

# Discretionary Review Reform Public Outreach

February 10, 2009

SAN FRANCISCO  
PLANNING DEPARTMENT



# Discretionary Review

***D**iscretionary Review is the Planning Commission's authority to review code complying projects and take action if the Commission finds the case demonstrates exceptional and extraordinary circumstances*



## All Recent Reviews Recommend Revisions to the Discretionary Review Process

- Budget Analyst Audit, 2003
- Matrix Report, 2006
- SPUR AIA Report, 2007

Issues:           Arbitrary and political approval process that takes too much time away from the Commission's ability to focus on policy.

Remedies:       Delegation to ZA, Hearing Officer or separate DR Committee.

Better separation of “simple versus complex”



# Discretionary Review: Findings

***D**iscretionary Review process is not codified and does not produce consistent or fair results for the General public, neighbors, or project sponsors; it makes the development process more costly, and it takes time away from the Commission to address larger planning issues.*



## Benefits of Current Process

- Open process and provides opportunity for residents to have public hearing where concerns are vetted
- Opportunity for greater public involvement and community participation
- Gives planners more leverage to seek project revisions
- May improve projects
- Provides for third party review of Planning Department's professional determination
- May provide Planning Commission the opportunity to review emerging planning issues



## Issue/Concerns

- Driven by temperament of the neighbor, level of community involvement, and developer instead of sound planning principles and land use objectives which may result in uneven protections across neighborhoods
- Commission does not see representative sample of projects that are approved and therefore cannot easily dispense fair and standard treatment
- Decisions for individual cases do not necessary get applied to future review or serve to clarify appropriate project review
- Increases the cost and time of the process for all involved
- Residents may file DR as last resort because they do not have sufficient information which can create conflict between neighbors
- Creates potential for inappropriate financial exchanges between project sponsor and neighbors
- Inconsistent with best practices in other jurisdictions



# Goals of New Process

- Maintain benefits of current process
- Decline DRs that do not show exceptional or extraordinary circumstances
- Improve internal review process and application of *Residential Design Guidelines*, and rename them the “*Residential Design Standards*”.
- Improve staff productivity and reduce waiting time for other projects in the pipeline
- Create more predictable and consistent entitlement process
- Clarify the role of the Department for applicants and the public
- Free up the Commission’s calendar so that they can focus on more substantive policy issues



# Delegation to a Hearing Officer

- Commission to select a Hearing Officer with qualifications to review DR cases
  - *Commission will continue to review DR until the Commission selects a qualified person for this position.*
- Hearing Officer would be required to maintain high ethical standards and avoid all conflicts of interest
- Commission to review only mandatory DR and cases referred from the Director or the Hearing Officer to seek policy guidance
- Commission would maintain oversight of its delegation to the Hearing Officer, and would establish reporting procedures





# Proposed DR Procedures

- Residential Design Team's decisions formalized and decisions documented (*effective December 17, 2008*)
- Criteria for Residential Design Team's review prior to public notification (*effective Feb. 2<sup>nd</sup>, 2009*)
- Requirement for complete DR application
- Staff will return DR applications that do not rise to a substantive planning level, i.e. views and construction issues. Formal letter issued.
- Commission to delegate to Hearing Officer DR cases that demonstrate exceptional and extraordinary circumstances
- Commission to review DR cases that require policy direction



# Revisions to DR Proposal

- **Improved pre-application procedures, forms, and accountability**
  - Standardized invitations with more project scope information
  - Invitation includes information on how to track permits on-line
  - Invitation includes contact information for general planning questions (Code, Design, process, etc.)
  - Standardized sign-in sheet
  - Standardized discussion summary sheet
  - Standardized mailing time frame of 10 days
  - Time and location requirements for pre-application meeting
  - Creation of a pre-application packet to clarify requirements (*draft available*)



## Revisions to DR Proposal – cont'd

- The Department will include an intake meeting at the option of the DR requestor to walk through the criteria of exceptional and extraordinary circumstances and understand the applicant's issue(s) with the project.
- Should the DR application be declined for lack of exceptional or extraordinary circumstances, the planner and supervisor will be available to meet with the DR requestor to explain the decision.
- The assigned planner and supervisor will be available to meet with the project sponsors if the RDT recommends project modifications.



# Benefits of Proposed DR Proposal

- Strengthen application of “exceptional and extraordinary” circumstances
- Improves the pre-application process; help prevents DR
- Enhanced internal review process that improves projects prior to public notification
- Hearing Officer to provide secondary, external review of Department decisions in a public forum
- Provides Neighborhood Organizations with a guaranteed voice in neighborhood development.
- Maintains Commission’s authority to take DR



# DR Reform Recommendations

- Miraloma Park Improvement Club
- Henry Karnilowicz, Occidental Express
- Bret Harte Terrace-Francisco Street Neighborhood Association
- Georgia Schuttish, Resident
- Joe Acayan, Resident
- Coalition for San Francisco Neighborhoods
- Matt Chamberlain, GWPNA
- Penelope Clark, Russian Hill Neighbors
- Rose Hillson, Resident
- Peter Cohen/Paul Wermer/Judy Hoyem
- Alfred Martinez, Resident



## Next Steps

- Proposal to Commission for Initiation  
March 19, 2009 (*tentative*)
- Proposal back to Commission for  
Adoption Spring 2009.

