



## **Memorandum**

**TO:** Chris Jordan, City Manager  
**FROM:** Peter Spir, Associate Planner  
**DATE:** January 9, 2009  
**SUBJECT:** Appeal of Clackamas County Historic Review Board conditions of approval relating to the demolition permit for 1850 Buck Street. (AP-08-06)

---

### **Purpose**

The Tualatin Valley Fire and Rescue's (TVFR) application to build a new Bolton fire station was approved by the Planning Commission on December 3, 2008. The site is occupied by a historic landmark house at 1850 Buck Street. To remove that house, TVFR had to get a demolition permit. That permit required a public hearing with the Clackamas County Historic Review Board (HRB) on November 20, 2008.

At that hearing, the HRB, by unanimous vote, approved the demolition permit application. However, HRB also imposed a condition of approval stating that if the house could not be moved to a new location within 120 days then the applicant would have to return to the HRB for another hearing to determine if the demolition permit should be approved.

TVFR is not appealing the HRB decision to approve the demolition; instead, they are appealing the HRB's condition of approval #3 to require another hearing to allow the demolition. TVFR believes this is unacceptable as it will delay this fire station project by at least four months with no guaranty that the station demolition of the house at 1850 Buck Street will ever be permitted.

Although appeals are de novo and City Council is free to consider all aspects of the demolition permit application, staff would encourage review of the condition of approval only, since that is the only issue raised by TVFR and their only point of disagreement with the HRB decision.

### **Background**

Whereas the TVFR fire station application is required by the Community Development Code (CDC) to go through the Planning Commission for Design Review and Conditional Use Permit hearings for approval, the fact that a historic landmark (1850 Buck St.) must be either moved or demolished adds another layer of review. The Clackamas County Historic Review Board (HRB) is responsible under CDC Chapter 26.080(B)(C) for conducting public hearings to approve, approve with conditions or deny demolition permits for historic

landmarks. Like the Planning Commission, the HRB conducts their hearings using the same quasi-judicial format as the Planning Commission. And, like the Planning Commission, their decision is the final one unless it is appealed to City Council. In this case, the TVFR is appealing one of the HRB's conditions of approval.

### **Discussion**

The HRB decision was unusual. On the one hand, the HRB reviewed TVFR's findings (pages A-12 to A-14 of the record) and determined that they met the approval criteria for demolition, and then by a 4-0 vote the HRB approved the demolition permit. The HRB then imposed a contradictory condition of approval #3 that requires another hearing to get approval of the demolition permit.

The HRB conditions are as follows with the condition of approval #3 being highlighted:

1. *The applicant shall provide Sue Smith or any other person with a bona fide proposal with 120 days to negotiate and complete the removal of the landmark structure at 1850 Buck Street and any accessory structures from date of this decision. The house will be moved to another lot in the Bolton neighborhood. TVFR may, at their discretion, extend the amount of time for Ms. Smith to remove the house from the site if reasonable progress has been made to completing that process.*
2. *The City agrees that the System Development Charge credit of 1850 Buck Street shall be transferred with the house to its new location.*
3. ***This demolition application (DR-08-10) will be returned to the HRB for a public hearing to decide if a demolition permit shall be issued and under what conditions if condition of approval 1 is not met.***

The facts are simple: the record includes the applicant's findings that the approval criterion for demolition is met. The HRB studied those findings, heard public testimony and voted unanimously to approve the demolition permit. Condition number three conflicts with the HRB decision to approve the demolition by requiring a second hearing before demolition may be carried out.

### **Options**

- A. City Council could support the HRB's decision to approve the demolition and eliminate condition number three then add language to condition number one. This option respects the historic value of the house by offering a reasonable period of time for the house to be moved with SDC waivers and balances that with the compelling community need for a fire station. The revised language could be as follows:

1. *The applicant shall provide Sue Smith or any other person with a bona fide proposal with 120 days to negotiate and complete the removal of the landmark structure at 1850 Buck Street and any accessory structures from date of this decision. The house will be moved to another lot in the Bolton neighborhood. TVFR may, at their discretion, extend the amount of time for Ms. Smith to remove the house from the site if reasonable progress has been made to completing that process.*

*If after 120 days the house has not been moved or no reasonable progress made as determined by TVFR, the house may be demolished. If the demolition proceeds, TVFR shall, after notifying the Planning Director, make the house available to the public for two weeks for the salvage or removal of building materials and fixtures that might then be used by other historic properties in the City.*

2. *The City agrees that the System Development Charge credit of 1850 Buck Street shall be transferred with the house to its new location.*

- B. City Council could let the HRB approval decision stand “as is” with the HRB’s conditions of approval remaining in force. The applicant, TVFR will inform the Council that would delay its fire station project by at least 4 months, with no certainty that the project would ever be completed.
- C. City Council could expand the scope of the hearing and adopt findings that overturn the HRB’s approval decision and deny the demolition permit completely.

### **Recommendation**

Staff recommends option “A” which is to support the HRB’s decision to approve the demolition permit with amended conditions of approval as shown.