

# A Guide to Requesting Demolition Delay Extensions for Proposed Residential Demolitions

## Introduction

This guide outlines essential steps and provides templates supporting a demolition delay appeal per City of Portland Title 24.55.200 regulations enacted in April 2015 pertaining to residential demolitions in single-family residential zones. It is primarily intended for neighborhood associations, but is also applicable for individuals and other organizations. Key requirements must be addressed in order for a delay request to be accepted by City staff and subsequently to convince a Hearings Officer to approve a 60-day demolition delay extension.

## The Delay Extension Process

The City of Portland requires a 35-day delay and notification period for all applications to significantly alter or demolish residential structures in residential zones. An additional 60-day delay may be granted for demolition proposals. Approval of the 60-day extension requires 1) a “complete” application and 2) a favorable ruling by a Code Hearings Officer. Extension requests can be made by any party for a \$1,318 fee. The fee is waived for applications submitted by neighborhood associations or coalitions.

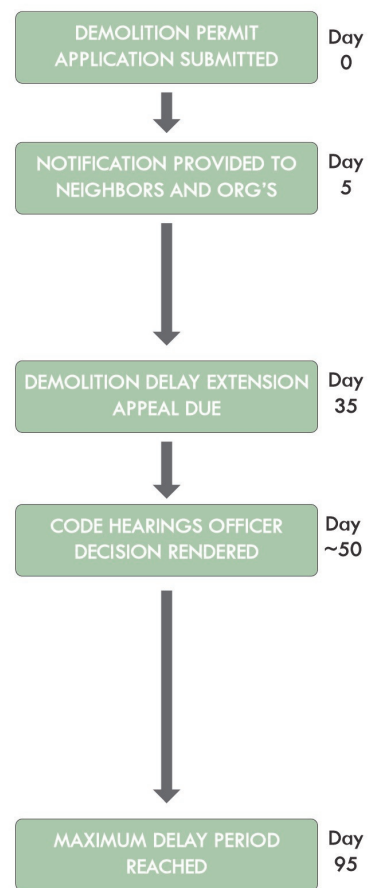
Each of the following **MUST** be demonstrated for an application to extend demolition delay to be successful:

1. Proof of certified or registered mail sent to the property owner requesting a meeting to discuss alternatives to demolition;
2. Demonstrated evidence that the property has significance to the neighborhood;
3. A description of the plan to save the structure;
4. A proforma budget; and,
5. Evidence of funds on hand or a fundraising plan

Delay extensions must be received by 4:30pm on the last day of the initial 35-day delay period.

## Pre-Appeal Considerations

Once a demolition application has been filed with Bureau of Development Services (BDS), within five days a letter will be sent out to the appropriate neighborhood association contacts based on the Office of Neighborhood Involvement (ONI) directory. The notification of neighborhood contacts is only as good as the ONI database, therefore it is imperative that contact information be updated with ONI on a regular basis. In addition, neighbors within 150 feet of the proposed demolition site will receive a postcard notice from BDS indicating that application has been made for a demolition permit.



This letter will include notice of *Intent to Demolish*, instructions for requesting a delay extension, and contact information for the permit applicant (the property owner, developer, or contracted permitting expeditor).

Upon receiving a notice of *Intent to Demolish*, the neighborhood association and/or interested neighbors should confirm the property owner's contact information either from existing owners (often permit applications are filed prior to closing on the sale of a property), the permit applicant (although they are unlikely to divulge their client), through BDS permit system administration (referencing the permit number), or by nearby residents whom may have this knowledge.

The role of the neighborhood association in regards to a proposed demolition is to facilitate discussions with concerned neighbors and to help clarify if demolition delay appeal is appropriate and feasible. Because of the brief time allotted to preparing a delay request, there must be an early assessment to determine if there is sufficient commitment to support the key requirements for a successful filing and the capacity to execute plans to save the structure. Also important is to identify and designate a primary neighborhood contact who will initiate notification and discussion with the permit applicant. Experience has shown that earlier is better when it comes to opening lines of communication with a developer regarding likely or stated plans to demolish an existing house.

Contact with developers should be cordial and courteous. An initial phone or email correspondence requesting a meeting to discuss planned development with affected neighbors is a good place to start. Most developers will agree to a meeting if they are assured it will be for constructive discourse and effective airing of concerns.

If a meeting occurs, here are some questions to pose that may help clarify if a delay extension might be beneficial:

1. Ask to review plans of the proposed replacement house(s)
2. Discuss the options for improving the design to better fit with neighboring houses
3. What are the alternatives to demolition—renovation, expansion, relocation?
4. Are there any significant trees that may be saved by practical design considerations?
5. What price would they consider if someone offers to repurchase the house?

Summarize the meeting with notes copied to the developer and the neighborhood association.

### **Filing the 60-day Extension Request**

If the association's decision is to proceed with an appeal, make certain of deadline dates and plan to hand deliver the appeal package to BDS per instructions two days prior to the deadline. This will allow for last-minute changes if there is a problem with BDS accepting the appeal. Additionally, confirm the latest time during a given day that BDS can accept an appeal as staffing issues may impact this timing.

These items *must* be included in the demolition delay extension appeal packet:

### **Section 1: Documented Efforts to Contact the Owner**

A mandatory requirement for receiving a demolition delay extension is to document efforts to contact the property owner with a registered or certified letter (See sample letter template). Retain postal invoice and copies of registered/certified cards, as well as copies of the letter, as these are to be included in an appeal package. It is not necessary to find the “real” owner, but only to make contact with the owner or owner’s representative indicated in the notice.

### **Section 2: Describe Significance to the Neighborhood**

Probably the first test of whether to file a demolition delay extension is the test of significance. In the heat of the initial reaction to a demolition notice, almost any individual can conjecture why a house is significant. However, to successfully receive a demolition delay extension it will be imperative that a group of informed people concur on the significance of a house to the larger neighborhood.

The significance of a house to the neighborhood can be based on a number of factors, but the most common are:

1. Visual significance in the neighborhood;
2. Significance due to social or community history;
3. The home of an historical figure or a place where a significant event occurred;
4. Significant local or neighborhood architectural integrity;
5. Culturally or historically significant landscape features including significant trees that would be lost by the demolition;
6. Removal of viable housing significant to retain diversity of age and income.

A summary of the house’s significance can be made in a few paragraphs that demonstrate defensible research and thoughtful writing. Include photos of the property supporting the text, signatures in support, etc. The photographs should include the house in its neighborhood setting.

Visual significance in the neighborhood. The house, either individually or as part of a group of similar houses, may be intrinsically significant to the neighborhood. Its visual significance may be that it is prominently sited next to a park, on a hill, at the entrance to the neighborhood, or serves in some way as a local “landmark.” Its architectural character could be important because of its proportions, detailing, or is an example of a particular period. Sometimes the architectural significance resides with the landscaping and/or trees that would be damaged or destroyed by a demolition. However, it is important to note that the City’s tree code is a separate set of regulations and is not covered by the demolition delay and extension process.

Social or community history. For culturally significant houses, understanding the story of a property will be critical. Did someone with a unique neighborhood role (a long time

popular school teacher, for example) live here? Was the house one of the first in the neighborhood, or a model home for the development?

Historic significance. Did the founder of a local company, scientist, or musician live here? Is this where people met to form the neighborhood association or some other important group? The residence of a significant individual or event can be researched by neighborhood interviews and at the Multnomah County Library. The Library's city directories can confirm that someone lived in the house, and in what years. The Library also has an online searchable database of the *Oregonian* that can be useful for searching an individual or address (keep in mind that addresses were renumbered in 1931).

Local or neighborhood architectural integrity. Is the house an example of a type or style that is rare or unusual in your neighborhood? The City's Historic Resources Inventory (HRI) may be of some use here, but did not fully capture all of the architecturally significant buildings in Portland. Properties listed in the HRI can be found on the [Oregon Historic Sites Database](#).

Research beyond the HRI is not difficult if you have help or some advance training. There are many books on house styles and types, but in the interest of time a local architect, historian, or preservation consultant could most quickly help. Staff and volunteers from either the [Architectural Heritage Center](#) or [Restore Oregon](#) can also be of assistance.

### **Section 3: Plan to Save the Structure**

While there may be several possible scenarios by which a significant house can be saved, one option must be described in the appeal packet. Agree on a tentative plan and provide a brief description that aligns with the proforma and financial capacity sections of your application. A plan to preserve will likely involve one of the following:

1. Buyback of all or a portion of the property to preserve the house;
2. Relocation of the house to another site; or,
3. Persuading the new owner to restore or enlarge the house, retaining important architectural features.

The plan should also describe a proposed ownership structure such as:

1. Purchase by a preservation-friendly buyer (names and contact information of prospective buyers provided to the extent possible);
2. Purchase by a collective of neighbors forming an LLC with the anticipation of resale after restoration;
3. Purchase by a third party developer with a plan to restore the structure, or divide the property in a manner that saves the house; or,
4. Purchase and relocation of the house to a possible specific site.

### **Section 4: Financial Proforma**

For this purposes, a proforma is a simple and preliminary financial strategy to achieve the plan. The following example was developed to outline possible expense and revenue considerations necessary to demonstrate that a reasonable opportunity to save the house exists.

<b>EXPENSE</b>		
<b>Purchase Expense</b>	<b>Dollars</b>	<b>Notes</b>
Purchase Price Paid by Current Owner		May require research beyond <a href="#">Portland Maps</a> , as updates can be slow
Expenses Incurred		Legal, architectural, environmental, and permitting expenses incurred in preparation for demolition
Lost Opportunity Cost		Portion of owner's projected profit forgone by not developing (negotiable; likely \$25-150k)
Retained Property Value	-	Subtract any value retained by owner in property (portion of the land, ownership percentage, etc.)
<i>Subtotal</i>	\$0	Estimated value of property and basis of cost to purchase
<b>Rehabilitation Expense</b>		<b>Notes (these items will vary depending on your plan)</b>
Feasibility and Soft Costs		Legal, architectural, carrying, fundraising costs
Construction Costs		Cost to restore, salvage, or move structure (lacking other information use \$175 per square foot for ballpark rehabilitation budget for a fixer-upper).
Alternative Site Purchase		Purchase and preparation of alternate site if house is to be relocated
<i>Subtotal</i>	\$0	
<b>Expense Total</b>	\$0	<i>Purchase expense + rehabilitation expense</i>
<b>REVENUE</b>		
<b>Revenue</b>	<b>Dollars</b>	<b>Notes</b>
Down Payment		Funds on hand and guarantees of funds. Identifying funds and/or individuals capable of delivering such funds is critical in the application and hearing process.
Loan		Traditional or bridge loan(s) available for purchase and rehabilitation expenses.
Funds Raised		Investors, donors, crowd-sourced commitments
Alternative Funding Programs		Rehabilitation tax credits, Special Assessment of Historic Property Program savings, low income housing incentives, Portland Development Commission funds, preservation grant funds, etc.
<b>Revenue Total</b>	\$0	<i>Revenue total should equal expense total</i>

Keep in mind that in a proforma budget, expense and revenue must balance. To the extent possible, expenses should be described in the plan to save the house and revenue should be described in the evidence of funds on hand or fundraising plan. The proforma should include line items listing the expense/revenue and the dollar value assigned to each. Keep the proforma simple as there is no obligation to follow the financing plan presented if the extension is approved. Unnecessary detail could open a proposal to critique at the hearing.

## **Section 5: Evidence of Funds on Hand or a Fundraising Plan**

It is critically important that a written description of funds on hand *and/or* a realistic fundraising plan be submitted with the extension appeal. Additionally, scanned evidence of the sources should be attached to the application. Examples of evidence include:

1. Bank statement showing cash on hand;
2. Loan approval letter from a lending institution;
3. Guarantee from a credible buyer, developer, nonprofit, or other organization (such as a land trust); and/or,
4. Actionable fundraising strategy with donors identified, target goals set, and bank account established.

Beyond extending the demolition delay period, organization becomes increasingly important both in negotiations with the would-be demolisher and for fundraising. Unless the purchase is to be undertaken by an individual, a partnership should be formed under a corporate structure such as an LLC. Creation of an LLC is not required for the appeal application, but the Hearings Officer may ask questions about the capability of the preservation group to negotiate and to undertake the project. Indication that such a structure is under development could aid in gaining approval for the extension.

## **Submitting the Extension Request**

On the 33<sup>rd</sup> or 34<sup>th</sup> day of the initial 35-day demolition delay period, a Residential Demolition Permit Appeal Application form, complete with the sections described above, must be submitted in person to the Bureau of Development Services' Second Floor Permitting Services, 1900 SW Fourth Avenue Portland. Note that Permitting Services is closed weekends, after 4:30pm, and on other occasions. Provided that the appeal application is received on time with each of the required sections, a hearing will be scheduled to approve or deny the application.

## **The Hearing**

The Hearing will be scheduled at the convenience of the Hearings Officer, usually 7 to 20 days after filing the request for extension. In the interim, the applicant group will have a little time to refine the plan and begin to recruit support. But most important is organizing the presentation so as to be convincing to the Hearings Officer. The Officer is not likely to have reviewed any of the application in advance, so it will be necessary to summarize the significance, the plan, the proforma, and evidence of financing at the hearing.

The presenting team should include a lead who is comfortable presenting the overall evidence, a neighborhood resident or historian who can supply additional detail about significance and a description of the condition of the property, and someone who can credibly discuss financing and the proforma. One or two supportive neighbors in the audience may add to the evidence of support for the extension. It is also important to become familiar with the list of players on the developer's side, including agents working for the developer who may be acting as intermediaries, to assist in negotiation if the extension is approved.

Testimony or rebuttal will be invited from the owner or the owner's representative. Their side may challenge the testimony or credibility of those requesting the extension. The owner may also choose not to appear indicating no intent to negotiate.

The Code Hearings Officer will issue an order at the end of the hearing either approving or denying the request for extending the demolition delay period an additional 60 days.

### **About This Guide**

This guide was created in September 2015 in response to the concerns about the complexity of the residential demolition delay extension appeal process. Volunteers from the Architectural Heritage Center, United Neighborhoods for Reform, and several neighborhood associations contributed to the guide. Restore Oregon edited, compiled, and will continue to update versions of this guide as needed.

For questions or comments about this guide, contact the Restore Oregon office at 503.243.1923.