



City of  
**PORTLAND, OREGON**

Development Review Advisory Committee

**Development Review Advisory Committee**  
**MINUTES**  
**Thursday, February 19, 2015**

**DRAC Members Present:**

Hermann Colas  
Dave Humber  
Joe Schneider

Phil Damiano  
Maryhelen Kincaid  
Kristin Wells

Maxine Fitzpatrick  
Dana Krawczuk

**City Staff Present:**

Claire Adamsick, Comm. Fritz's Office

Cindy Dietz, Water

Amanda Fritz, City Commissioner

Phil Nameny, BPS

Dora Perry, Comm. Fritz's Office

Deborah Sievert Morris, BDS

Christopher Wier, PBOT

Rebecca Esau, BDS

Elshad Hajiyev, BDS

Mitch Nickolds, BDS

Andy Peterson, BDS

Kimberly Tallant, BDS

Fred Deis, BDS

Mark Feters, BDS

Kurt Krueger, PBOT

Paul Scarlett, BDS

Nancy Thorington, BDS

**DRAC Members Absent:**

Claire Carder  
Chris Kopca

Rob Humphrey  
Kirk Olsen

Keith Jones

**Guests Present:**

Steve Elder, United Neighbors for Reform

Jeff Fish, Fish Construction NW

Sara Long

Mitch Powell, The Powell Group

Justin Wood, Home Builders Association

**Handouts**

- DRAC Meeting Minutes 1/15/15
- Inter-Bureau Code Change List
- Non-Cumulative Cost Recovery Report
- BDS Major Workload Parameters
- BDS FY 2015-16 Requested Positions & Service Levels
- BDS FY 2015-16 Requested Budget
- Decision Packages
- DRAC Budget Letter
- Chapter 24.55 Ordinance 2/12/15
- Accessory Structures Project
- 2/5/15 Memo from Commissioner Fritz
- Background – Land Use Decisions Before Council in 2014

## **Convene Meeting**

DRAC Chair Maryhelen Kincaid convened the meeting and welcomed DRAC members and guests. DRAC members reviewed and approved minutes from the January 15, 2015 DRAC meeting.

Ms. Kincaid forwarded a proposal to have Jeff Fish (Fish Construction NW) continue participating as a member on the Demolition Subcommittee, even though his DRAC membership has ended. Mr. Fish has played a critical role in the Subcommittee's work, which is continuing and his continued participation will be important to the successful implementation of the revised regulations. DRAC members unanimously approved Mr. Fish's continued participation on the Subcommittee as a non-DRAC member.

Ms. Kincaid announced that guest Sara Long was video recording the DRAC meeting.

## **Director's Report**

BDS Director Paul Scarlett welcomed Ms. Kincaid as the new DRAC Chair and discussed his role as a resource to the DRAC. He thanked DRAC members for their input and work on development issues on the City's behalf.

Mr. Scarlett reviewed the handouts *Non-Cumulative Cost Recovery Report* and *BDS Major Workload Parameters* and provided an update on the bureau's work and finances. He noted the bureau's continued high cost recovery rate, which is helping to build and maintain bureau reserves and support the addition of staff to address workload. Approximately 95% of BDS's revenues come from permit and related fees. He also noted that the Information Technology Advancement Project (ITAP) remains on budget.

Mr. Scarlett mentioned that the bureau has been working on updates to code guides. These appear on the bureau's website as they're updated (see <http://www.portlandoregon.gov/BDS/36855>), and are noted in the handout *Inter-Bureau Code Change List*. Updating code guides is an example of the kinds of services that BDS has been able to restore with the staff additions over the last few years. Staff hires continue, though not as quickly as desired; the bureau is dialoguing with the Bureau of Human Resources and working on ways to streamline the hiring process.

## **BDS FY 2015-16 Requested Budget**

Deborah Sievert Morris and Elshad Hajiyev (BDS) reviewed the handouts *BDS FY 2015-16 Requested Positions & Service Levels* and *BDS FY 2015-16 Requested Budget Decision Packages* and gave an overview of the bureau's Requested Budget, which was submitted to the City Budget Office on February 2<sup>nd</sup>. DRAC members voted unanimously in support of BDS's budget request.

Ms. Sievert Morris then reviewed the handout *DRAC Budget Letter*. The letter had been distributed to DRAC members in late January, but there was not an opportunity for group discussion until today. After discussion, DRAC members unanimously voted to approve the DRAC Budget Letter.

## **Demolition Subcommittee Update**

Nancy Thorington (BDS) thanked the members of the DRAC Demolition Subcommittee for their work and noted that the City Council approved the revised ordinance yesterday (Feb. 18<sup>th</sup>). She then reviewed the handout *Chapter 24.55 Ordinance 2/12/15*. There are 60 days to prepare for implementation of the revised code. The code will require those wanting to appeal a demolition to go through the Code Hearings Officer (CHO), which has an associated cost. Ms. Thorington met with the CHO recently to discuss processes and how this will work. Mr. Scarlett said that funding for neighborhood demolition appeals will be addressed through the budget process, which will run through April or May.

Andy Peterson (BDS) clarified that the text "Comprehensive Map Designation" in item number 10 on page 2 of the handout refers to a Residential Comprehensive Map Designation.

The City Council is looking to address deconstruction and neighborhood compatibility issues, and the Bureau of Planning & Sustainability (BPS) will lead those efforts. Hazardous materials is still an issue, and there have been meetings with Oregon OSHA and the State Department of Environmental Quality (DEQ). The State Construction Contractors Board (CCB) oversees lead-based paint issues for residential construction.

Ms. Kincaid said that the Office of Neighborhood Involvement (ONI) is hosting a Community Summit on Saturday, February 28<sup>th</sup> at the Ambridge Center (see <http://www.portlandoregon.gov/oni/65899>), and a lead-based paint inspector will be giving a presentation there at 1:10 p.m. There is also an Environmental Protection Agency (EPA) contact that will be involved in following up on the hazardous materials issue.

Ms. Thorington noted the active participation in the code revision process by neighborhood representatives, including United Neighbors for Reform (UNR). While not all participants were happy with all the details, all were generally supportive. Guest Sara Long said that the UNR representatives said they were very satisfied with the outcome. Ms. Kincaid added that this was one of the best collaborative processes she has experienced. Mr. Fish suggested that a UNR representative be included in the subcommittee going forward.

## **Peer Review**

Andy Peterson (BDS) said that BDS went to City Council on January 28<sup>th</sup> to add a fee to the BDS Fee Schedule for Peer Review. Peer review is required in the building codes, and it is used for building designs that use a performance-based design rather than following prescriptive path. Currently a tower in the Lloyd District is using this alternative design process to address seismic requirements, which requires BDS to contract with an independent review body to perform the peer review. The new fee will be a simple pass-through to the third-party firm that is doing the peer review. BDS will still do the structural review and will work closely with the third-party firm on the peer review.

Mr. Peterson said BDS will probably see one or two peer review projects in the next few years, though he anticipates more in the longer term.

DRAC member Joe Schneider asked how the third-party costs are determined. Mr Peterson said that BDS went through a qualification-based RFP process and identified 3 firms that were most qualified to perform peer review for the current proposed structure. The bureau will be negotiating costs with the top firm.

Ms. Kincaid asked whether peer review is mandated or optional. Mr. Peterson said that the decision to use performance-based design is at the discretion of the developer, but once it is chosen, peer review is mandatory. Developers have said that performance-based design is less expensive than following the prescriptive path. Peer review is used extensively for tall buildings on the west coast, but is just starting to take hold in Portland.

### **Accessory Structures**

Phil Nameny (BPS) distributed and reviewed the handout *Accessory Structures Project* and gave background information and an overview of the project. The focus of the project is detached accessory structures in residential zones. More information is available at <http://www.portlandoregon.gov/bps/66546>.

An Accessory Structures Focus Group has begun meeting to inform and provide direction to the project. The focus group meetings are open to the public and are listed on the BPS Regulatory Improvement (RICAP) calendar at <http://www.portlandoregon.gov/bps/62883>. The next focus group meeting is scheduled for Tuesday, March 3<sup>rd</sup> from 4:00 – 6:00 p.m. on the 7<sup>th</sup> floor of the 1900 Building. BPS will also do outreach meetings with neighborhood coalition offices.

DRAC member Kristin Wells asked whether the project will look at micro houses. Mr. Nameny said the project would address micro houses that are placed on foundations, but not those that are on trailers/wheels. Mr. Peterson said that micro houses as presently configured typically don't meet building code requirements for habitable space; this is why they remain on wheels, where they are considered "mobile vehicles" and are exempt from the building code. Ms. Wells said that there are a number of barriers to micro homes, and she is interested in finding ways for the building code to address those issues so micro homes can move from wheels to foundations. Mr. Nameny said that it is not the intent of the Accessory Structures Project to address building code issues related to micro homes.

Guest Mitch Powell (The Powell Group) said that multi-dwelling zones exist in the codes, and there are examples of how builders can create small subdivisions with small lots for micro homes. However, the current process takes 2 years and isn't financially feasible. He has wanted to discuss this with the City, since there is a market for micro homes.

Guest Jeff Fish asked Mr. Nameny to forward a list of the focus group members to the DRAC, and Mr. Nameny said he would send the list to Mark Feters (BDS). Mr. Nameny mentioned the possibility of adding a DRAC member to the focus group; Ms. Wells said she would follow up on that with Mr. Nameny. Mr. Damiano also expressed interest. Mr. Nameny added that there is a smaller technical group made up of City staff.

## **Discretionary Land Use Review Approach**

Commissioner Fritz spoke regarding the recent memo she sent to BDS Land Use Services (LUS) employees. BDS LUS Manager Rebecca Esau distributed copies of the handout 2/5/15 Memo from Commissioner Fritz.

Commissioner Fritz said that the genesis of memo occurred last fall when the City Council reviewed three appeals of CHO land use decisions, as summarized in handout Background – Land Use Decisions Before Council in 2014. Commissioner Fritz said that her goal with the memo was to set out her policy directions for planners, but not to tell planners what to do on specific cases. Rather than asking for a code change she is asking planners to take a different approach where they have discretion in their reviews.

Ms. Esau said that developers have been calling her asking what it means to “raise the bar” on discretionary reviews. The greatest concerns regard land divisions in R2.5 zones and the question of compatibility with surrounding neighborhood properties. Compatibility varies with each neighborhood, so it's challenging to come up with a standard that applies to all situations.

Guest Justin Wood (Home Builders Association) said that his understanding is that if a neighborhood already has narrow lots, it would be easier to get additional narrow lots approved; if a neighborhood doesn't have narrow lots, getting narrow lots approved would be more difficult. He said that R2.5 is meant for 2,500 sf lots, and if the City doesn't want narrow lots in R2.5 zones where they're not compatible with the neighborhood, the lots should be re-zoned to R5. Ms. Esau said that one idea being considered is putting constraints on the scale of homes being placed on narrow lots, such as restricting the height if surrounding homes are primarily single-story.

Commissioner Fritz said that narrow houses can be entirely compatible with a neighborhood, but the problem is where tall narrow houses are completely out of place with the surrounding properties.

DRAC member Dana Krawczuk said that the appeals in the handout Background – Land Use Decisions Before Council in 2014 were highly discretionary, but the memo seems broader, addressing all levels of discretionary reviews. Commissioner Fritz said the memo applies to all discretionary reviews, but not to building permits. The code directs reviewers to consider compatibility as part of a discretionary review.

Ms. Long said that flag lots should be addressed. They don't change the appearance at the street, so nobody cares about what gets built.

Mr. Fish said that this is the most contentious issue he's been involved with, and suggested that a forum involving the building community should be held. Ms. Kincaid asked Dora Perry to follow up with Mr. Fish's suggestion for a forum on neighborhood compatibility in development (Commissioner Fritz had left for another meeting). Ms. Esau said that BPS should be involved.

Mr. Wood said that he was pretty sure there would be legal action at LUBA regarding this, and that may impact what the City does.

Ms. Wells said that this again raises issue of micro homes, which can be more compatible in a neighborhood than tall narrow homes. Also, narrow homes frequently have garages in front, which negatively impacts neighborhoods. Further, people are building to the maximum size allowed; the code should encourage smaller development in order to meet the City's sustainability goals. Mr. Powell said this is also an affordability issue, since micro homes are more affordable.

### **Pulse of the Industry / Member Announcements**

Ms. Kincaid said that she wants to hear regularly from DRAC members and City staff on issues/topics that the DRAC should address. She gave all attendees an opportunity to briefly share their most important issue(s) currently regarding development. Items shared included:

- Kristin Wells said her most important issues are density, affordability, and sustainability.
- Phil Damiano noted that Urban Forestry is providing public information sessions regarding the new Tree Code.
- Joe Schneider said that owners want to build faster, leading to deferred submittal requests, and the City's processing of deferred submittals is slowing down. He asked BDS to research and address this issue.
- Andy Peterson said applicants (design teams) are feeling pressure from the development community to submit permit applications before their drawings and construction documents are complete. This leads to more checksheet items, longer review times, and further pressure from the development community. Taking the time to provide better drawings/documents that can be approved saves time for everyone.
- Kurt Krueger said that there is an assumption in the community that projects in general are built without enough (or any) review, and this is inaccurate.
- Dana Krawczuk said that clients tell her that design review is unpredictable and takes too long.

**Next DRAC Meeting:  
Thursday, March 19, 2015**

Minutes prepared by Mark Feters, BDS