



City of

PORTLAND, OREGON

Development Review Advisory Committee

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DRAC DEMOLITION SUBCOMMITTEE – POST ORDINANCE IMPLEMENTATION

AGENDA

June 17, 2016

8:00 – 9:00 a.m., Room 4A

1900 SW Fourth Ave.

Portland, OR 97201

Time	Topic	Action
1. 8:00 – 8:05	Introductions	Informational
2. 8:05 – 8:50	Discuss Code Changes	Input & Recommendations
3. 8:50 – 8:55	Asbestos and Lead-Based Paint	Informational
4. 8:55 – 9:00	Next Meeting	Informational

I. **INTRODUCTIONS** [Informational]

In attendance: Nancy Thorington BDS, Maryhelen Kincaid DRAC Chair, Jeff Fish, Fish Construction, Robert McCullough SEUL, Claire Carder DRAC, John Hasenberg ORA, Constance Beaumont Laurelhurst, Janet Baker UNR, Rodney Jennings BDS, Tim Morris BDS, Jeff Hilbert UNR, Mitch Nickolds BDS, Matt Rozzell BDS, Emily Sandy BDS, Elliot Akwai-Scott BDS, Dora Perry BDS, Kareen Perkins BDS, Fred Deis BDS

II. **DISCUSS CODE CHANGES** [input and Recommendations]

a. **Definition of Demolition (continued from 6/6/16 meeting) 24.500.B**

Nancy asked the group to review the handout she provided that lists the definitions from the City Code. There wasn't time to review during this meeting. John said he would review and provide a written revision for the group to review. He said he has concerns about current language. Nancy pointed out scope of work would go into ordinance, but in a different section to give BDS some authority to use those interpretations. The brochure could be made into a program or code guide. Jeff Fish and Fred Deis raised some specific concerns. Nancy said the intent is to provide a framework that keeps "the people who are pushing the envelope in a bad way" from having the code used in an unintended way. Nancy wants to have a complete discussion of this and will schedule another meeting.

b. **Definition of Residential structure and applicability (continued from 6/6/16 meeting)**

Code section 24.500.b – there are two issues: 1) there is a zoning issue with the "residential Comprehensive Map designation," which limits the applicability of the demolition ordinance to just residential zones. Rodney provided an explanation of what a Comprehensive Plan designation means. Basically, a residential Comprehensive Plan designation is intended to show that the long term vision for the area is residential.

Question – what are the pros and cons of leaving code language as is? Emily Sandy noted the original demolition ordinance was intended to preserve housing stock in aggregate. The intention of the code seems to have evolved. Nancy noted it appears the code has been

expanded to try to preserve the character of the neighborhood. She asked what is the down side to making the ordinance apply city-wide for any residential structure? The State Commercial Code applies to anything over two units.

The issue of the definition of residential structure only arose recently. In the past, the Commercial Code regulated commercial demolitions, so the City couldn't also regulate them. It was discovered the current version of the Commercial Code is much more permissive with respect to allowing municipalities to regulate commercial demolitions, so the City can now regulate demolitions of multi-unit residential structures.

Maryhelen stated her understanding was the purpose of the demolition ordinance was to help warn and protect people (health concerns) from the impacts of demolition; the primary purpose was not to save houses. The secondary purpose would be to save a house. She didn't see that saving a multi-unit apartment would be the intent of the code.

Nancy read the code. It specifically includes language about seeking alternatives to demolition. Does the group think this needs to be expanded to every residential structure?

Kareen said BDS Permitting Services doesn't have the staff to expand notification and coordinate more appeals. She indicated there would need to be thought given to funding because the use of permit fees collected by the City are governed by the State of Oregon, and the use of those fees is limited.

Maryhelen noted that there is encouragement for more multi-unit development, and asked how this will affect the code in 20 years when there are more duplexes and triplexes?

Nancy didn't think we would want to expand the demo delay to commercial structures.

Jeff Fish pointed out the character of the neighborhood is most significant in single family residences. Robert McCullough said in SE there are several residential neighborhoods that cross into commercial areas. He felt it should be expanded.

Kareen warned that we don't have any numbers on the increase in the number of notifications needed if it was expanded. There was discussion by the group about how far the code should reach. If there is one single family residence surrounded by commercial buildings, should it fall under this code with a chance for appeal? Response varied from a firm "yes" to a firm "no."

Maryhelen stated she wanted notification about demolition in all circumstances as there are health concerns regardless of zone. She thinks the City should perform notification on all demolitions that will impact residential structures.

Dora thought the changes to the ordinance were intended to raise awareness for owners to know they must take action to prevent impacts. Who are we actually putting the burden/responsibility on? She thought it was the property owner who is taking the building down.

John stated the group has specifically focused on one and two family structures. A new committee would need formed if that scope is expanded.

Jeff Fish said if we are going to expand the scope of the committee, we need different people at the table. Kareen pointed out the stakeholders for commercial properties are not at the table, and we don't know what unintended consequences of changing the code would be. Currently BDS's role is notification, and we really need DEQ or other agencies that regulate hazardous materials to be involved if the group is going to change focus on potential contaminants being released during demolitions.

Kareen shared an example where a garage was demolished, and allegedly there was an illegal (unpermitted) apartment on top of the garage. A complaint was made that notification and delay were required. BDS determined the structure was not covered by the demolition ordinance because the permit record showed the apartment was never properly permitted, so it was not a "residential structure" per the code. This is an example of the administrative difficulties the code presents. Kareen noted that the original intent was to impact 1 and 2 family structures. Expanding the scope is beyond the expertise of this team. It would be good to get numbers about how many 1 and 2 family homes outside of the residential Comprehensive Plan map there are and include that information in our report back to Council. How many additional units are we talking about? How would notification of a multi-unit apartment look? How would notification of a multi tenant commercial building look?

Robert M. asked Maryhelen if she still wants focus on residential in commercial zones. Maryhelen described situations where a residential structure was in a commercial zone, but there was another residential structure that was impacted; she would like to see notification done. Mike M. said there are many 4-plexes in residential neighborhoods that they felt should fall under this code.

The suggestion was to include these difficulties in the report back to Council. There are many multiuse buildings (apartments on top of office/store front). Ask Council to look at this and give us direction.

Question for group: do we want to specify 1 and 2 family and make it City wide? One of the group thought it should be expanded, so that deconstruction rules can apply to multi unit buildings.

Nancy will create a summary of the issues. In the report back to Council, the group can make recommendations on what we think should be addressed, what this group could address, and what another group would need to address. Anything this group comes up with will have to go before the entire DRAC. She will also get numbers on the impact of expanding the applicability to all zones.

Nancy wanted to point out that ADUs are not currently covered by the code, and she wants to codify that. This is our current practice. There was talk that the appeal doesn't make sense for an ADU but attendees want the notification piece to apply. Nancy said this would be something Council would have to consider. The question was asked if ADUs have to follow DEQ requirements, John said any remodeling requires it so he thinks ADU would also have to

follow the same requirements. Nancy said again ADUs are not intended for the demolition delay and appeal.

One and two family structure designation is “last permitted use,” not how it was originally constructed. This is consistent with the BDS current business practice. This is established by looking at permit records. How would administration be fashioned to determine when illegal work or occupancy/use comes into the situation? What evidence could be examined when not using the legal record?

III. **ASBESTOS AND LEAD-BASED PAINT** [Informational]

a. **Update on efforts to get DEQ regulations amended**

Nancy attended a meeting with a representative from Speaker Kotek’s office and Senator Dembrow and discussed the implementation of SP 705 and the requirement for the asbestos survey. They discussed updating the DEQ regulations to allow a local jurisdiction to require the survey be provided to them if they wish. The intent is that BDS could post them on the web. There is concern about BDS staff resources for collecting these surveys and posting them.

The group also asked Nancy to create a matrix that shows who has authority over which aspects of asbestos and lead-based paint.

One attendee said they would like to see the City take a stronger role in regulating possible toxins released during demolitions. Nancy explained this is not within BDSs authority, but is DEQ’s responsibility; “not to punt, but we don’t have authority.”

MaryHelen directed them to speak with Senator Dembrow’s office as they are currently active in this topic.

IV. **NEXT MEETING** [Informational]

a. **Next meeting** – check general availability in July

b. **Trying to schedule for July** – Maryhelen asked a meeting be set specifically to address architectural definitions; maybe not all attendees would want to attend. Someone requested handouts be provided before the meeting. Nancy said she tries to do this but just didn’t have time this meeting. She will continue to make that the goal for every meeting. Maryhelen thanked Nancy for her work with asbestos and lead-based paint and pointed out the state relied on her expertise.