

DRAC DEMOLITION SUBCOMMITTEE – POST ORDINANCE IMPLEMENTATION

AGENDA

February 8, 2017

1:00 – 2:30 p.m., Room 4A

Time	Topic	Action
1. 1:00 – 1:05	Introductions	Informational
2. 1:05 – 2:25	Review and Discuss Draft Demolition Ordinance Implementation Report	Input and Recommendations
3. 2:25 – 2:30	Next Follow-Up Meeting	Informational

- I. **INTRODUCTIONS** [Informational]
- II. **DISCUSS RECOMMENDATIONS FOR CODE CHANGES IN DEMOLITION ORDINANCE IMPLEMENTATION REPORT** [Input and Recommendations]
 - a. Demolition Provisions
 - “Pro forma budget” – deleting term and replacing it with clearer language
 - Clarify the term “significance to the neighborhood”
 - Provide guidance on detail required for plan to save the structure
 - Clarify what constitutes sufficient “funds on hand” and how this is documented
 - Amend code to limit applicability to 1-2 family dwellings
 - Retain limitation of scope to residential structures in areas with Residential Comprehensive Plan Map designations
 - Allowing additional evidence to be submitted at time of appeal hearing
 - b. MRAA Provisions
 - Amend MRAA provisions to eliminate the wall percentage requirement and replace it with a smaller square footage requirement
- III. **TOPICS FOR NEXT MEETING**
 - Consider a requirement that the property owner meet with the appellant
 - Clarify language regarding when a plan to save the structure needs to be consummated and what needs to occur within 95-day delay period
 - Should door hangers be posted on more properties and during narrower time?
 - What to do when neighbors claim they didn’t receive notice via door hangers
 - Discuss drafting administrative rules that incorporate information in guides for demolitions and MRAA’s and that clarify the budget and plan requirements, what constitutes “significance to the neighborhood,” and how to document funds on hand and other issues



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Development Review Advisory Committee (DRAC)
Demolition Subcommittee
February 8, 2017

I. ATTENDANCE

Constance Beaumont, Laurelhurst Neighborhood Association	Kareen Perkins, BDS
Claire Carder, DRAC	Dora Perry, BDS
Al Ellis, UNR	Jason Richling, BDS
Jeff Fish, Fish Construction	Marshall Runkel, Commissioner Eudaly's office
John Hasenberg, Oregon Remodelers Association (ORA)	John Sandie, UNR
Catherine Heeb, BDS	Emily Sandy, BDS
Maryhelen Kincaid, DRAC	Cassandra Scholte, BDS
Robert McCullough, Southeast Uplift (SEUL)	Brandon Spencer-Hartle, BPS
Michael Molinaro, SEUL	Barbara Strunk, UNR
Tim Morris, BDS	Nancy Thorington, BDS
Lydia Ness, Restore Oregon	Terry Whitehill, BDS
Mitch Nickolds, BDS	Shawn Wood, BPS

II. RECOMMENDATIONS FOR CODE CHANGES IN DEMOLITION ORDINANCE IMPLEMENTATION REPORT

Items from council and code hearings officer – today’s recommendations will be drafted as proposed changes to the ordinance to be presented to Commissioner Eudaly for comment

a. Demolition Provisions

- “Pro Forma Budget”
Discussion: This term was proposed by UNR, but most people involved in demolition appeals find it confusing.
Decision: There were no objections to replacing “pro forma budget” with “project budget” for clarity.
- “Significance to the Neighborhood”
Discussion: The Code Hearings Officer suggested provided an exhaustive list of possible interpretations as framework for interpreting whether the appellant had met the criteria. The term was purposefully kept broad because of the variety of types of significance. Nancy Thorington pointed out that significance must be proven to balance the rights of the property owner. Marshall Runkel suggested that the criteria be based on the language used by the National Trust for Historic Preservation. Brandon Spencer-Hartle responded that BPS uses this framework, but for the demolition appeals process there needs to be a much broader definition to consider other factors, such as preserving a site or open space. Nancy cited an example where a delay was successful when the significance was related to retaining smaller affordable homes that initially comprised the community.

Decision: There were no objections to retaining current language

- Guidance on detail required for “Plan to save structure”

Discussion: How much detail needs to be provided to assess is whether a plan is viable? Robert McCullough proposed that just having a budget was enough. Al Ellis also suggested having the funds on hand should be sufficient. Jeff Fish disagreed and pointed out that a detailed plan would more likely lead to collaboration with the owner/developer. Shawn Wood also agreed that without a plan a bid to delay the demolition would just be seen as a stall tactic. Nancy asked again if parameters should be put in place to more clearly define what needs to be included in a plan to save a structure. Emily Sandy proposed and Kareen Perkins supported using a basic framework: Who, What, When, Where (if moving structure), How and Why. Jeff Fish cautioned against language that was too prohibitive as the Code Hearings Officer needs leeway to interpret what is submitted. The onus should be on the appellant to provide as much detail as possible to make the appeal successful. Kareen agreed that too many guidelines could be restrictive as many different solutions are possible. The purpose of the plan is to create a structure for parties to come together and discuss options.

Decision: Broad framework language based on who, what, when, where, how, and why should be drafted and brought back to the committee.

- Allowing additional evidence to be submitted at time of appeal hearing?

Discussion: There is a precise deadline that prohibits appellant from submitting new or additional information after submitted or during the hearing. Lydia Ness supported allowing new information since an appellant may have garnered more support to make an alternative to demolition more viable. Jeff Fish cautioned that it may result in the appeals only being used as a delay tactic until they come up with something. Nancy pointed out the demolition delay would still be a finite amount of time, and after the hearing they could not keep submitting information.

Decision: There were no objections to allowing additional evidence to be submitted up to and during the appeal hearing.

- Amend code to limit applicability to 1-2 family dwellings.

Discussion: The current City code refers to demolition of “residential structures.” The code as written was only meant to apply to 1 and 2 family dwellings, but there is no definition of this term in the Demolition Ordinance. The definition of “residential structure” in City Code Title 24 is broad and includes all residential structures, such as apartment buildings. Nancy proposed that the ordinance should define residential structure as a 1 – 2 family dwellings.

Decision: There were no objections to adding a definition of residential structure to be 1-2 family dwellings.

- The following items were also discussed but will be decided at subsequent meetings:
 - Timeline for the delay. Maryhelen Kincaid said there needs to be more time allotted for the plan to be carried out. She referenced a successful appeal to move a house instead of demolishing, which then fell through because they could not arrange the move within the allotted timeline. Maryhelen asked if the City could provide guidance on timeline for solutions that involve City permits. Kareen pointed out that, while basic service levels are available, there are too many variables to accurately predict a timeline. Jason Richling suggested appellants can come to the Development Services Center where

staff from different sections and bureaus can assist appellants on determining a general timeline, cost and viability.

- Should property owners be required to attend the appeal? Currently they are not required and can just wait out the delay period – there is nothing to compel them to meet with appellant.
- Most appellants are from neighborhood associations, not from development world, which puts them at a disadvantage. Robert said that Southeast Uplift is available as a resource for appellants. Brandon suggested there could be new City staff dedicated to assist appellants.
- Should there be an appeal process for commercial properties as well as residential? This should not be assessed until after the guidelines and process for residential are finished.

24.55.200 Residential Demolition Delay - Housing Preservation.

A. Purpose. The residential demolition delay provisions are intended to allow an adequate amount of time to help save viable housing in the City while recognizing a property owner's right to develop or redevelop property. The regulations provide an opportunity for public notice of impending residential demolitions and coordination of the efforts of various City bureaus. The regulations also encourage seeking alternatives to demolition. The provisions accomplished this through a two part process:

1. a 35 day notice period during which demolition is delayed, and
2. a possible 60-day extension of the demolition delay period.

B. Where the delay applies. The residential demolition delay regulations of this Section (24.55.200) apply to sites with residential structures in areas with a residential Comprehensive Plan Map designation. The regulations only apply to applications for demolition of residential structures. They do not apply to demolitions of accessory structures such as garages or other outbuildings.

H. Appeal of the residential demolition permit application. An interested party may appeal issuance of the demolition permit by completing an appeal application on forms provided by the Bureau. The appeal application must be accompanied by the appeal fee or a fee waiver, along with all documents the appealing party wants in the record to support the appeal. Appeals will be forwarded to the Code Hearings Officer and will be governed by the provisions in Chapter 22.10, unless there is a conflict between Chapter 22.10 and this Section, in which case this Section shall apply. The provisions of Chapter 22.03 shall not apply to appeals under this Section, except for Sections 22.03.050 (Hearing Procedure), 22.03.080 (Evidence), and 22.03.110 (Orders). The appeal may be filed any time within the initial 35-day delay period. The demolition permit may not be issued from the time the Bureau receives an appeal application and the fee or fee waiver, until the Code Hearings Officer has rendered a decision or the 60-day extension period has expired. If the fee waiver is denied, the appealing party must submit the appeal fee to the Bureau within three business days of the denial or the appeal will be rejected. The appealing party has the burden of proving that it is actively pursuing an alternative to demolition and must demonstrate all of the following:

1. The requesting party has contacted the property owner or property owner's representative to request a meeting to discuss alternatives to demolition by sending a letter to the property owner by registered or certified mail, return receipt requested;
2. The particular property subject to the demolition permit application has **significance to the neighborhood**. Evidence of the significance may include, but is not limited to, architectural significance, the age and condition of the structure or other factors;
3. The requesting party has a **plan to save the structure**; and

4. The requesting party has a reasonable potential to consummate the plan within 95 days of the date the Bureau accepted the complete demolition permit application by providing a **pro-forma budget** and either evidence of **funds on hand or a fund raising plan sufficient to meet the financial requirements of that budget**

I. Moving as an alternative. If the applicant decides to move the structure instead of demolishing it, then the demolition notice period and/or extended delay period becomes moot. The demolition delay period is automatically terminated when a building permit to move the structure from the site and a building permit to relocate the structure to another site are issued.

J. Findings of the Code Hearings Officer. If the Code Hearings Officer finds that the requesting party has demonstrated that it is actively pursuing an alternative to demolition and has met all of the criteria in Subsection 24.55.200 H. (1. – 4.) above, the Code Hearings Officer may grant an extension of the demolition delay for up to 60 additional days from the date the initial 35 day delay period has expired. If the Code Hearings Officer finds that the requesting party has not met its burden, then the Bureau may issue the demolition permit immediately upon receipt of the decision, provided that all other requirements for issuing the demolition permit have been satisfied.

24.55.150 Definitions.

A. Demolition. Demolition means removal of the entire superstructure down to the subflooring, such that none of the existing superstructure is maintained. Demolition includes removal of all exterior walls. It also includes alteration, abandonment or removal of all of the existing perimeter foundation.

B. Major Residential Alteration or Addition. Major alteration or addition means doing any of the following:

1. adding any new story, including a basement or other below-grade structure. Raising a structure to meet the required headroom in a basement is considered the same as creating a basement,

2. **increasing or replacing 50 percent or more of the exterior wall area on any floor. If the subflooring under an exterior wall is removed, it will be treated as if the wall was removed,**

3. adding total new floor area to the existing structure that exceeds 800 square feet, or

4. adding an area exceeding 100 percent of the existing foundation footprint area of the structure.

C. Recognized organization. Recognized organization includes neighborhood coalitions and neighborhood associations recognized by the Portland Office of Neighborhood Involvement.

D. Subflooring. Subflooring means the bottom-most structural floor laid as a base for a finished floor.

E. Superstructure. Superstructure means the part of the building or construction entirely above its foundation or basement.