unless the variance application is part of a conditional use application. In that case, the variance is heard by the Hearings Officer in conjunction with the conditional use.
5. In the Z Downtown Development Zone, sign review is apportioned to the Sign Review Committee.
6. The Design Committee or Historical Landmarks Commission on designated historical districts, buildings or sites can best judge variance and sign review applications for consistency with the Planning Goals and Guidelines for Downtown Portland.
7. The Sign Committee should, however, retain review authority over existing outdoor advertising signs because the Sign Committee has reviewed all such signs within the Z zone many times and has developed specialized expertise concerning outdoor advertising signs.
8. On October 6, 1981, November 3, 1981, and December 1, 1981, the Planning Commission reviewed amendments to clarify the review process in the Z Downtown Development Zone.
9. It is appropriate and in the public interest that the following amendments to Title 33 be passed.

NOW, THEREFORE, the Council directs:

- a. Title 33, Planning and Zoning is hereby amended by an amendment to Section 33.62.050 to read as follows:

33.62.050 Procedures.

(1) \*\*\* (no change)

- (2) The Design Committee on major projects, the Planning Director or his delegate on minor projects or the Landmarks Commission on designated landmarks within D zones shall use the following procedures when reviewing projects under their jurisdiction:

A. through C. \*\*\* (no change)

D. Conditional Use or Variances. In the case of building permits or permits requiring conditional use approval pursuant to Chapter 33.106 (Conditional Uses) or variance approval pursuant to Chapter 33.98 (Variances and Adjustments), in a D zone the Design Committee shall review the proposed plans and transmit recommendations in writing, to the Hearings Officer or Variance Committee to be entered into the record of the proceedings. In the case of a variance request within the Z Zone, the Design Committee or the Historical Landmarks Commission in the case of designated historical districts or buildings or sites shall have authority to affirm, reverse or modify in whole or in part any administrative decision on minor variances appealed to the Committee or Commission or in the case of initial action on minor or major variances, the Committee or Commission may grant, grant with conditions, modify or deny the variance request.

E. \*\*\* (no change)

F. Signs. The Design Committee, or the Planning Director or his delegate, or the Historical Landmarks Commission on designated historical districts, buildings or sites may grant sign review approval within the Z Zone in accordance with the provisions of Chapter 74 of this title.

- b. Title 33, Planning and Zoning, is hereby amended by an amendment to Section 33.74.020 to read as follows:

33.74.020 General prohibition unless specially approved. Notwithstanding the provisions relating to signs contained in this title applicable to any particular zone, no sign intended to be controlled under Section 33.74.010 shall be erected within an S zone, unless it comes within the provisions of Section 33.74.030, or unless the Sign Review Committee or Design Committee or Historical Landmarks Commission specially approves the same under Section 33.74.040.

- c. Title 33, Planning and Zoning, is hereby amended by an amendment to Section 33.74.040, to read as follows:

33.74.040 Special Approval of Certain Signs.

(a) The following categories of signs and their supporting structures are permitted in S zones, if specially approved by the Sign Review Committee. However, within the Z zone, the Design Committee or the Historical Landmarks Commission in the case of designated historical districts, buildings or sites will review requests for special approval in lieu of the Sign Review Committee.

(1) through (3) \*\*\* (no change)

(b) The Committee or Commission may approve a sign and its structure which come within the provisions of subsection (a) of this section, if the Committee or Commission finds that the location of the sign and structure is not detrimental to the public welfare, will not obstruct a view of scenic interest, will not degrade the appearance of the city, will not impede the rapid and free flow of traffic on the protected highway, and conforms to other applicable provisions of this and other titles and ordinances of the city.

In addition to the preceding findings, within the Z zone, the Design Committee or the Historical Landmarks Commission in the case of designated historic districts, buildings or sites must also find that the proposed sign is consistent with the Planning Goals and Guidelines for Downtown Portland, as adopted by Council on February 15, 1979, in Ordinance No. 147239 and as amended. In approving a sign and supporting structure, the Committee or Commission may impose conditions to protect the public interest.

d. Title 33, Planning and Zoning, is hereby amended by an amendment to Section 33.74.060, to read as follows:

33.74.060 Procedure and fee. Any person desiring to erect a sign requiring approval under this chapter, or who desires approval of continuance of an existing sign requiring such approval, or whose application for building permit has been refused by the Bureau of Buildings in the absence of committee approval and the applicant claims that such approval is unnecessary, or whose existing sign has been ruled nonconforming and ordered to be taken down by the Bureau of Buildings, but the applicant claims that such order is not consistent with the intent of this title, may request in writing the approval or ruling by the appropriate committee or commission.

Such written request shall be filed with the committee or commission upon forms prescribed for that purpose. Requests for approval or ruling shall be signed by the applicant and by the property owner if different, or his authorized agent. A fee shall be charged in accordance with the provisions of Section 33.114.122 (3). The request shall be accompanied by three copies of a site plan showing exact dimensions and arrangement of the proposed or existing sign and supporting structure. The committee or commission may require other drawings, photographs, or other material it finds appropriate to an understanding of the proposed or existing sign and its relationship to surrounding properties, and may view the site.

The city auditor shall compile a list of the names and addresses of all persons owning real property within the affected area. The affected area is all real property within lines one hundred and fifty feet, including intervening street widths, from and parallel to the boundaries of the property on which the sign will be or is located and such other contiguous area as is under the legal control of the applicant. The committee or commission shall hold a public hearing on each request. The committee or commission shall notify the auditor of the date of the public hearing and the auditor shall mail notices of the public hearing to all property owners within the affected area at least seven days prior to the date of the hearing. The committee or commission shall grant in whole or in part with or without conditions or shall deny the request and transmit its decision in writing within fourteen days of the hearing to the applicant, to the city auditor, and to the Bureau of Buildings. The decision shall carry out the intent of this title.

- e. Title 33, Planning and Zoning, is hereby amended by an amendment to Section 33.74.070, to read as follows:

33.74.070 Effectiveness and appeal. If the order or decision of the appropriate committee or commission grants all or any portion of an application and the committee or commission determines that there is no person eligible to appeal such order or decision, such order or decision shall become effective as hereafter provided. Otherwise, no order of the committee or commission shall become effective until after an elapsed period of fourteen days from the date the written determination is made.

During the time prior to effectiveness, if any, any person aggrieved by a decision of the committee or commission may appeal such decision to the City Council by filing with the City Auditor a written notice of appeal and a copy with the committee or commission, provided that he is an applicant whose request has been denied or specially conditioned, or that he is a person who objected either personally or in writing to the request and the grounds he stated have not been removed.

The committee or commission shall within fourteen days file with the auditor a report on the grounds for the decision and a list of persons appearing on the matter before the committee or commission, and any list of owners supplied with the original request. The auditor shall fix a date for public hearing on the appeal, which shall not be more than twenty days after receipt of the report set forth above, notifying the appellant and all other persons who have appeared before the committee or commission on the matter and all other owners within the applicable notification area set forth in Section 33.74.060. At the time of hearing or thereafter, the council may affirm, modify or reverse the decision of the committee or commission. Such affirmance, modification, or reversal may be made by motion, and shall not require separate permit or ordinance, but the auditor shall transmit to the committee or commission the effect of the action taken, which shall be made in the form of an order and shall be preserved along with actions of the committee or commission in similar classes of decisions.

If the order of the committee or commission or the council contains any conditions thereon, such order shall not become effective until the applicant, and the property owner, if different, or his authorized agent has accepted the terms of the order in writing, the acceptance is filed



with the auditor and the order is recorded in the appropriate county records at the expense of the applicant. Such acceptance must be filed with the auditor within thirty days from the date of the committee or commission meeting or within thirty days from the date of the council hearing if an appeal has been made. If such acceptance is not filed and recording fee paid within such thirty day period, then the order required to be accepted before effectiveness shall be null and void. The order when recorded, shall bear the certificate of the auditor stating that acceptance thereof has been filed and that the order is a true copy of the original.

- f. Title 33, Planning and Zoning, is hereby amended by an amendment to Section 33.98.025 to read as follows:

33.98.025 Procedures. Variance requests for the types specified in Section 33.98.015 shall be processed as outlined below. In authorizing such variances, conditions may be attached thereto regarding the location, character and other features of the existing or proposed structures or use and as may be deemed in the public interest and/or necessary to carry out the purpose of this chapter and title.

In the case of a variance request within the Z zone, the Design Committee or the Historical Landmarks Commission in the case of designated historical districts or buildings or sites shall have authority to affirm, reverse or modify in whole or in part any administrative decision on minor variances appealed to the Committee or Commission or in the case of initial action on minor or major variances, the Committee or Commission may grant, grant with conditions, modify or deny the variance request.

Upon receipt of an application for a minor or major variance which is located within a D zone or which is located within a designated historic district or which involves a designated historic building or site, the Bureau of Planning staff shall notify the Design Committee of the City Planning Commission or the Historical Landmarks Commission, as the case may be, as to the scheduled date of the variance hearing or the date for administrative action as required to be made and date by which a report and recommendation of the Committee or Commission or their designee will be required. In the case of a variance request involving both a D zone and a historic district or a historic building or site, a report and recommendation from the Historical Landmarks Commission only will be required.

(a) through (c) \*\*\* (no change)

- g. Title 33, Planning and Zoning, is hereby amended by an amendment to Section 33.98.035 to read as follows:

33.98.035 Effectiveness-Termination. If the order or decision of an administrative action or of the appropriate committee or commission grants all or any portion of an application and it is determined that no persons objected either personally at a hearing or in writing to the requested variance application or if all persons objecting to the application waive such objections in writing or if the grounds stated for such objections are removed, such order or decision shall become effective as hereafter provided. Otherwise, no such order or decision under this chapter shall become effective until after an elapsed period of fourteen (14) days from the date on which the decision is filed with the City Auditor.

No decision nor any order, whether resulting from an appeal or not, allowing any variance or adjustment shall be effective until the applicant, and the property owner, if different, has accepted the terms thereof in writing. Such acceptance must be filed with the auditor and the decision or order recorded in the appropriate county records at the expense of the applicant. If such acceptance is not filed and the fee paid within thirty (30) days after mailing by the Auditor of the acceptance forms, such decision or order shall be null and void. The document recorded shall bear the certificate of the Auditor that the acceptance thereof has been filed and that the document is a true copy of the original.

Subject to the provisions of this section, a variance shall run with the land, and shall inure to the benefit of the owner or other persons entitled to possession regardless of transfer of title or interest. However, a variance issued after December 13, 1979 terminates if construction or remodeling necessary for the variance has not been started within one (1) year of the date specified on a development schedule approved with the variance, or in case no such development schedule was approved, within one (1) year of the effective date of the approval, unless the Planning Director or designated agent has extended this period not to exceed one (1) additional year.

- h. Title 33, Planning and Zoning, is hereby amended by an amendment to Section 33.106.010 to read as follows:

33.106.010 Authority. Upon approval, in accordance with the procedures specified herein, the conditional uses specified in this title may be permitted in the respective zones in which they are listed. In permitting such uses, it shall be determined that the use at the particular location is desirable to the public convenience and welfare and not detrimental or injurious to the public health, peace or safety, or to the character and value of the surrounding properties. However, churches and elementary or primary schools, whether public or private, are permitted in any R or A zones and in any C4 zone, providing the site location is found to be appropriate for such use.

Upon application for the establishment of a conditional use or with any subsequent application for change or expansion of such use, a master or long-term development plan for such conditional use may be approved and the Bureau of Buildings informed that permits may be issued as long as they conform with the approved master development plan without the necessity of a conditional use approval each time a building permit is requested.

In permitting conditional uses, the minimum or maximum requirements specified for each such use in the respective zones may be increased and other conditions and restrictions if necessary to protect the public interest and the surrounding properties may be imposed. Notwithstanding section 33.12.020, an accessory building or use to a conditional use may be allowed on a lot other than that on which the principal building or use is situated. In the case of churches, colleges, hospitals and grade schools only, all of the lots or sites within such project area, may be used for the purpose of computing allowed site coverage, density and floor area provided such site coverage, density and floor area, under the circumstances of the particular case, shall be found not detrimental to the health, safety or general welfare of persons residing

or working in the vicinity or injurious to property or improvements in the vicinity. Such conditions as are imposed shall bind any successors and shall not be affected by any subsequent transfer of ownership.

Change in use, expansion or contraction of the site area, or addition to and/or alterations of structures of conditional uses existing prior to the July 1, 1959 effective date of this title or any applicable subsequent amendment thereto shall conform to all regulations pertaining to such conditional uses as contained herein and to such additional conditions or restrictions as are required to prevent overcrowding the site and to protect the surrounding properties. (See also 33.82.010(b).)

Variances or adjustments in connection with a conditional use may be applied for as a part of the application for the conditional use if the variance or adjustment sought meets the criteria set forth in Chapter 98 of this title. The applicant may apply for a modification of the minimum or maximum requirements specified for the particular conditional use in the respective zone, so as to relax such requirements as a variance or adjustment. The variance or adjustment may be granted only if it is found that substantially equal protection to the surrounding properties is afforded by some other means or by the physical situation.

A request for a variance in the Z Downtown Development Zone shall be considered by the Design Committee or the Historical Landmarks Commission in the case of designated districts or buildings or sites. The committee or commission shall have authority as provided for in section 33.98.025.

Prior to approval of a residential care facility, it shall be found that:

- (a) Applicant has received a valid certificate of review (license to operate) issued under Chapter 8.80 of the municipal code;
- (b) Construction or remodeling of structures necessary to accommodate the proposed use is compatible with the surrounding neighborhood and able to be in compliance with the regulations enforced by the Bureau of Buildings. No sign indicating its use shall be permitted. In accordance with Section 501 of the Uniform Building Code, the building inspections director will assign an appropriate occupancy to each individual residential care facility. See also 24.03.021, Code of the City of Portland.
- (c) That the use of subject property as a residential care facility shall not result in a concentration of residential care facilities that would result in interference with the enjoyment of neighboring property or interfere with the residential character of the neighborhood. The planning commission guidelines shall be followed to insure that the use of the subject property as a residential care facility will not result in a concentration of social service facilities.

Any residential care facility approval shall:

- (1) Limit the transferability of the conditional use. If a site is approved for residential care facility use, this approval shall be granted to allow service to a specific number and class or classes of individuals. Any increase in the specific number or any change in the specific class of individuals shall require a new conditional use approval;

- (2) Restrict the number of vehicles permanently located at the facility or operated on a daily basis in connection with the facility;
  - (3) Require additional review of any subsequent remodeling. A determination as to whether a public hearing is needed shall be made by the planning director in consultation with the building inspections director.
  - (4) Include such other conditions or terms as may be deemed appropriate and in the public interest to prevent interference with the use and enjoyment of public or private neighborhood property.
- i. Title 33, Planning and Zoning, is hereby amended by amendment to Section 33.120.040 to read as follows:
- 33.120.040 Functions and duties.
- (a) through (m) \*\*\* (no change)
  - (n) The review of designated landmarks within D Design Zones and Z Downtown Development Zones shall be conducted in accordance with Section 33.120.030 Exterior Remodeling or New Structure.
- j. Title 33, Planning and Zoning, is hereby amended by amending Section 33.120.080 to read as follows:
- 33.120.080 Exterior Remodeling or New Structure
- (a) through (e) \*\*\* (no change)
  - (f) If the historical district, building or site involved in the permit application or review procedure as provided in this section is located within a D Design Zone, the review and action thereon may be conducted by the Portland Historical Landmarks Commission. Appeal from the commission's action shall be directly to the City Council as provided in this section. In the case of a variance request within the Z Zone, the Historical Landmarks Commission on designated historical districts or buildings or sites shall have authority to affirm, reverse or modify in whole or in part any administrative decision on minor variances appealed to the commission or in the case of initial action on minor or major variances, the commission may grant, grant with conditions, modify or deny the variance request, in accordance with the provisions of Chapter 33.98 of this title.
  - (g) The Historical Landmarks Commission on designated historical districts, buildings or sites within the Z Zone may grant sign review approval excluding existing outdoor advertising signs in accordance with the provisions of Chapter 33.74 of this title.

**ORDINANCE No.**

Section 2. The Council declares that an emergency exists because these amendments are necessary to allow proper implementation of the Downtown Development regulations by allowing variances and signs to be reviewed by the most appropriate body; therefore, this Ordinance shall be in full force and effect upon and after its passage by Council.

Passed by the Council, **APR 15 1982**

Commissioner Mildred Schwab  
April 8, 1982  
Mark Bello:rs

Attest:

  
Auditor of the City of Portland

alternate

Calendar No. 1043-3

ORDINANCE No. 153108

Title

An Ordinance amending Title 33, Planning and Zoning, of the Municipal Code of the City of Portland, Oregon, in order to streamline sign review and variance review in Z zones through elimination of duplicate reviews by amending Sections 33.62.050, 33.74.020, 33.74.040, 33.74.060, 33.74.070, 33.98.025, 33.98.035, 33.106.010, 33.120.040 and 33.120.080 and declaring an emergency.

THURSDAY

APR 13 1982

Filed \_\_\_\_\_

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

By George Yerkovich  
Deputy

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
JORDAN	1	
LINDBERG	1	
SCHWAB	1	
STRACHAN	1	
IVANCIE	1	

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

INTRODUCED BY
Commissioner Mildred Schwab

NOTED BY THE COMMISSIONER
Affairs <i>[Signature]</i>
Finance and Administration
Safety
Utilities
Works

BUREAU APPROVAL
Bureau: Bureau of Planning
Prepared By: Mark Bello:rs Date: April 8, 1982
Budget Impact Review: <input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required
Bureau Head: JDS <i>[Signature]</i> Terry D. Sandblast, Director

CALENDAR	
Consent	Regular X

NOTED BY
City Attorney: <i>KS Beaumont</i>
City Auditor
City Engineer