



Bureau of Planning and Sustainability

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MEMO

DATE: June 3, 2020

TO: Andrea Durbin, Director (BPS)
Joe Zehnder, Chief Planner (BPS)

FROM: Brandon Spencer-Hartle, Senior Planner (BPS)

CC: Sandra Wood, Principal Planner (BPS)
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SUBJECT: Historic Resource Review and Height

On May 28, 2020, the Portland City Council held a public hearing on the re-adoption of the Central City 2035 Plan. Testimony was received from the Architectural Heritage Center, Restore Oregon, Japanese American Museum of Oregon, and others requesting code changes related to Historic Resource Review. The Architectural Heritage Center testimony specifically provided the following specific requests:

- A. *Codify clearly that zoned heights in historic districts are permissive, not an entitlement.*
- B. *Codify that the Landmarks Commission has authority to adjust heights and setbacks.*

Staff from the Bureau of Planning and Sustainability and the Bureau of Development Services reviewed the request. Staff found that Historic Resource Review already provides the decision-maker with the authority to adjust development allowances in order to find that a given development proposal meets the adopted approval criteria for the site. For example, while many Historic Landmarks are located in areas of the city zoned for greater development allowances, there is no guarantee that a property owner will gain Historic Resource Review approval to overwhelm their Historic Landmark with a vertical addition. Similarly, in Historic Districts, there is no guarantee that a property owner will gain Historic Resource Review approval for a proposed new building that is considerably larger or considerably smaller than its historic neighbors.

Staff therefore agrees that Historic Resource Review is discretionary and that the height limits provided on maps 510-3 and 510-4 are maximum allowances, not entitlements, subject to Historic Resource Review and/or other land use reviews.



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Historic Resource Review is established in Title 33.846.060. The approval criteria for the Review are provided in Title 33.846.060 and/or in adopted design guidelines. Under the various Historic Resource Review criteria that apply to historic resources, the decision-maker considers whether proposals for alterations, additions, or new construction comply with the applicable approval criteria. The Review is discretionary, considering a variety of elements of the urban fabric on site-by-site basis. Proposals that are not found to meet the approval criteria—including proposals that are found to be too tall (or too short) to meet the applicable criteria—may be denied by the decision-maker.

This discretion is supported by ORS 227.175, which specifically provides that the City may reduce the height or density of housing development if the reduction is necessary to comply with a statewide planning goal. Designated historic resources fall within statewide planning goal 5 and Portland’s Historic Resource Review approval criteria are adopted pursuant to goal 5.

While staff agree that proposals for buildings at the maximum height allowed on sites subject to Historic Resource Review are not entitled to approval, staff do not agree that changes to the zoning code as part of Central City 2035 are necessary to satisfy the requests made by testifiers.

In addition to Historic Resource Review, other discretionary land use reviews allow decision-makers to place limits on otherwise allowed development to ensure planning objectives are met, such as protecting trees, limiting shadows on parks, and conserving environmental areas. Staff are concerned that specifying “height” as a factor that can be considered in Historic Resource Review will introduce questions about what can and cannot be considered in the other land use reviews. Similarly, codifying a list of every aspect of urban fabric that can be considered in Historic Resource Review would create inherent limits on the review body’s authority to apply approval criteria and would limit opportunities to consider items raised in testimony or other factors germane to a proposed development that fall outside of the defined list.

As has been the case since the codification of Historic Resource Review, Historic Resource Review is a discretionary land use review that protects historic resources by applying approval criteria that address a myriad of elements of the urban fabric—including height.

