



THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED: May 13, 2008 REPORT NO. 08-079

ATTENTION: Land Use and Housing Committee
Agenda of May 21, 2008

SUBJECT: Demolition Permit Processing

REFERENCE: Land Use and Housing Meeting of January 23, 2008; Memo from Councilmember Toni Atkins to Councilmember Ben Hueso dated December 14, 2007; and Memo from Bill Anderson, Deputy Chief Operating Officer (DCOO) to Councilmember Toni Atkins, dated November 16, 2007.

REQUESTED ACTION:

Provide input on progress made on addressing issues raised by Councilmembers and the public regarding the review of demolition permits in the City of San Diego.

STAFF RECOMMENDATION:

Request the Mayor's office continue to investigate and implement ways to improve the demolition review process.

SUMMARY:

Background

The City's Land Development Code (Section 143.0212) requires review of structures that are 45 or more years old for potential historical significance prior to issuance of a ministerial construction permit, including a demolition permit, or a discretionary development permit. If it is determined by City staff that a historical resource may exist on the parcel under review, a site specific survey report is required. The survey report must be conducted consistent with the Historical Resources Guidelines of the Land Development Manual. Based on the report and the best information available, City staff then determines whether a potential historical resource is eligible for designation by the Historical Resources Board. If the eligible historical resource is designated, it may not be substantially altered, demolished, destroyed, removed, or relocated except through a discretionary deviation process.

Issues related to demolition of buildings that are 45 or more years old have been raised by members of the public and were discussed at the January 23, 2008 Land Use and Housing Committee (LU&H) meeting. Following lengthy public testimony, Committee members asked staff to review the current policies and procedures related to demolition review and return to LU&H with alternatives that would address the issues raised by the public. The issues expressed most frequently by the public include community notification of pending demolitions, review by

qualified City staff prior to issuance of a demolition permit, loss of community and neighborhood character, need for penalty in cases of illegal demolition, and applicability of the California Environmental Quality Act (CEQA) to demolition review. These issues are addressed in detail in memos from the Greater North Park Planning Committee and Uptown Planners (Attachments 1 and 2). Prior to the January LU&H meeting, several issues related to demolition permits were addressed in a memo from Bill Anderson, DCOO for City Planning and Development to Councilmember Atkins. This memo described several procedures that had been considered by the Development Services Department to address some of the issues related to the historical review process (Attachment 3). Following the LU&H meeting, additional procedures have been considered and several important changes have been made to the demolition review process. These improvements and the potential for additional revisions to the demolition review process are discussed below.

Discussion

The City's current demolition permitting process requires ministerial review, unless a designated historical resource is involved in which case a discretionary permit, subject to CEQA is required. Demolition of buildings and structures in the City of San Diego occurs under several scenarios and results in various impacts. Demolition can be beneficial for the protection of life and safety particularly following a natural disaster (e.g., fire, landslide, flood, etc.) or to mitigate a dangerous situation. Designated historic buildings can be demolished, if required to protect the public health and safety. A subsequent permit is required consistent with the historical resources regulations.

Demolition of a building before the property owner is ready to rebuild can become a blighting influence on surrounding properties if the site sits vacant for a lengthy period. However, this circumstance can result in a positive improvement in the case of demolition of non-maintained and abandoned buildings. Designated historic buildings are required to be maintained and not result in passive demolition through neglect and cannot be actively demolished prior to approval for new development on the same premises. Segmenting demolition from redevelopment can significantly impact neighborhood character when design review or development guidelines for new development are not in place and redevelopment relies solely on zoning restrictions.

These various situations that involve demolition raise several questions about the overall review process, particularly in light of the recently adopted General Plan and need for redevelopment in the already urbanized communities. When is it appropriate to allow demolition without concurrent approval of a new project? When should demolition review be discretionary? How can community character be protected while supporting redevelopment and increased development intensity in appropriate areas of the City? These issues would be best addressed through community plan updates and the incorporation of a historic preservation element that would consider historical resources and community character in the context of surveys, districts, conservation areas and design standards.

Based on comments received by the public and direction from LU&H to look at changes in procedures to improve the process for reviewing demolition permits and the review of structures over 45 years old, some changes have already been put in place and future changes are under consideration. The following is a discussion of changes in procedures that have been implemented in response to comments from LU&H and the public and a discussion of additional items under consideration.

Review by Qualified City Staff Prior to Issuance of a Demolition Permit – Implemented

One of the issues raised at LU&H is staff's ability to make determinations related to the demolition of buildings. Staff meeting the U.S. Secretary of the Interior's Qualifications in Architectural History has been hired by Development Services to conduct the review of all ministerial projects involving potential historic buildings. This individual is housed with the Historical Resources staff in City Planning & Community Investment (CPCI), has worked with the Historical Resources Board (HRB), attends all HRB meetings, conducts site visits, and is directly supervised by the historical resources program coordinator. The position is responsible for review of all ministerial projects involving buildings and structures 45 or more years old, including reviews that were previously conducted over the counter in Development Services. Beginning March 17, 2008 any approval that falls under the historical resources regulations requires submittal of a scope of work, photos, a residential building record, and other requested information prior to the City issuing a demolition or building permit. Following public notification as described below, the need for a site specific survey report and determination of eligibility for designation are made in consultation with Senior Planners in CPCI.

Discretionary projects involving a potential historic resource, including building alterations, demolitions, and new construction, are being reviewed by qualified Historical Resources staff in CPCI. The community is being notified in the same manner as for ministerial projects and the need for a site specific survey report and determination of eligibility for designation are made in consultation with other Senior Planners in CPCI.

A total of 75 projects were reviewed under this new process in April 2008. Of these, 49 were cleared as non-historic and 20 were approved as projects consistent with the historical resources regulations involving potentially historic resources. Reports were required for six projects, three in Greater North Park, one in Mid-City (Kensington-Talmadge), one in Peninsula, and one in Uptown (Hillcrest). A table of these reviews by community is provided in Attachment 4.

Community Notification of Pending Demolitions – Implemented

Notification to the public prior to issuance of a demolition permit was another important issue raised at the January 2008 LU&H meeting. The Historical Resources Guidelines state that the City should consult with and consider input from local individuals and groups with expertise in Historical Resources of the San Diego area as early as possible in the process so that their input can be considered during the timeframe allotted to determine the need for a site specific survey for a permit involving a structure that is 45 or more years old. Currently the timeframes are 10 working days for a ministerial construction permit (building or demolition) and 30 calendar days for a discretionary development permit.

Since the LU&H meeting in January, the City has contacted all recognized community planning groups, Save Our Heritage Organisation (SOHO), the San Diego, North Park, University Heights, and La Jolla Historical Societies, Mission Hills Heritage, and La Playa Heritage to solicit their level of interest in determining the need for a site specific survey report for potential historic properties. A number of these groups have indicated a desire to be involved in the review process. A meeting was held on May 8, 2008 with interested individuals to discuss the process and notifications began with projects deemed complete on that date. Staff will provide an oral update on the notification process at the LU&H meeting.

Increased Public Notice – Under Consideration

An increase in the timeframe for ministerial reviews from 10 working days to 20 working days would allow a more meaningful review by the public and would require a change to the Land Development Code. This proposal will be reviewed by the LU&H Technical Advisory Committee (TAC) on May 14, 2008. Staff will provide an oral update on the response from TAC.

Additional means of notification to the public could be provided through posting a demolition permit notice on the property prior to issuance of the permit, similar to posting of notices for discretionary permits. This would allow more members of the public to be informed of a pending demolition in their neighborhood and would require a change to the noticing requirements of the Land Development Code. Staff recommends making this change in order to provide increased notification to the community and provide for improved community involvement in the demolition review process.

Posting of demolition permits on the DSD website was another suggestion raised to increase public notification. Currently, information is provided to the public regarding permit applications, permits issued and permits completed on a subscription basis. DSD is considering the weekly posting of permits on the website.

Loss of Community and Neighborhood Character – Under Consideration

The loss of neighborhood character through demolition of older buildings has been raised as a concern by the public. This concern is heightened in many older communities where redevelopment, infill and new development are regulated solely by the underlying zone. In these areas, the public perceives the historic designation of individual buildings or establishment of historic districts as the only tool for the preservation of historic neighborhood character. However, areas that can be identified as retaining original community character may not retain sufficient historic integrity at a level that meets local, state or national designation criteria and would not be regulated through the historical resources regulations. A widely accepted planning tool that can be used to maintain important aspects of older communities is often called a conservation district (see Attachment 5) and is referred to in the Historic Preservation and Urban Design Elements of the recently adopted General Plan as a conservation area. Use of conservation areas in the form of overlay zones that provide guidance for retention of community character in older neighborhoods of the city while allowing redevelopment may be useful in the interim until community plan updates are approved.

Another tool that may be useful in the retention of community character is a Transfer of Development Rights (TDR) program for historic resources. This program would encourage preservation of community character through retention of individual designated historical resources in areas zoned for densities at levels higher than currently developed. Allowing unused development potential, based on the underlying zone and gained from the preservation of designated historical resource, to be transferred, saves individual resources, allows an overall increase of density at the community plan level, and directs new development and infill to appropriate locations.

Need For Penalty in Cases of Illegal Demolition – Under Consideration

Illegal demolitions occur when a property owner demolishes a building without first obtaining a permit or when a property owner demolishes a building after obtaining a permit that is based on misleading or incorrect information provided to staff and relied on for permit issuance. Guidance and submittal requirements for building demolition and removal are provided to property owners in DSD Information

Bulletin 710. The need for historical review for structures 45 years or older and special permitting requirements for designated historic sites are included in this bulletin. The public has raised issues related to the loss of historic buildings through illegal demolitions that could have been avoided through a more rigorous review process and deterred through a monetary penalty. Currently, the historical resources regulations do not include a fine for the illegal demolition of historical resources, however, the general code enforcement provisions of the Municipal Code provide penalties and fines for any violation of the code.

Review of Information Bulletin 710 indicates that the language describing the historic building demolition review process and need for permitting is not detailed enough to stress the importance of this review requirement. Additionally, the submittal requirements are not specific enough to provide necessary information for a thorough review of potential historical value as part of the demolition review process. The General Plan supports updating regulations and guidelines to maintain adequate protection of historical resources and creation of a historic preservation fund to be used for local preservation incentives. Staff is currently in the process of updating Information Bulletin 710, including the submittal requirements for historical review to address the current deficiencies.

In summary, several improvements to the historic review process for proposed demolition permits have been implemented including improved notification to the public and review of demolition permits by qualified City staff. It is recommended that the Mayor's office continue to investigate and implement additional ways to improve the demolition review process, as described above.

Applicability of CEQA to Demolition Review

The current demolition process is ministerial by definition of the Land Development Code and is therefore not subject to environmental review under CEQA. It has been argued by the public that review of potentially historic resources should be a discretionary action and that the definition of a historical resource under CEQA should be used in the demolition review process. The Chair of LU&H requested the City Attorney's office to review this issue and report back on their findings.

FISCAL CONSIDERATION:

Staffing for review of ministerial demolition permits is paid by the Development Services Enterprise Fund and supported through permit fees. Review of discretionary projects is paid by the applicant through a deposit account. Staff bills actual time spent on the review to the account as part of the review process. Supervision of Historical Resources staff is dependent on funding through the General Fund.

PREVIOUS COMMITTEE AND PLANNING COMMISSION ACTIONS:

Public comments raising concerns about the demolition review process, particularly related to historical resources, were raised at several LU&H Committee meetings, Natural Resources and Culture Committee meetings, and Planning Commission meetings in 2007 and 2008 during workshops and hearings on the recently adopted General Plan update.

The specific issue of demolition permit review was heard by LU&H at the January 23, 2008 meeting. There was an oral staff report and substantial public comment presented at that meeting.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Since the LU&H meeting in January, the City has contacted all recognized community planning groups, Save Our Heritage Organisation (SOHO), the San Diego, North Park, University Heights, and La Jolla Historical Societies, Mission Hills Heritage, and La Playa Heritage to solicit their level of interest in determining the need for a site specific survey report for potential historic properties. A number of these groups have indicated a desire to be involved in the review process. A meeting was held on May 8, 2008 with interested individuals to discuss the process and notifications began with projects deemed complete on that date. It was agreed that a follow up meeting with interested individuals will be scheduled to refine the process.


KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include the general public, community groups, historic preservation groups, the building industry, and property owners. It is anticipated that the demolition review process will be improved through the procedures already implemented and those still under consideration to the benefit of older neighborhoods and communities of San Diego. The building industry and property owners will likely experience a lengthened review process for some ministerial approvals due to the change in some procedures. Specifically, no over the counter, same day approvals will be issued for properties that involve a building or structure 45 or more years old.

Respectfully submitted,



Kelly Broughton
Development Services Director



William Anderson, FAICP, Deputy Chief
City Planning and Development

ANDERSON/BROUGHTON/GALLARDO/CW/sa

- Attachments:
1. Greater North Park Planning Committee Memo
 2. Uptown Planners Memo
 3. Memo from Bill Anderson to Councilmember Atkins
 4. Over 45 Year Reviews April 2008
 5. "Alternative Forms of Protection: Conservation Districts and Conservation Easements" from Drafting Historic Preservation Ordinances, OHP Technical Assistance Bulletin #14, Pages 47-49.