

**Development Review Advisory Committee  
Demolition Subcommittee  
MINUTES  
February 3, 2015**

**DRAC Subcommittee Members Present:**

Rob Humphrey (DRAC)  
Jeff Fish (DRAC)  
Maryhelen Kincaid (DRAC)

**City Staff Present:**

Crystle Cowen, BDS  
Rebecca Esau, BDS  
Andy Peterson, BDS  
Shawn Wood, BPS  
Jill Grenda, BDS  
Terry Whitehill, BDS  
Nancy Thorington, BDS

**Guests Present:**

Jim Heuer, UNR  
Al Ellis, UNR  
Barbara Strunk, UNR  
Janet Baker, UNR  
John Hassenberg, Oregon Remodelers Association

**Handouts**

- Agenda

**Convene Meeting**

Nancy Thorington with BDS convened the meeting and welcomed DRAC Demolition Subcommittee members and guests. All present introduced themselves.

- I. **DEBRIEF OF DECEMBER 17, 2014 COUNCIL MEETING** [Informational]
  - a. Summary: the proposed changes to Title 24 Demolition Delay were presented to City Council. Council and stakeholders at that session appeared to accept proposed changes except the delay time period. Testimony presented to Council at the meeting illustrated the changes to the 120 delay extension needed more discussion. The Demo Subcommittee members tasked with criteria for the delay extension (Mary Hellen Kincaid and Jeff Fisch) and Nancy Thorington prepared alternatives, and presented additional changes to this part of the Title 24 proposed changes to the full DRAC Committee on 1/15/15. At that meeting there was a full discussion and changes were approved. After this meeting Jeff Fisch and Mary Hellen went to the United Neighbors for Reform to review the proposed changes. The feedback they received has been vetted by NT through

the City Attorney assigned to BDS, the Commissioner-In-Charge Amanda Fritz, and the City Code Hearing Officer which resulted in additional changes in the proposed code.

- b. BDS is creating a webpage to publish information about the DRAC Demolition Subcommittee/Demolition Task Force, which will link from the DRAC Committee webpage. NT is working with the BDS Communication and Customer Service section to create this and post the agenda and meeting minutes there, including the past meeting minutes.

II. **PROPOSED AMENDMENTS APPROVED BY DRAC 1/15/15** [Informational]

- a. NT directed meeting attendees to review handout (2) to see entire changes to code. This meeting will focus on extension of delay. NT directed attendees to handout (3) for readability.

III. **UNR PROPOSED AMENDMENTS** [Input and Recommendations]

- a. Minor amendments to criteria for requesting extension with Code Hearings Officer
  - i. NT reviewed the UNR requested edits, such as text “but not limited to” on page 7, 2 and pointed out text “or other factors” was also included. NT answered several questions from UNR member explaining what the Code Hearings Office (CHO) is, that it is a quazi judicial process under the Auditor’s Office. Also discussed was the history of the CHO office, what the process is to appeal the determination of the CHO. NT explained the Code which governs the CHO Title 22, section 22.10 and 22.10.060 state the determination from the CHO can be appealed to the Multnomah County Circuit Court. NT made it very clear that the demolition delay had a 95 day limit regardless of further appeal action, the permit delay would end at the 95 day mark. This was to avoid a governmental “taking” issue. NT referred to handout 3, section H for code language.
- b. Remove references to deconstruction [also recommended by Bureau of Planning and Sustainability]
  - i. NT noted that **Deconstruction** was removed from these proposed changes based upon input from the DRAC Demo Subcommittee and further noted no Deconstruction experts were a part of this committee. NT said Sean Wood with BPS will spearhead exploring code changes around this subject outside of this subcommittee and a future amendment could be taken to council to request adoption of that subcommittee’s proposal.
- c. Waiver of appeal fees
  - i. Commissioner Fritz has stated she wants the fees waived for recognized organizations whose boundaries include the site. She has also stated this fee waiver would be administered by BDS. The Commissioner has been made aware that State of Oregon law prohibits the use of funds BDS collects for permit fees to be used in support of any program or service not part of permit services. The Commissioner will seek General Fund support for the waiver program. BDS will work out the administration of a fee waiver program for recognized Neighborhood Associations and Coalitions after it is approved by City Council.

IV. **HEARINGS OFFICER RECOMMENDATIONS** [Input and Recommendations]

- a. BDS to process appeal application and fee waivers
  - i. NT met with the Code Hearings Office to get feedback on utilizing their office to hear requests to extend the demolition delay. The Hearings Officer requested application for appeal come to BDS for processing, and BDS deal with fee for Hearing. BDS would not review content of application, but that required information was provided and that there is a Residential Building Permit for a demolition in application with BDS. He also requested BDS provide a notification list.
- b. Consistency with Chapter 22.10 or note that 24.55 prevails in case of conflict
  - i. Based upon the CHO's comments, NH has written the Title 24 amendments to clarify where Title 22 prevails and where Title 24 prevails to eliminate conflict.
- c. What if more than one appeal filed?
  - i. The CHO asked BDS consider if it wants to write code to avoid multiple appeals filed on the same permit, or how BDS will handle multiple appeals on the same permit. NT stated that both Director Scarlett and Commissioner Fritz do not want to limit the number of appeals that can be received on a permit.
- d. Set out procedures, including BDS requirements to cancel appeal if demolition permit withdrawn or permit to move house is issued (doesn't need to be in code, but needs to be addressed)
  - i. Discussion about BDS accepting the appeal was covered earlier in the meeting (see IV, A). The CHO explained that BDS or another Bureau must administer the fee waiver, they would not. Discussion about implementation and process will be done internally by BDS. NT again clarified the start of the 35 day delay starts upon application being received by BDS. The appeal to the CHO could only extend the delay for another 60 days, for a maximum of 95 days, regardless of where the CHO is in the process of scheduling/holding a Hearing or writing his determination. His determination would not extend the delay of issuing the permit past the maximum of 95 days from application to BDS.
  - ii. Discussion followed regarding the need for an internal BDS process to determine who can be accepted as representing a Neighborhood Association (N.A.). There are current application/practices other BDS work processes that can be adapted to meet this concern. The actual implementation and process will be figured out later. BDS must also develop a process to notify the CHO if the permit is withdrawn or a house move permit is issued. BDS will look at developing informational documents on how to appeal, an appeal form, and waiver request form.
- e. Tighten language in subsection (J) so it is clear all of the criteria in subsection (H) are the basis for the decision
  - i. NH reviewed subsection J and made clear to the group that all criteria in subsection H must be met in order for the CHO to consider determining the delay is valid. Also that BDS staff will be looking that all four criteria are represented in the application – but not reviewing the information for validity (the CHO will do that in the Hearing).

- f. Issues with “pro forma budget” and “evidence of funds on hand” – concerned with having confidential information (e.g., SSNs, bank statements, etc.)
  - i. He also voiced concern about receiving confidential/personal information such as social security #'s, bank account #'s, etc as part of the criteria for appeal under H.4. Requiring the requesting party show they have reasonable potential to consummate the plan, as the Hearings records are public records. BDS will encourage applicants to redact (by blacking out?) such information.
- g. Approximate time limit for consummating deal – amend (H)(4) to read: “The requesting party has a reasonable potential to consummate the plan within \_\_\_\_\_ days”
  - i. Discussion of H.4. the group needed to propose a reasonable timeline to consummate the plan, what is a reasonable timeframe? N.H. again emphasized that even if the applicants proposal or the CHO determination listed a timeframe longer than the maximum 95 day delay, the permit issuance would not be delayed past a maximum of 95 days from BDS receiving application. JF and others expressed concern that defining a “reasonable period” past the maximum extension would *sound* like it extends the delay, and is confusing. Consensus was reached to define the reasonable period to consummate the deal as the end of the 60 day extension (35 day automatic delay + 60 day appeal for extension) the end of the maximum 95 days

- V. **COMMISSIONER AND CITY ATTORNEY INPUT** [Input and Recommendations] (if any received before meeting)
  - a. NH lead the group in a review of Handout 4.

- VI. **FINAL RECOMMENDATIONS TO CITY COUNCIL** [ Input and Recommendations]

**There was unanimous consent to endorse the Title 24 Amendments presented to the group.**

At this point Dora Perry noted to group that they could testify at the hearing. NH noted at the last hearing the only testimony that was presented was in opposition to the group’s suggestions. Members of UNR asked if persons who had signed up for testimony at the last meeting will retain their ability to testify, it was confirmed yes, they would be invited to testify to council in the order in which they signed up. Members of UNR asked if they had testified at the last meeting could they testify again? Dora confirmed “Yes” they could sign up again.

A question and answer period followed the reading. Questions and comments of significance to clarification of understanding of the proposed code are bulleted below.

- Q: Can an email to the owner be sufficient as an attempt to contact?  
A: No, following the Land Use model for notification a certified mail receipt provides an easily verifiable standard.
- Q: For notification to Coalition and Neighborhood Associations that a demolition permit has been applied for, would email be a suitable method of notification?  
A: No, feedback has been that the Office of Neighborhood Involvement email list has been inaccurate. The use of USPS has been more reliable.

- The proposed changes include notification of an applied for permit be sent to Architectural Heritage Center and Restore Oregon (in addition to recognized organizations and adjacent property owners). It was pointed out that both Architectural Heritage Center and Restore Oregon are not the official names of the organizations. NH will check for the official names.
- Q: What if the Hearings process takes 30 days to schedule the Hearing from receiving the application, and then additional time for the Hearings Officer to write a determination?  
A: That could happen but the delay of issuing the permit by BDS will not extend past 95 days of receipt of the application.
- It was suggested that information BDS creates on the appeal include encouragement for appealing parties to keep working on their process to obtain funds/consummate their proposed acquisition or move of the property/dwelling.
- NH and JF both pointed out the Ordinance to change Title 24 states the changes will be monitored for 18 months and issues will be tracked and brought back to Council.
- Q: is there a way BDS can create a public notification of when a permit for demolition is applied for?  
A: Yes, BDS has that now. On the BDS website it publishes the Metro Reports which list all residential building and demolition permits applied for and issued within Portland.\
- BDS pointed out mailing notifications for ALL demolition permits is a large body of work. This was noted in the financial statement submitted with the original ordinance. The addition of BDS accepting/processing of the appeal and a new waiver program will require additional staff and costs that will need noted when Council hears these proposed changes.
- Q: Can an outside buyer come to the Neighborhood Association the site is within and request they file the appeal?  
A: Yes, it is up the Neighborhood Association.
- Sean Wood asked if an additional change could be made to the Title 24 amendments, adding language about watering down the entire construction site. NT noted this group did not have the necessary stakeholders to consider this. It should include the BDS Inspections Division Manager, and also check that it wasn't already required by the Department of Environmental Quality or other regulatory agency. JF stated he didn't want that added now, without full discussion. He noted there are business reasons the site isn't continually watered.