

DRAC DEMOLITION SUBCOMMITTEE – POST ORDINANCE IMPLEMENTATION

MEETING NOTES

April 19, 2016

8:30 – 10:00 a.m., Room 6G

Time	Topic	Action
1. 8:30 – 8:45	Introductions	Informational
2. 8:45 – 9:00	Update of ONI Notification Process	Informational
3. 9:00 – 9:15	Update on Workgroup Meeting	Informational/Input & Recommendations
4. 9:15 – 9:35	Asbestos and Lead-Based Paint	Informational/Input & Recommendations
5. 9:35 – 9:55	Appeals	Informational/Input & Recommendations
6. 9:55 – 10:00	Next Follow-Up Meeting	Informational

I. INTRODUCTIONS [Informational]

In attendance: Nancy Thorington BDS, Maryhelen Kincaid DRAC Chair, Constance Beaumont, John Hasenberg ORA, Robert McCullough SEUL Chair, Jeff Fish Homebuilders, Claire Carder DRAC, Al Ellis UNR, Paul Leistner ONI, Arolia McSwain ONI, Jeff Hilber Concordia, Margaret Davis UNR, Kareen Perkins BDS, Mitch Nickolds BDS, Michael Molinaro SEUL, Fred Deis BDS, Dave Tebeau BDS, Shawn Wood BPS, Matt Rozzell BDS, Elliot Akwai-Scott BDS, Viktor Palchey BDS, David Kuhnhausen BDS

II. UPDATE OF ONI NOTIFICATION PROCESS[Informational]

a. Presentation by Paul Leistner regarding ONI notification process

Nancy gave an overview of a recent meeting with ONI, NA representatives, and BDS regarding demolition notifications with respect to City wide notifications. ONI staff Paul L. was not present at start of the meeting, so Maryhelen provided information from the meeting in his absence. ONI now has the infrastructure to change notification listing on their website, and they are “rolling it out” to the Coalition and NA groups for review.

Paul L came late –

Paul provided an overview of the issue with ONI listing NA contact information on their webpage (as required by City Code). Paul emphasized they are working with multiple representatives from the neighborhoods. He introduced ONI's new staff person, Arolia McSwain, who is focused on providing support to maintain the ONI website listings. Robert M. described issue with short term rentals and Accessory Dwelling Unit (ADU) notifications coming to him erroneously.

The Public Involvement Advisory Committee is looking at all City notices to create a “table” that describes when a notice will be sent and what response the neighborhood can provide (and when no response is necessary).

ONI’s proposal is to provide the NAs with the discretion to list different address for different purposes. The recommendation from ONI is to set up two separate email addresses, one for “correspondence” (also called “general notices”) and the other for “required notifications.”

b. Update on how notification is working and who should get them

Question – when will email vs USPS mail be sent for notification? Al Ellis explained the Beaumont/Wilshire has a P.O. box that creates a delay in receiving notifications. He requested an email be sent for demolitions instead of USPS mail. Maryhelen reported several NAs in North Portland like the suggested “correspondence” and “required notice” idea. There was discussion regarding the benefit of email vs USPS and how some neighborhoods scan and email out the notices they receive within the same day. In North Portland, the Coalition is providing this service to their NAs.

There was a question about demolition notice provided by BDS. Kareen provided an overview of the process as defined by the City Code. It was asked if BDS could provide email notification in addition to the mailed notice, and Kareen explained that, due to high work load and staffing levels, it would be difficult for her staff to provide this additional service. She said they would try to send an email to the NAs, but emphasized that the legal notification is using USPS, and they would continue providing that service.

Another aspect of the ONI proposal is to have City and applicant-certified notices contain a subject line stating what kind of notice is being sent. For example, a demolition-related letter would say, “Demolition Notice”, or a major remodel project would say, “Major Remodel Addition or Alteration” (MRAA). This should give enough information for the neighborhoods to sort the notices.

John pointed out MRAA applicants are required to send an email and asked why doesn’t the demolition applicant have to email notification also? Jeff expressed concern about sending a demolition notice to an NA and what kind of email(s) he might receive back.

Maryhelen brought information that the demolition issue was not as high a priority in the majority of NAs, citing historic districts and neighborhoods with home owner agreements. She suggested the subcommittee focus on finding alternatives and providing support for their requests with that in mind.

III. UPDATE ON WORKGROUP MEETING [Informational/Input and Recommendations]

Nancy met with several others on definitions. First looking at what is a wall. They kept the definition fairly broad. The group examined how the definition in the code was working, and how the information provided in the information guide was working. The group is proposing to “tweak” the code language to make it clearer, then take the Information Guides to this group and DRAC proposing to make them Admin Rules for BDS. Nancy will keep the Demolition Subcommittee updated on the discussion of the workgroup and decisions.

IV. ASBESTOS AND LEAD-BASED PAINT [Informational/Input and Recommendations]

a. Status of DEQ regulations

Asbestos report is to be posted on the site, while the demolition is occurring. Maryhelen spoke with the Speaker of the House and told her about the recommendations to require the asbestos survey be provided with permit materials. New regulations are under 340.240.8. There is still time to comment.

Someone asked how a neighbor would get a copy of the survey. Contact the owner? DEQ? Maryhelen said she made a request in January 2016 and has not received the survey.

Question – when is the asbestos survey completed? Nancy’s vision is the survey would be provided with the permit application. The plans are not provided via the internet until the permit is issued. Does this meet the neighborhood expectation? Could the DEQ regulations be changed to state the survey be posted adjacent to the right of way for public viewing? Jeff F. said he would not have an asbestos report prior to application to demolish, but would probably have it prior permit issuance. A suggestion was made to email the survey to the NA along with the self-certified notification of the demolition. It was noted that the survey must be provided to take the debris to disposal facilities or get a dumpster.

A neighborhood person wanted to have the discussion expanded to include abatement and disposal, and also look at certification by the State. She would also like to see certification of a “clean site” by the State once completed. Nancy replied the involvement of the City would end with assisting in getting the survey available to the public. The NA wanted to have the City take a larger role in protecting the public and ensure the site was correctly mitigated. Nancy provided information about the State of Oregon’s structure, which is very different than Washington and California. In Oregon the local jurisdiction cannot pass any conflicting codes or regulations. This limits Portland’s authority. Nancy also noted the State of Oregon does not have specific code around demolitions. She also let the group know the State is looking at writing code regarding residential demolitions. This will directly affect the Portland code.

b. Request for input to DEQ

Nancy encouraged members of the group with concerns about DEQ/Asbestos to please take it to the legislature.

V. APPEALS [Informational/Input and Recommendations]

a. Update on number of appeals filed and outcomes

There have been 10 received as of today. Six have been granted. One was denied on a technical basis. Nancy provided an overview of the Subcommittee’s purpose in this process. The question that seems to continue to need to be addressed is “What if the owner refuses to negotiate?” She acknowledged the appeal being granted slows down the demolition process, but owners have legal rights to their property.

Robert M said his neighborhood is happy with the process so far. Recently one of their appeals expired, and they were not able to prevent the demolition, but he didn’t feel that was a defeat. He felt if the timing had been different, they would have prevailed.

Another neighborhood representative said getting the additional 60 days provides additional time to negotiate with the property owner. Nancy said the CHO had resolved that if the owner refuses to negotiate that would not affect his decision. Nancy asked if this be included in code.

Maryhelen reported on an appeal she was involved in where the proposal was to move the house. She noted that the permit process to move the house (which includes tree permits, street closures, etc.) takes longer than 90 days and that is impacting the negotiations. She would like to see the City’s permitting system allow for expedited review in these situations. It was noted that this process involves other bureaus (Transportation, Parks & Rec, Urban

Forestry). BDS does not have authority over permits issued by PBOT or PP&R nor would BDS be able to require them to provide priority to these permits. The subcommittee must reach out to those bureaus individually. Discussion and clarification that the CHO decision should focus on the plan being in place by the end of the delay, not that the transaction is completed by the end of the delay period. The City can issue the permit once the delay expires (or the appeal expires). Negotiations between owner and requestor can continue independent of this.

Al Ells brought up the extension went from 120 days to 60 and asked Robert M whether he thinks this amount of time is reasonable. Robert said "it's tight." He provided information about his negotiations and various attorneys, etc. that are need to purchase properties. Nancy provided a recap of discussions in this subcommittee that resulted in that code provision. She also reminded the group of the "regulatory takings" issue that requires BDS to have some justification for not allowing the permit to be issued. Feedback from the construction stakeholders and the subcommittee was that the additional 60 days was reasonable.

Claire stated 95 days to formulate the plan is preferable and asked how this could be clarified for the CHO before the Code is updated. Nancy said the CHO must follow the code as it is written. Nancy also pointed out this only came up on one appeal.

Nancy also suggested taking out the "pro-forma" budget and just put in "budget" or "reasonable budget" to the code.

NA person would like to have the neighborhood only provide checkbox with their appeal. She felt this is more equitable, based upon applicant being able to mark a checkbox on the Asbestos Self-Certification form. Nancy explained this is a balancing – the appellant must provide more information to justify holding the permit.

Robert M. brought up a rumor that a business enterprise - Eden Enterprises - has made commitments to owners when purchasing properties. There is no contact information on who this business entity is. He restated what he has heard about the business operations being "less than ethical." He brought this up to the Demolition Subcommittee because he wanted the group to "be aware" of the rumors and ask if anyone had information on the company or the situation. No one had information.

VI. **NEXT FOLLOW UP MEETING**

- a. Eden Enterprises