

# Addressing Portland's Epidemic of Residential Demolitions: A Call to Action

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**Prepared by United Neighborhoods for Reform (UNR)**

**As a Message of Concern to Portland City Council**

**December 8, 2014**

## **Executive Summary**

United Neighborhoods for Reform (UNR) and its affiliates, backed by vote of 31 neighborhood associations from around the city, take the following positions on efforts to mitigate the effects of the increasing rate of single family residential demolitions in Portland:

**1. We recommend Council acceptance of the following DRAC recommendations:**

- **Repeal of the (K)(1) Exemption from 35-day Demolition Delay**
- **Implementation of Demolition and Major Remodel Notifications**
- **Retention of the mandatory 35-day Demolition Delay**  
*and*
- **We provisionally accept the proposed definitions for Demolition and Major Remodel, but urge that Council revisit these in 18 months after actual experience with them.**

**2. We insist that City Council retain the optional 120-day delay rule exactly as currently found in City Code. We further urge that the optional 120-day delay rule be extended to “Major Remodels” as defined in the DRAC recommendations.**

**3. We call for City Council to convene a demolition hazmat task force to draw up new city code using the City’s permitting and public safety authority, consistent with applicable state law, to ensure mitigation of lead, asbestos, and other hazardous materials at permitted demolition sites.**

**4. We urge City Council to adopt a workable definition of “deconstruction” as recommended by community experts. We further propose that deconstruction be incentivized by a simple change to the demolition process allowing reduced mandatory delay when accepted by the neighborhood association and upon binding developer commitment to employ deconstruction techniques.**

**5. We call for creation of a task force to implement Comprehensive Plan policies 5.33 and 4.13 for protection of affordable housing and neighborhood character and to address community concerns regarding solar access and tree canopy protections, with the goal of convening that task force no later than March 1, 2015, as follows:**

**Composition: 50% neighborhood organizations and 50% city staff and concerned citizens including developers and advocates for affordable housing and historic preservation.**

**Mission:**

- **Revision of code defining single family residential zones to limit the mass, footprint, setbacks, and height of construction to achieve compatibility with surrounding homes**
- **Recommended actions to protect affordable housing in older inner city neighborhoods**
- **Revision of current zoning and lot-splitting policies to protect existing housing and lot size especially in R5 zones once platted with 2500-square-foot parcels, and**
- **Recommendations for tree protections in R5 and R2.5 zones as well as solar access protections in all single-family residential zones.**

**6. We insist that the Council allocate funds for updating the Historic Resources Inventory starting in early 2015, using the best, most economical modern techniques.**

## Portland's Epidemic of Residential Demolitions: A Call to Action

### Background

“An Epidemic of Demolitions” was the phrase introduced by the Portland Historic Landmarks Commission at the July 31, 2014, meeting of the Portland City Council. The Commission's concerns reflected increasing distress in the neighborhoods over a rate of demolitions that was rising above 300 houses per year – with a preponderance of demolitions occurring in Portland's traditional neighborhoods of smaller, older homes. Especially distressing to many was the demolition of modest sized homes selling for \$250,000 to \$400,000, and their one-for-one replacement with much larger homes selling for \$600,000 to \$1 million or more.

While some have argued that a rate of 300+ demolitions a year represents a “replacement rate” of hundreds of years against the total of 145,000 single family homes in Portland, the reality is much grimmer. These demolitions tend to be concentrated in a relatively few neighborhoods, upon which they have an outsize impact. For example in the Beaumont-Wilshire neighborhood in 2013 and 2014 alone there were 85 demolitions or “major remodels” that have the impact of a demolition. At this rate Beaumont-Wilshire has already been severely altered and would be made almost unrecognizable in 10 to 15 years, especially if the rate of demolitions continues to accelerate. Moreover, not only is the neighborhood character altered by the presence of newer houses – the affordability has been dramatically changed: of the replacement houses for which data is available, the average replacement house is 2.3 times the size and 2.4 times the selling price of the original house! And Beaumont-Wilshire is just one of the heavily targeted neighborhoods, which include Sabin, Concordia, King, Rose City Park and several others.

In response to these concerns, a Demolition Summit was convened by Beaumont-Wilshire neighborhood volunteers on May 6, 2014. That meeting drew about 40 representatives from around the city to explore options to stem the tide of demolitions. Then on June 11, 2014, several hundred concerned citizens assembled at a demolition conference organized by the Central Northeast Neighborhoods Coalition to learn more about causes and impacts of demolitions on their neighborhoods. Following that, a combination of social media organizing and public outreach by the Portland Coalition for Historic Resources (PCHR) – an ad hoc group of preservationists and representatives from historic districts and local preservation organizations – put the word out to the community that the Landmarks Commission was going to make a major statement on demolitions before the Council on July 31.

The neighborhood activists who packed Council Chambers that day convinced Commissioner Amanda Fritz, responsible for the Bureau of Development Services, to take action. She tasked the Development Review Advisory Committee (DRAC), a volunteer group that advises BDS on procedural/permitting issues, to come up with recommendations to address the impacts of residential demolitions.

Simultaneously, worried residents from several of the most heavily affected Northeast neighborhoods, continued the Demolition Summit meetings, which ultimately drew representatives from 37 neighborhood associations, to find a path forward to address the demolition problem. The group which emerged from the Demolition Summit meetings is United Neighborhoods for Reform (UNR) which has prepared this








document addressed to the City Council in response to the DRAC recommendations and proposing actions beyond the DRAC recommendations to protect our neighborhoods.

### Assessing the DRAC Subcommittee Recommendations

DRAC and Bureau of Development Services formed a subcommittee to address demolition issues, and for the 3 months that subcommittee deliberated on options, UNR and PCHR members closely tracked the progress. Their volunteers attended all of the subcommittee meetings, submitted position papers, and spoke up for their positions during the meetings. To reinforce their message, UNR prepared an on-line petition, signed by more than 2000 Portland residents, staking out a clear position on each of the topics that DRAC was addressing.

Now that the DRAC recommendations have been released and are scheduled for presentation to City Council on December 17, 2014, we commend the hard work of the DRAC subcommittee and the BDS and BPS staff who facilitated the discussions, but find that the results are very mixed as shown in the scorecard below – with several major disappointments.

### Scorecard for the DRAC Effort

DRAC Policy Area	Score	UNR Comment
Repeal of (K)(1) exemption (no delay for one-for-one replacement demolitions)		DRAC recommended repeal of (K)(1)
Demolition permit notices		Recommended mailed notices to nearby properties and neighborhood associations for demolitions. Emailed notices for Major Remodels. Door hangers inform residents of impending demolitions.
Definition of “demolition”		Demolition definition falls well short of UNR proposal for a 50% removal rule, but new “Major Remodel” definition covers most situations. May need future refinements.
35-day demolition delay		Recommended 35-day Delay for Demolitions and 35-day advance notice for Major Remodels.
120-Day optional delay extension on neighborhood request		Recommendation <b>unacceptably would drop current code language</b> allowing requests for 120-day delays by the neighborhoods. Proposed 30-day voluntary delay extension is meaningless.
Lead paint and asbestos hazards to neighbors and workers		Adds some “educational” language to permit forms, but is largely meaningless. <b>Other cities in Oregon and around the country are way ahead!</b>
Incentivize deconstruction		Action postponed for a year. <b>The “Greenest City” deserves better!</b>

The DRAC is composed mostly of developers, contractors, and builders who have a stake in how BDS operates. In addition there are two neighborhood representatives to bring home owners' perspective to their deliberations. This mix is understandable given DRAC's mission, but it resulted in a set of recommendations unfairly tilted toward developer interests, some of which we support and others with which we strongly disagree.

In particular we support the removal of the (K)(1) exemption, which eliminated any notice or delay for one-for-one replacements. Surprise demolitions, which resulted in residents coming home from work with the house next door gone, rightly infuriated the neighbors! Similarly we support the 35-day mandatory delay, which has been a part of City Code since 1972. Coupled with mailed notices to nearby residents and neighborhood organizations, this delay is a sensible approach to keeping the community members informed of demolitions, which have tremendous impact on their quality of life. We are especially pleased with the proposal to notify "residents" rather than just "property owners", as notice to residents includes tenants in rental properties whose owners may never think to alert them. While we are somewhat skeptical of the email notice provisions for major remodels, we are prepared to see how that works in practice.

Among our concerns is the definition of "demolition". UNR volunteers provided numerous examples of demolition definitions in other cities that were based on a 50% concept: if 50% or more of a structure is removed it would be considered a "demolition". Instead, the DRAC subcommittee introduced a concept of Major Remodels and accepted a proposal by BDS for a detailed set of criteria for what constitutes a Major Remodel. While we are skeptical of the concept of separating out Major Remodels, we feel that the DRAC recommendations are a step forward in this area. We expect that the definition of Major Remodel will likely need review after 12 to 18 months, once there has been actual experience with it – to ensure that it is neither over broad or too restrictive. We accept the recommendations coded in green above and provisionally accept the definition of demolition and major remodel:

**We recommend Council acceptance of the following DRAC recommendations:**

- **Repeal of the (K)(1) Exemption from 35-day Demolition Delay**
  - **Implementation of Demolition and Major Remodel Notifications**
  - **Retention of the mandatory 35-day Demolition Delay**
- and*
- **We provisionally accept the proposed definitions for Demolition and Major Remodel, but urge that Council revisit these in 18 months after actual experience with them.**

The other recommendations, highlighted in the scorecard with a "thumbs down" icon, we reject completely. We provide detailed argument for each in the sections below.

***The 120-Day Demolition Delay***

The current 120-day demolition delay code was adopted by City Council in 1972, in response to a previous wave of citizen outrage over residential demolitions. Under it, if a recognized neighborhood association or coalition objects to a house demolition, it can obtain a mandatory 120-day delay (after the initial 35-day delay) to work to find a better alternative: rehabilitation/restoration, selling to another buyer, or moving the house to a different site. During the delay, the association would be required to make a "good faith" effort to find an alternative.

Anyone who has worked to find an alternative to demolition knows how tight the 120-day time frame really is, but it is far better than nothing and has a proven track record of saving sound houses from the landfill. And by giving the neighborhood associations the power to request the delay, the law recognized that in some instances the neighborhoods would be happy to see a badly deteriorated structure be replaced.

The fundamental idea behind this provision was that in a great many instances it is in the public interest to avoid demolitions of single-family houses unless there is no reasonable alternative. Indeed, the new Comprehensive Plan draft has specific language relating to this:

*“Policy 4.48 Prioritize Reuse.*

*Encourage maintenance, rehabilitation, and/or relocation of viable buildings over demolition and new construction.”*

There are many reasons why this is good public policy:

- Saving the embodied energy that would be lost through the demolition
- Preservation of neighborhood character
- Retention of affordable housing
- Slowing the pace of “gentrification” and its impacts on communities

**We insist that City Council retain the optional 120-day delay rule exactly as currently found in City Code. We further urge that the optional 120-day delay rule be extended to “Major Remodels” as defined in the DRAC recommendations, if the new definition of Major Remodels is adopted.**

### ***Tighten Hazmat Regulations***

State law regulates lead and asbestos release during remodeling, but *not* for residential demolitions. State law does regulate worker exposure to asbestos dust, but enforcement is a complaint driven process. The clouds of dust emanating from the typical demolition site are a clear and present danger to the surrounding residents and to employees working at the site without protective gear. It is consistent with the City of Portland’s role in protecting the health and safety of its residents to be proactive in working with state and federal authorities to ensure regulations are complied with when contractors operate under city permits.

Many other cities in Oregon have implemented rules for demolitions that require contractors to provide written mitigation plans for lead, asbestos, and other hazardous wastes. Some require work to be done by specifically certified contractors with trained personnel... and some require inspection to ensure compliance. In fact, our discussions with state DEQ officials suggest that cities have the authority to write regulations more stringent than those issued by the state.

Considering the grave hazards posed by lead dust especially to small children (mental retardation and behavioral problems can be triggered by exposure to minute quantities of lead) Portland’s residents deserve and insist on action in this area.

**We call for City Council to convene a demolition hazmat task force to draw up new city code using the city’s permitting and public safety authority, consistent with applicable state law, to ensure mitigation of lead, asbestos, and other hazardous materials at permitted demolition sites.**

### ***Incentivize Deconstruction***

Some demolitions will have to occur, and when they do, the “Greenest City” should insist that its demolition contractors follow the best deconstruction practices to maximize high-valued reuse of building components. A coalition of deconstruction experts is presenting its recommendation for a definition of “deconstruction” to Council concurrent with the report on the DRAC recommendations. A major challenge is how to provide a meaningful incentive to developers to employ deconstruction. Many are unfamiliar with the practice and, perhaps incorrectly, believe it would add significant cost and time to their projects. The ultimate solution may well be an increase in fees for disposal of demolition waste in landfills, but for the moment, we are proposing an approach that would streamline the demolition approval process:

- Grant neighborhood associations the authority to shorten the mandatory 35-day demolition delay to 10 days when demolition is inevitable and the contractor files a written commitment and plans for deconstruction with BDS. This shortened delay could be authorized before the actual permit was filed, thus greatly streamlining the process for developers choosing to use this option.

**We urge City Council to adopt a workable definition of “deconstruction” as recommended by community experts. We further propose that deconstruction be incentivized by a simple change to the demolition process allowing reduced mandatory delay when accepted by the neighborhood association and upon binding developer commitment to employ deconstruction techniques.:**

### ***Beyond DRAC – Protecting our Neighborhoods***

Policy 5.33 of the draft 2035 Comprehensive Plan calls for “... preservation of small resource-efficient and affordable single family homes...” Other Policies of the Comp Plan call for infill construction that is consistent with the “... general scale, character, and natural landscape features of neighborhoods. Consider building forms, scale, street frontage relationships, setbacks, open space patterns, and landscaping...” (Policy 4.13).

Unfortunately, the Comp Plan is silent as to how to accomplish these policy goals, especially in the light of ever-increasing single family house demolitions and all-too-frequent replacement with large, expensive, incompatible infill single-family homes. Likewise there is no mention of the scourge of lot splitting in R5 zones where historically platted with 25 X 100 foot lots, originally sold in pairs, and now subject to legally questionable lot splitting despite the R5 base zone.

In their July 31, 2014, presentation, the Portland Historic Landmarks Commission recommended to City Council that a task force be set up to address just these kinds of issues. While the Council may have felt that the DRAC subcommittee on demolition was this “task force,” it clearly was not. Partly, the shortfall in results was the result of statutory limitations of BDS authority relative to zoning codes and larger housing policies. Further, the dominance of developer interests on DRAC precluded a broad city-wide policy investigation that would include a broad range of stakeholders from the neighborhoods, affordable housing advocates, historic preservation advocates, as well as developers.



**We call for creation of a task force to implement Comprehensive Plan policies 5.33 and 4.13 for protection of affordable housing and neighborhood character and to address community concerns regarding solar access and tree canopy protections, with the goal of convening that task force no later than March 1, 2015, as follows:**

**Composition: 50% neighborhood organizations and 50% city staff and concerned citizens including developers and advocates for affordable housing and historic preservation.**

**Mission:**

- **Revision of code defining single-family residential zones to limit the mass, footprint, setbacks, and height of construction to achieve compatibility with surrounding homes.**
- **Recommended actions to protect affordable housing in older inner city neighborhoods**
- **Revision of current zoning and lot-splitting policies to protect existing housing and lot size especially in R5 zones once platted with 2500-square-foot parcels, and**
- **Recommendations for tree protections in R5 and R2.5 zones as well as solar access protections in all single family residential zones.**

**Phase II – Beyond DRAC – Determining What Should Be Preserved**

The Comp Plan advocates for updating the Historic Resources Inventory with a “focus on areas of anticipated growth and change.” While the authors may have had East County and other areas in mind for “growth and change,” there is no part of the city more subject to the pressures of development-based change than the older “Inner East” neighborhoods as defined in the Comp Plan. Thousands of homes in those neighborhoods are on land zoned for higher density, and as housing prices continue to rise in the inner city, pressures for demolitions will only increase. Currently, these homes are the most intensively targeted of all areas for demolition. It is thus vital that the City of Portland undertake a city-wide update to its Historic Resources Inventory starting in early 2015.

Fortunately, the timing is right for such an update. Technology has greatly reduced the cost and enhanced the effectiveness of such an inventory, the reviving economy is making limited discretionary funds available to City Council, and the pressures of development have heightened the urgency.

**We finally insist that the Council allocate funds for updating the Historic Resources Inventory starting in early 2015, using the best, most economical modern techniques.**

**Who is UNR?**

United Neighborhoods for Reform was formed as an outgrowth of several Demolition Summits open to neighborhood association land use and board members and other concerned citizens, which began on May 6, 2014, and continued to be held after the July 31, City Council meeting where the “Epidemic of Demolitions” was first discussed. Altogether 37 neighborhood associations were represented at the Demolition Summit meetings. Leadership of the organization was first drawn from the Beaumont/Wilshire Neighborhood Association, and was soon expanded to include volunteers from many other parts of the city.

UNR also has worked closely with the Portland Coalition for Historic Resources, a group which includes representatives of neighborhoods with Historic Districts including Irvington, Ladd’s Addition, and the



Northwest District Association, plus the Architectural Heritage Center, and Restore Oregon, as well as numerous long-time historic preservation activists.

### **Who Supports our Positions?**

As of the date of this position paper, 31 neighborhood associations boards of directors have voted to support as written or in concept the demolition resolution drafted and circulated by UNR, from which the key points in this document are drawn (see list in Appendix IV). In some cases, individual associations have advocated for even more extensive solutions to the demolition problem than what we have included here. All the key points being made in this document are derived from the contents of that resolution, updated to reflect the actual recommendations now on the table from DRAC plus comments received by UNR volunteers who attended nearly all of the association meetings at which the resolution was debated and voted on.

Secondly, we have published a petition on-line relating to the key issues being addressed directly by DRAC to which well over 2000 Portland area residents have signed their names. The text of that petition is attached as an appendix.

Finally, UNR set up an on-line survey to collect public opinions on demolition related issues. Altogether nearly 500 concerned Portland residents took time to fill out the survey. Despite assertions by the developer community that replacement of older homes is a good thing for neighborhoods, 83% of the respondents disagreed. More than 90% of respondents supported tightened city codes and policies regarding demolition and the replacement of single-family homes. The full results of the survey are attached as an appendix.

## Appendix I – UNR Demolition Resolution Approved by 26 Neighborhood Associations.

### UNITED NEIGHBORHOODS FOR REFORM DEMOLITION/DEVELOPMENT RESOLUTION

Whereas sustainability, livability, and environmental and public safety are of concern to Portland residents;

Whereas the preservation of each neighborhood's historical heritage and character are of prime concern to Portland residents; and

Whereas the preservation of existing affordable housing is a citywide concern; now, therefore, be it

Resolved, that the United Neighborhoods for Reform requests:

- 1) Implementation of changes to the city's demolition regulations and protocols:
  - a) Elimination of the (K)(1) exemption and restoration of the automatic 35-day demolition delay for single-family structures.
  - b) Definition of "demolition" as removal of 50% or more of the structure.
  - c) Requirement that applicants for demolition permits comply with all state and federal environmental and safety regulations including those for lead and asbestos.
  - d) Retention of existing code providing for a 35-day delay on demolitions with an option for a 120-day delay available to a recognized neighborhood association or coalition, with the understanding that a good-faith effort be made to find alternatives to demolition.
  - e) Notice of proposed demolition will be mailed to residents and property owners within a specified distance upon acceptance of the demolition application. If permit is approved, a 72-hour notice of date of demolition will be provided to the same parties.
  - f) Establishment of a rigorous definition of "deconstruction," and recommendation of appropriate incentives, including an increased tip fee for construction debris.
- 2) Establishment of a task force composed of 50% neighborhood organizations and 50% city staff and concerned citizens to determine the distance required for notifications above, as well as:
  - a) Revision of code to limit the mass, footprint, setbacks, and height of construction to that of the average of existing homes within a specified distance.
  - b) Revision of current zoning and lot-splitting policies to protect existing housing and lot size.
  - c) Recommendations for tree and solar access protections.
- 3) Adoption by City Council of:
  - a) Measures to protect Portland residents from lead, asbestos, and other contaminants resulting from demolition/development by requiring surveys for these materials and an approved plan for lawful removal and disposal before issuance of demolition permit.
  - b) An update of the Historic Resources Inventory, with a waiting period mandated for removal of a property from the inventory.
  - c) A user-friendly online system available to the public for tracking demolition activity.

## Appendix II - Resident Survey: Demolition and Development: Data 11/26/14

496 interested city of Portland residents have responded since 8/12/14 to an ongoing on-line neighborhood survey about single-family home demolitions and replacement development with the following results:

1. 83.4% of respondents **disagreed** that demolition of houses and replacement with new houses is a **good trend** for our neighborhood.
2. 92% of respondents said demolition and replacement of houses was **bad** for their neighborhood because it destroys the character of established neighborhoods. 81% stated this trend destroys good buildings.
3. Changes in Portland city code/policies regarding demolition and replacement houses were supported by 91%.
4. 93% supported new code regarding replacement houses to increase setbacks, restrict height, limit footprint to correspond to the neighborhood architectural character. 79% support neighborhood notification of demolitions. 65% support an automatic 120 day delay of all house demolitions.
5. 63% of respondents have lived in their neighborhood more than 10 years.

## Appendix III – On-Line Petition Signed by Over 2000 Portland Area Residents

# Help Stop the Demolition of Portland Homes and keep Portland Sustainable

### *Stop the Demolition of Portland Homes*

Portland citizens are working together to fight the “epidemic” of house demolitions throughout the city. The Mayor and City Commissioner Amanda Fritz have tasked a group called the Development Advisory Review Committee (DRAC) to come up with short-term fixes for issues raised by the community that can be adopted by City Council by the end of 2014. There are long term issues that must be addressed as well early in 2015, but we need action now by DRAC and the City Council in these 6 critical areas to help protect the character and integrity of our neighborhoods:

- Restore the mandatory 35-day delay on all residential building demolitions by repeal of the “K-1” exemption for one-to-one house replacements.
- Require that demolition permit applicants be required to attest to their compliance with all State and Federal environmental and safety regulations, including those related to asbestos and lead.
- Establish a new definition of “demolition” that specifies that removal of 50% or more of the current structure is defined as a demolition.
- Retain the existing language in City Code providing for 120-day residential demolition delay upon request (during the initial 35-day period) by a recognized neighborhood association or neighborhood coalition, with the understanding that a good-faith effort be made by the association to find an alternative to demolition.
- Provide proper notification to the public of filed demolition permits by posting of a large, conspicuous sign on the site and email notification to the affected neighborhood association and the neighborhood coalition.
- Establish a rigorous definition of “deconstruction,” a vastly more environmentally friendly alternative to simple demolition and disposal of the debris in a land fill, and define appropriate incentives to encourage deconstruction, providing that such incentives not interfere with the working of the optional 120-day demolition delay or appropriate notice requirements.

<https://www.change.org/p/help-stop-the-demolition-of-portland-homes-and-keep-portland-sustainable>

## Appendix IV – Support by Neighborhood Association Boards

Neighborhood associations that have endorsed the UNR resolution either in concept or as written – as of December 7, 2014. *Additional meetings are scheduled in December by other neighborhoods to consider the Resolution:*

- Alameda
  - Arbor Lodge
  - Arlington Heights
  - Beaumont-Wilshire
  - Bridlemile
  - Centennial
  - Concordia
  - Eastmoreland
  - Eliot
  - Grant Park
  - Hayhurst
  - Hosford-Abernethy
  - Humboldt
  - Irvington
  - King
  - Maplewood
  - Marshall Park
  - Mill Park
  - Mt. Tabor
  - Multnomah
  - Northwest District Association
  - Overlook
  - Pleasant Valley
  - Powellhurst-Gilbert
  - Reed
  - Roseway
  - Russell
  - South Portland
  - Vernon
  - West Portland Park
  - Woodlawn
  - 31 total
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- Only two neighborhood associations have voted “no”.