

DRAC DEMOLITION SUBCOMMITTEE – POST ORDINANCE IMPLEMENTATION

AGENDA

August 15, 2017

3:00 – 4:30 p.m., Room 4A

Time	Topic	Action
1. 3:00 – 3:05	Introductions	Informational
2. 3:05 – 4:00	Recap Discussion from June Meetings and Provide Synopsis of Action Items	Input and Recommendations
3. 4:00 – 4:25	SB 871 – Asbestos and Lead-Based Paint Bill	Input and Recommendations
6. 4:25 – 4:30	Next Follow-Up Meeting August 25th	Informational

- I. **INTRODUCTIONS** [Informational]
- II. **RECAP DISCUSSION FROM JUNE MEETINGS AND PROVIDE SYNOPSIS OF ACTION ITEMS** [Input and Recommendations]
 - Notice, delay, appeals – keep but modify
 - How to address getting parties to table to negotiate
 - Ensuring sufficient time to reach a deal
- III. **SB 871 – ASBESTOS AND LEAD-BASED PAINT BILL** [Input and Recommendations]
 - Asbestos – discuss modifying ordinance to require copies of asbestos survey
 - Lead-Based Paint – discuss how to develop “best practices” to use while OHA is developing its list
- IV. **NEXT FOLLOW-UP MEETING** [Informational]
 - August 25, 2017 – 1:30 – 3:00



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MEETING NOTES

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I. **INTRODUCTIONS** [Informational]

Al Ellis, UNR
Mitch Nickolds, BDS
Emily Sandy, BDS
Lydia Ness, Restore Oregon
Jeff Fish, Fish Construction
Nancy Thorington, BDS
Dan Cote, BDS
Michael Molinaro
Constance Beaumont, Laurelhurst Neighborhood Assoc.
Terry Whitehill, BDS
Catherine Heeb, BDS
Andy Peterson, BDS
Donna Ruark, BDS
Claire Carder, DRAC

Nancy thanked everybody for being here, especially after enduring the marathon sessions in June. She also announced that Maryhelen won't be joining the group today, and that will affect some of the discussion.

Nancy said that she has gone through the notes of the meetings in June to capture the discussion and assess where we are and where to go from here.

II. **RECAP DISCUSSION FROM JUNE MEETINGS AND PROVIDE SYNOPSIS OF ACTION ITEMS** [Input and Recommendations]

- Notice, delay, appeals – keep but modify
- How to address getting parties to table to negotiate
- Ensuring sufficient time to reach a deal

Nancy started by checking in with Catherine Heeb. A group from the City is working on some definitions/language regarding MRAAs and demolitions. Catherine reported that the group hasn't met yet, and Nancy offered to set up that meeting. It was decided that the attendees should be: Catherine Heeb, Jody Orrison, Chris Pagnotta, Terry Whitehill, Mitch Nickolds, and possibly Karen. (Andy Peterson will recommend someone from the Permitting Services area to attend.) The idea is to start with the plans examiners and the City technical people to get the definitions nailed down before it gets sent to others for review.

Nancy began the discussion by reminding everyone that the beginning of the notification process for demolitions is the 35-day delay notice which goes to neighborhood associations, neighbors within 150 feet, Restore Oregon, and the Architectural Heritage Center.

Al Ellis reported that the United Neighbors for Reform wants to extend the 150 feet to a 400-foot circle. Studies show that debris goes 400 feet or beyond and those neighbors are in harm's way. That's the equivalent of two city blocks. Andy Peterson said that's a huge circumference, with a whole range of residences within that circumference. He wondered aloud who would pay for that. Jeff Fish thought it opened up a can of worms to extend the notification any farther than 150 feet. He stated that he thought the initial notification is basically for people who might want to try to save the structure. The door hangers are for the impact. Door hangers are left on the 10 surrounding properties. He doesn't think the increased notice will accomplish the intended purpose.

Al asked whether, when the Oregon Health Authority (OHA) advisory board implements the lead-based paint best practices, they will cover 400 feet? Andy replied that yes, it would. Nancy said that Andy brought up a good point – with these new tools from SB 871, a 400-foot notice radius should not be necessary and air quality shouldn't be compromised that far out.

Discussion: Nancy asked whether the group thought the door hanger notice policy for demolitions (10 properties) is sufficient.

She stated she hasn't heard many complaints about it; the group agreed that it doesn't seem to be an issue. Currently the hangers have to be put up no sooner than 5 days before a demo. She proposed the idea of making that more specific, to 3-5 days. Jeff stated that it's difficult to get subcontractors locked into days. He said that weeks might be easier, but it's still difficult. He said in a normal economy, 3-5 days notice would be fine. Jeff would rather post more in advance. Al said it seems reasonable to give residents a window; it's better than nothing at all. Jeff stated that he likes 5-10 days better than 3-5. Nancy proposed 5-10 days with an approximate date instead of exact date. Al modified that to be 5-10 days with the caveat that there can be delays. Nancy stated it would be a little tough to write in that in the code. Jeff agreed that it would be better to leave it out of the code, and to just encourage compliance.

Decision: The group decided on 5-10 door hanger notification, with the best approximate date on the notice.

Discussion: Is the notification for MRAAs sufficient, or should it be changed?

Nancy said that regarding the notice for MRAAs – Maryhelen needs to be present for discussion. These are the same door hangers used for demolitions, hung 35 days in advance, along with mailed notifications to the neighborhood associations. One of the issues is the mailing of the notifications – neighborhood associations are getting too many notifications. They feel there is no reason for the notifications, since there is nothing they can do. The group wants to get input from Maryhelen on that issue before it is discussed in detail. If it's all the same to the neighbors, and the associations don't want their notice, then an option would be to pull the mail notification to neighborhood organizations. The only notification then for remodels would be door hangers.

Decision: The group decided to table that issue until Maryhelen could be present and give her input.

Discussion: How do we get the parties at the table before the appeal for demolitions? Who should be present at that meeting, and what would be the consequences if that meeting didn't occur?

Al stated that he would like to have it be mandatory that the owner and the neighborhood association and concerned neighbors get together and talk about situation. And there should also be a meeting to discuss the plan with the hearings officer – ideas on how to save the house. First of all, neighbors would want to talk to the owner and make a case for not demolishing the house, then move on to the appeal. Nancy reiterated that basically that involves two different mandatory meetings. Al agreed: one prior to the appeals meeting, and then the meeting itself. Nancy asked the question: how do we define who needs to be at that table? Claire said she thought it should be the owner or appointed agent. There was discussion regarding whether it should be a legal agent or an appointed agent. Claire stated that these are mostly residential, small projects, not huge projects. Jeff advocated for a good faith agent. Nancy will discuss with City Attorney's office the concept of good faith agent.

Nancy asked—what about consequences if the meeting doesn't occur? Al would like to see that tied to permit issuance. Andy replied he doesn't know if that's possible. The Hearings Officer has recommended extending the time for delay if meetings don't occur. Al likes that idea, since sometimes neighborhood associations can't meet that quickly. Jeff stated he doesn't have a problem with hammering the industry if they don't want to meet. He does have a problem if it's an automatic extension due to lack of effort on the part of the neighborhood association. Andy emphasized again that staff can't track the appeal/demolition process – it's not practical. As long as there's some kind of meeting between developer and neighborhood, the process continues. Nancy proposed to keep the appeal process as is. At the time the appeal hearing occurs, the parties must submit proof that the meetings happened. If not, then the process is automatically extended for 30 days. Terry agreed that it should be somehow worded that the neighborhood can't drag their feet too much, they can't delay the process.

Jeff is a little worried about proof of meeting. How does that work with phone conversations? Or even face to face meetings? Nancy said that a telephonic meeting has to be an option for some situations. There are options (such as Skype) available. Jeff said he wouldn't mind having a form to sign to indicate a face-to-face conversation occurred; he is advocating for an in-person meeting. He suggested that a person-to-person discussion is best with a telephone conversation being acceptable.

Decision: Because of the time constraints of this meeting, the group will think about these issues and will discuss them more at another meeting.

The group agreed that the third item (ensuring sufficient time to reach a deal), will be discussed later, perhaps at the next meeting.

III. **SB 871 – ASBESTOS AND LEAD-BASED PAINT BILL** [Input and Recommendations]

- Asbestos – discuss modifying ordinance to require copies of asbestos survey
- Lead-Based Paint – discuss how to develop “best practices” to use while OHA is developing its list

Discussion: Should the City modify their ordinance to require copies of the asbestos survey before demolitions can begin?

Nancy said that currently the asbestos survey is not required to be submitted to DEQ before performing a

demolition. SB 871 now allows the City to require a copy of the survey before a demo permit is issued. There was discussion about making the survey form available on the BDS website somewhere, perhaps on the Demo page, or on Portland Maps. There is a question about enforcement—there is currently no City enforcement at this point. If asbestos is found and there is a concern about abatement, those concerns should be forwarded to DEQ. They are the enforcement agency.

Decision: The group decided that although the City could require copies of the asbestos survey, it would be up to DEQ to follow up with any necessary enforcement.

Discussion: Should the City develop a list of “best practices” (involving lead-based paint) to use while OHA is developing its list?

Nancy stated that the lead-based paint issue is not the same in demolitions and renovations; not all of the best practices are going to apply to paint. For example, in a demo, one of the best practices is to wet materials down, but if you’re saving materials from a deconstruction, it’s not practical to wet them down. She also said that there will be some upcoming meetings involving City staff and experts in lead-based paint to create a list of best practices. If the City can be proactive, OHA would more than likely adopt those same practices. The sooner the City gets best practices developed, the better. Terry said there would be an expert who could be brought in. Al said that residents are concerned by enforcement--will DEQ enforce the list? Nancy responded that lead-based paint will be enforced by us because there are no state or federal regulations for lead-based paint in residential demolitions. For example, a best practice could require the site to be wetted down. If it’s not, code compliance officers from BDS will be out to take a look at the site and can issue stop work orders if necessary.

Decision: The City is in the process of creating a workgroup to develop a list of best practices, and that list can be discussed by this group when it is created. Lead-based paint issues will be enforced by BDS.

IV. **NEXT FOLLOW-UP MEETING** [Informational]

- August 25, 2017 – 1:30 – 3:00