



City of

PORTLAND, OREGON

Development Review Advisory Committee

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DRAC DEMOLITION SUBCOMMITTEE – POST ORDINANCE IMPLEMENTATION

October 26, 2015, 2:00 – 4:00 p.m., Room 4A

MEETING MINUTES

- I. **INTRODUCTIONS** [Informational] Maryhelen Kincaid presented “ground rules” and asked attendees to sign in on sheet being passed around. Provided overview/history of subcommittee.

In attendance: Maryhelen Kincaid DRAC, Jillian Detweiler Mayor’s Office, Andy Peterson BDS, Constance Beaumont citizen rep, Claire Carder DRAC, Tracy Spencer BDS, Tim Morris BDS, Fred Deis BDS, Dave Tebeau BDS, Jason Richling BDS, Margaret Davis UNR/BWNA, John Sandie UNR/BWNA, Jeff Fish Builder – past DRAC Chair, Al Ellis UNR, John Hasenberg ORA, Mitch Nickolds BDS, Terry Whitehill BDS, Emily Sandy BDS, Mike Liefeld BDS, Paul Leistner ONI, Elliot Akwai-Scott BDS, David Kuhnhausen BDS, Robert McCullough SE Uplift, Barbara Strunk UNR

- II. **DISCUSS MAJOR ALTERATIONS/ADDITIONS IMPLEMENTATION.** The group must provide feedback to City Council in June 2016.

- a. Input from development community - John Hasenberg provided feedback concerning the threshold for major remodels. He asked the group to consider the current interpretation that a dormer addition is considered major because there is little wall area there, usually only at gable ends. Most remodelers consider this a minor remodel. He asked the group to consider amending the language in the code to say, “if 50% of the **floor** is increased, it is a major addition,” instead of wall area. He feels this would be a lot easier for people to calculate, as looking at the floor plan would simplify calculations vs. wall area. He said builders who do not think their project will fall into the MRAA category get frustrated when having to wait 35 days. John H. also said sometimes financing of remodels requires work to start at a specific timeframe and the 35 day timeframe causes problems – and asked the group to consider a shorter delay.

Nancy suggested if dormers are the issue, address only dormers to avoid conflict with language about floor area in code. John clarified dealing with top floor of the house often is the issue; there are no issues with placing door hangers for larger projects, just when “taken by surprise” for what would be considered a “smaller” project by industry standards.

Dave Tebeau agreed that expanding a dormer isn’t usually considered a major remodel in the industry, and he has heard from contractors that the 35 day delay has caused issues for some contractors because of financing and having to have a permit issued to qualify for funding.

Terry Whitehill cautioned increasing wall size on both ends of the top floor of a house appears to be a major remodel, and it would be best to consider code changes to define dormer projects rather than wall area vs. floor area.

- b. Input from neighbors – Maryhelen said the “virtual demolition” was the issue, and thinks this code dealt with this, but agreed the group could look at the dormer issue.
- c. Input from staff (FIR program; permit technicians; plans examiners) – Andy Peterson reported there were a few major remodels that became demolitions. John Hasenberg said there have been situations when a project has started and remaining walls need additional structural work, and there have been some developers that used FIR, wanting to take advantage of the benefits of that program, trying to keep their projects within the MRAA category and avoid demo as this would take them out of FIR. Jeff Fish agreed the dormer issue can be looked at but doesn’t want code changed so large dormers (entire wall length) would be allowed. Jeff F. pointed out the 35 day for demolition gave interested parties a chance to object, the 35 days for major remodels was never intended to stop an MRAA. Tracy Spencer explained initially neighbors thought notification provided them the opportunity to comment, or hold up a project, but as they became aware that it is a courtesy only, things have gone more smoothly. John H. said remodelers are in favor of notification as a courtesy, but pointed out MRAA notification doesn’t describe the project. Al Ellis said the 35 days allows neighborhood associations who meet once a month time to meet and get information on this. Nancy also pointed out this is consistent with other notice timelines. Maryhelen said she has received positive feedback that neighborhoods appreciate the notice and have built positive relationships with builders that do “a good job” of notification.
- d. Other – Only issue identified was “learning curve.” Nancy let group know BDS staff have been doing outreach and attending meetings to let the public at large know about notification requirements. She also let everyone know there is a Powerpoint on the BDS website providing an overview of this information. Nancy said BDS is not going back to Council until June 2016 unless some compelling issue makes a sooner date needed. Nancy said BDS staff will discuss developing a dormer definition.

There was a question regarding whether MRAAs have been tracked. Andy P. said there doesn’t seem to be an increase in residential building permits for remodel / addition overall. He couldn’t recall how many additions were issued in previous years, but that wouldn’t capture the MRAA categories.

Nancy asked about lead-based paint in remodeling. John H. said contractors are obligated to contain and abate, but he doesn’t think home owners are required to do the same and they suggest if the project is close to being an MRAA go ahead and notify to avoid any chance of delay. Dave T. said he’s seen contractors are testing and contracting with firms that specialize in removal of lead-based paint in both major and minor remodels.

COMPOSITION OF DEMOLITION SUBCOMMITTEE

Maryhelen confirmed Robert McCullough is on the demo subcommittee. She provided background on the official DRAC subcommittee start, and she invited two other representatives to join, Robert and Constance. Nancy explained DRAC originally voted on who would be on the committee. After meetings started, the City Council asked specific groups be represented / added, including Historic Landmarks Commission and Design Review Commission. After the ordinance was enacted, other groups were added to the Demo subcommittee, including Restore Oregon and UNR.

III. **NOTIFICATION ISSUES WITH DEMOLITIONS**

- a. Issues with getting notifications to correct person with Neighborhood Organizations (discuss ONI recommendation of creating separate demolition notification database)

Paul Leistner from ONI provided information on ONI's role with neighborhoods. ONI wants neighborhood associations (NAs) to identify who in their associations should be named to be "Demolition Contact." Paul L. said having a specific point of contact would make it easier for BDS Permitting Services to send demolition notices. ONI is looking into providing access to the ONI webpage, so Coalition staff can make the update. Maryhelen expressed concern that Coalition offices often have part-time workers and things can be delayed; she would like to see a mechanism that gives a specific timeframe when the update must be made to the ONI webpage. Robert M. asked that BDS send an email to NAs in addition to the mailed demolition notice. Andy Peterson pointed out that BDS would not make additional efforts if an email bounces back or for some reason doesn't go through (blocked by spam or junk filter etc). David Kuhnhausen also said it would create additional work for the BDS Permitting Services staff. Andy P. said BDS will look into this request. Maryhelen asked neighborhoods make sure "all correspondence" address is accurate on the ONI website as this is what BDS uses currently for demo notices.

- b. Issues with having actual owner contact information. Currently the applicant information is what is provided in the demolition notice from BDS to surrounding properties. In addition to applicant information, the owner name is on the demolition notice letter going to NA and Coalition. Restore Oregon said it is difficult to have a "meaningful conversation" with the "decision maker" and requested the owner's mailing address be added. There was general discussion of difficulty in getting accurate ownership information when there was a recent sale. Nancy T. asked if updated ownership information can be listed on the demolition notice from BDS (as on the owner's intent to demolish). Andy P. pointed out the owner's name is on the notice that goes out. Robert M. asked if owner's phone number can be provided on the demolition notice to NA and Coalition. Maryhelen provided two examples of where an owner has been harassed after applying for a demolition permit. Brandon Spencer-Hartle brought up again – in order to save a property they need to have "meaningful conversation" with the owner. Nancy T. said BDS could look at having the property owner provide phone number. Andy P. pointed out to add phone number will be manual entry, with possibility of human error in entry. Other discussion of not wanting to have the owner's phone number sent on notice to avoid harassment or misuse of that information, and the owner's mailing address should suffice for contact purposes.

Maryhelen will contact Rob Humphries and Kevin Partain (permit “runner” business owners) to get a ‘gentlemen’s agreement’ to pass any requests for contact to owners will be done. She also asked, is this a big issue? Does it come up often? She suggested NAs and Restore Oregon track it internally to determine how often they are not able to get ownership information from the permit applicant. Andy P. will see if owner information can be added to the demolition letter.

- c. Other notification issues? No other issues identified by the group.

IV. OTHER IMPLEMENTATION ISSUES

- a. Open discussion regarding issues other than notification. None identified.

V. HAZARDOUS MATERIALS UPDATE

- a. SB 705 Implementing Regulations – Nancy, Maryhelen and John Sandie attended a meeting with the Department of Environmental Quality (DEQ) on the implementing regulations. Nancy has requested DEQ make it a State requirement that an asbestos survey be provided to the local jurisdiction when a demolition permit application is received. She explained an asbestos survey will be required for all residential demolitions as of January 1, 2016, but the survey does not need to be provided prior to obtaining the demolition permit, and DEQ does not make the survey public. Nancy envisions BDS would scan and attach to BDS permit records. Andy P. expressed concern, as BDS does not verify the survey information nor oversee disposal of hazardous materials. Andy also wanted BDS to make sure requiring the survey does not open them to any liability if the materials were not removed properly, or other related issues. He pointed out although it appears to be a minor workload increase, that has not been fully considered, and currently BDS has taken on several new functions with the demolition and MRAA code changes with no budget/staff considerations.

- b. Any recommendations for DEQ? None were given.

- VI. DEMOLITION TAX.** Jillian Detweiler from Mayor Hales’ Office led this discussion. Jillian D. provided two handouts: 1. the proposed ordinance; and 2. issues expressed to Council in previous Council sessions regarding the proposed demolition tax. Jillian explained the process that went into the proposal and how they are planning to solicit feedback on issues described to Council in her second handout. She provided an overview of the demolition tax. Jillian said there are some houses in Portland that are of poor construction and maybe shouldn’t have the tax to be demolished. Dave Tebeau brought up that some houses that are of poor construction and probably should be demolished and not saved in part to avoid the demolition tax. Mitch expressed concern about how an MRAA to demolition would be handled. What is the tax supposed to accomplish? Per Jillian, the purpose is to try to prevent “good” houses from being torn down. Jeff Fish pointed out this perception is based on a “feeling” that good houses are being torn down, but there is no data to support it. Jeff Fish pointed out the “rebate” is problematic because the fee is paid up front, and not all of it will be returned. Robert M. said this a product of a broken Zoning Code and a “one size fits all” tax won’t work and the SE Uplift land use committee is working on an alternate proposal. Concern was expressed that owners

that want to demolish a property will let it fall into disrepair to get a derelict determination that would exempt it from the tax. Constance wanted to applaud the idea of the demolition tax. Mike Liefeld said a standard needs to be set by including not for profit housing providers, builders, and other stakeholders. Once this criteria is established the City could use that to evaluate a property to determine if it is derelict. Maryhelen said there are stakeholders like PCRI and Habitat for Humanity who already have criteria they use when evaluating properties. SAC committee on residential infill meets soon and that might be a good place to take this discussion. Jillian asked that input be provided by Nov 3rd because a revised proposal is due to the City Council by November 16, 2015.

VII. **NEXT STEPS**

Mayor's Office said BDS is adding a Tech III position to be a single point of contact for demolitions. Previously Kareen Perkins provided that information.

The Demolition Subcommittee will meet again in early December.