

DIRECTOR'S REPORT AND RECOMMENDATION

Amendments to support reuse and recycling of building materials in structures containing dwelling units subject to demolition

Background

In 1990, the Seattle City Council adopted Ordinance No. 115058 to provide protections in the Seattle Land Use Code against demolition of housing. The ordinance added provisions, found at Seattle Municipal Code (SMC) Section 23.40.006, requiring an approved replacement use prior to any demolition or change of use of housing units. Unless demolition is ordered for health and safety reasons the current regulations prohibit issuance of a demolition permit for any structure containing a dwelling unit or units unless a permit or approval has been issued to change the use of the structure or premises to a use other than nonrequired parking; or a permit or approval has been issued to relocate the structure to another lot within the City limits or outside the City limits, where it will continue to be used as a dwelling unit or units. The goal of this regulation is to preserve housing stock while also preventing creation of vacant lots or lots occupied only as parking.

Although effective in preserving housing stock, the current Section 23.40.006 has had the unintended effect of hampering efforts to deconstruct the existing structure(s) and maximize the salvage of reusable building materials. Deconstruction is the systematic disassembly of a building in order to maximize the salvage of reusable building materials first and to recycle materials second. Salvage is the recovery of valuable or useful building materials for reuse. Deconstruction and salvage are more labor and time intensive than standard demolition yet these activities have been regulated as demolition under a traditional demolition permit issued by the Department of Planning and Development (DPD). Because current regulations prevent DPD from issuing a demolition permit until DPD has issued a master use permit (MUP) for a new use or structure on the lot, and because developers generally want to begin construction quickly after receiving their MUP, many developers opt simply to demolish existing structures rather than incur the delay deconstruction and salvage will impose.

Deconstruction and the salvage of building materials would be more cost-effective if allowed to commence, in appropriate circumstances, while the proposed new development is under review. Further, promoting the deconstruction and salvage of building materials from structures containing dwelling units would support the City's Sustainable Building Policy and the Mayor's Environmental Priorities. Salvaging reusable building materials reduces the amount of construction waste routed to landfills and reduces the demand on virgin resources.

The proposed amendments to the City's Land Use Code are proposed to provide a greater incentive for builders and developers to salvage reusable materials from structures containing dwelling units. If adopted, these amendments would authorize DPD, in appropriate situations, to issue a demolition permit before issuing a MUP for the associated project. This will provide developers more time to deconstruct an existing structure and increase the salvage of reusable building materials.

Legislative Proposal

The proposal would make three basic changes to the rule currently codified in Section 23.40.006.

1. Add a deconstruction and salvage exception.

A new subsection 23.40.006.C would make deconstruction and salvage of structures containing dwelling units more viable by allowing the demolition permit to be issued before DPD issues a MUP for the associated project if:

- a complete building permit application for construction of a new principal structure has been submitted;
- Both the application for the demolition permit and the application for the new structure are exempt from review under the State Environmental Policy Act;
- no other permit is required under SMC Titles 23 or 25 as a condition to issuance of the demolition permit; and
- DPD has approved a waste diversion plan.

A new Section 23.40.007 is also proposed. Subsection 23.40.007 A authorizes DPD to define by rule the specific requirements of an acceptable waste diversion plans. These requirements must set minimum levels of building materials that must be diverted from landfills. Rather than have the Council determine the specific, acceptable levels (and amend the Code to keep pace with evolving industry practices), the ordinance sets parameters for DPD to follow. The levels set by the DPD rule:

- may vary by disposal method or type of material;
- must be established on the basis of DPD's review of practices employed in the relevant industries in the region (these would likely include those involved in construction, demolition, and reuse and recycling);
- must reflect DPD's opinion of the degree of waste diversion reasonably attainable through the use of accepted industry practices; and
- may be altered as industry practices evolve.

A proposed Director's Rule is attached to this report as an example of what DPD envisions. This proposed rule is based on a survey of laws in effect in other west-coast municipalities and discussions with representatives of various associations involved in construction, demolition, or reuse and recycling. In addition to defining key terms, the proposed Director's Rule would require the property owner or authorized representative to represent to DPD that the existing structure is to be removed in a manner such that a minimum of 20% of the building materials, by weight and excluding asphalt, brick and concrete, are reused; a minimum of 50% of the

remainder, by weight and excluding asphalt, brick and concrete, will be reused, recycled or beneficially used; and that 100% of asphalt, brick and concrete will be reused, recycled or beneficially used (and are not included in the reuse or recycling percentages). These requirements reflect DPD's opinion of the degree of waste diversion reasonably attainable through the use of accepted industry practices. These requirements can be changed in the future as those practices evolve, without the need for further Council action.

2. Add flexibility to the exemption for structure relocation.

A separate amendment to Section 23.40.006.B would provide greater flexibility to relocate a structure containing dwelling units from one site to another. The current Code provides that a demolition permit may be issued if a permit or approval has been issued to relocate an existing structure containing dwelling units to another site within the City. The proposed amendment would expand the geographic reach of that exemption beyond the City limits. Adding this amendment will improve the ability to preserve existing housing stock, particularly houses of architectural or cultural significance that might otherwise be demolished.

3. Remove exception for vacant housing

Section 23.40.006 D, allowing housing units to be demolished if they have been vacant since January 1, 1974, would be removed from the Code, as this exception is no longer needed to ensure that housing is not simply left vacant in order to justify demolition.

4. Refer to “dwelling” rather than “housing” units.

Section 23.40.006 current refers to “housing units,” a term not defined in Title 23. This ordinance would consistently substitute the defined term “dwelling units” throughout Section 23.40.006.

In addition to the changes to 23.40.006 and a new subsection 23.40.007 A, new subsections 23.40.007 B and C, as well as proposed amendments to Section 23.90.018, would require applicants to demonstrate compliance with an approved waste diversion report within 90 days of issuance of their demolition permit or be subject to a penalty. The penalty for a failure to demonstrate compliance with a waste diversion plan would be calculated by converting the total square footage of a demolished structure to tons and then multiplying by the City Council's adopted rate for refuse disposal at City recycling and disposal stations, which is currently \$130.00 per ton. The amendments to Section 23.90.018 would make violation of Section 23.40.007 B, failure to demonstrate compliance with a waste diversion plan, an enforceable civil penalty similar to other violations of Land Use Code regulations.

Conclusion

The Vision element of Seattle's Comprehensive Plan reflects a commitment to environmental stewardship, including recycling and sustainable design practices. Authorizing commencement of demolition of a structure prior to issuance of a permit for a replacement use or structure, as proposed in this ordinance, would eliminate a disincentive for the salvage of building materials without impairing the effectiveness of Section 23.40.006 in preserving housing stock. The Director therefore recommends approval of the subject Code amendments for demolition permits with waste diversion plans for structure(s) containing dwelling unit(s).