



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Discretionary Review Reform Policy Adoption Hearing HEARING DATE: APRIL 2, 2009

Name: **Proposal to Reform the Discretionary Review Process**
Initiated by: Planning Commission as part of the Action Plan
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Recommendation: **Adopt Policy Resolution and Resolution of Intent to Initiate Amendments to Planning Code Sections 311 and 312 to Improve the Discretionary Review Process**

BACKGROUND

The Planning Department's Action Plan was endorsed by the Planning Commission on July 17, 2008, and one of its six objectives was to "enable the Planning Commission to focus on higher-level policy issues". In order to achieve this objective, the Action Plan suggests "reform[ing] the Discretionary Review process, with the public, the Planning Commission, and staff as intended beneficiaries". Discretionary 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". The Planning Commission's discretionary review authority is in Article 1, Section 26 of the Business and Tax Regulations Code, which the City Attorney first interpreted in 1954. The opinion notes that this is "*a sensitive discretion and one which must be exercised with the utmost restraint*" (emphasis added). The current Discretionary Review process does not produce consistent or fair results, creates conflict in neighborhoods, has created unrealistic expectations on the part of filers and project sponsors, makes the development process more lengthy and costly for all involved, and takes time away from the Commission to address larger planning issues.

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As a result of the Commission's endorsement of this Action Plan, the Department created an internal working group – comprising of Glenn Cabrerros, Lisa Chau, Kate Conner, Elaine Forbes, Jonas Ionin, Cecilia Jaroslowsky, David Lindsay, Craig Nikitas, Scott Sanchez, Aaron Starr, Tina Tam and Elizabeth Watty – that began meeting weekly starting on August 5, 2008, to develop a draft proposal to reform the Discretionary Review process. The internal working group reviewed the Board of Supervisor's Budget Analyst audit (June 2002), the Matrix Consulting report (February 2008), and the SPUR/AIA report (September 2007); and also researched other jurisdictions processes, reviewed case trends, and used professional experience in order to develop a draft Discretionary Review (DR) reform proposal.

The working group conducted extensive public outreach in formulating the Department's proposal. This report includes a summary of that outreach, and details about the public's suggestions and recommendations. It describes the Department's revised DR reform proposal, and lists policy options for the Commission's consideration. The Department's proposal seeks to improve substantially the DR process, while recognizing that the public relies heavily upon this process as a way to be engaged in the development process. Consequently, the Department recommends a phased implementation of DR reform so that the Commission and the public are able to evaluate the results from Phase One – a series of intended positive improvements – before initiating additional reforms under Phase Two.

The Department recommends that Phase One of DR reform should include improvements to the pre-application process and to the internal design review process, and a requirement that DR applications demonstrate “exceptional and extraordinary circumstances” in order to advance to a Commission hearing. These reforms directly address several of the shortcomings of the current DR process, while deferring the more controversial options – notably delegation to a Hearing Officer, story poles, and the codification of the Discretionary Review process – to Phase Two. As noted above, the Commission would direct the Department to initiate this second phase only after reviewing and weighing the results of the first phase through a public process.

PUBLIC OUTREACH

Staff sought comments and feedback about the Department's draft DR reform proposal from members of the public in four community outreach meetings, which were held at the Department on October 29, November 5, 12 and 19, 2008, from 6:00 to 7:30 pm. Eighty-five individuals (Attachment III of this report) attended these meetings, providing staff with valuable feedback. Additionally, staff shared the proposal with the Action Plan's Advisory Committee on October 13 and November 21, 2008, with the Coalition for San Francisco Neighborhoods on October 13, 2008, with the larger Stakeholders group on November 5, 2008, and with the Neighborhood Network on February 6, 2009.

On December 11, 2008, the Planning Commission held an informational hearing regarding DR reform, during which Department staff presented an initial proposal and sought guidance on several issues. After public comment, the Planning Commission asked the Department to conduct additional public outreach and asked community members to present their own proposals to the Department.

On January 15, 2009, the Department mailed an invitation to all individuals who had expressed interest in the DR reform effort, as well as all registered Neighborhood Organizations, requesting DR reform

proposals and comments. The invitation offered attendees the opportunity to present their proposals at a community outreach meeting on February 10, 2009. Director Rahaim also reminded members of the public about this opportunity during the Director's Report at the Planning Commission hearing on January 15, 2009.

Thirty-eight individuals attended the February 10, 2009, outreach meeting, with eleven formal proposals being presented (Attachment IV to this report includes the attendance list, and Attachment V includes 10 of the 11 formal proposals which were submitted in writing to the Department). These proposals – from Jed Lane, Miraloma Park Improvement Club, Henry Karnilowicz of Occidental Express, James Lew, Bret Harte Terrace-Francisco Street Neighborhood Association, Georgia Schuttish, Louis Felthouse, Matt Chamberlain, Penelope Clark, Russian Hill Neighbors, Rose Hillson, Peter Cohen/Paul Wermer/Judy Hoyem, San Francisco Neighborhood Network, Alfred Martinez, and Sue Hestor – in conjunction with feedback from the Commission, provided staff with valuable suggestions. The Department has also received written comments from 46 individuals and organizations (see Attachment VI), including the Law Firm of Reuben and Junius, Alan Burradell, Alexander Schroeder, Candace Barnes, Dipak R. Patel, William Pattengill, Victor Tam, Steven Aiello, John Lum, Linda Frey, Paul Wermer of PHRA, Louis H. Felthouse Architects Inc, Frederick Clifford Gibson Architect and Associates, Nancy Wuerfel, Gary Bell, Cow Hollow Association, John Schlesinger, Henry Karnilowicz of Occidental Express, Joe Acayan, Marada De Ley, Sandra and Fred Herrera, Kimberlee Stryker Design (Landscape Architecture), Steve Kopff and Pete Lenox, Cedric Dupont, Joshua Gnass, Erik R. Puknys, Kristin Hansen, Peter Cohen, Coalition for San Francisco Neighbrohoods, Sarosh D. Kumana, Miraloma Park Improvement Club, Building Owners and Managers Association of San Francisco, David Ehrlich, Heidi Liebes, Kevin Dill Architect, Lisa Wong Architect, Michael Pierry, Levy Art & Architecture, Chet Matuszak, Aaron Goodman, Dennis O. Flynn, Edith McMillan, Fred T. Horsfield, Gast Architects, and Sternberg Benjamin Architects; *letters in support (same letter - 1 copy included) from Patricia and William Magee, Michael Cole, John Walker, Troy Cole, Bill DiFranceco, Ruccetti, Bernice Cole, Frank Ruccetti, Gus Cole, and Jasmine Cole*.

Public comments submitted to the Department made evident a general desire to broaden the scope of DR reform to include a more holistic analysis of the Department's application review process. Since DR is often a symptom of problems in the review process, a broader approach does make sense. However, staff believes there is a need to establish a proposal that can be adopted by the Commission and implemented by the Department in the near term. With this understanding, staff has crafted a proposal that responds to the shortcomings in the review process that can be addressed in the near term, while identifying specific issues that require longer-term review. The Department recommends phased implementation for the DR reform effort, and has identified elsewhere in this report other issues that are being addressed under separate reform efforts in the Department's Action Plan, such as Universal Planning Notification and Design Review improvements.

DISCRETIONARY REVIEW REFORM PROPOSAL: GOALS AND STRATEGIES

The Department suggests the following DR reform proposal:

Goals of the Department's DR Reform Effort

The Department believes that phased implementation of the DR reform effort outlined below “enable[s] the Planning Commission to focus on higher-level policy issues outlined in the Department’s Action Plan”. The Department established eight goals as a means to ensure that the Action Plan’s objective – of having the public, the Commission, and staff as beneficiaries of this effort – is attained. The Department’s goals for DR reform are as follows:

1. Provide for early community engagement in order to create a dialogue about potential adverse impacts to surrounding properties and neighborhood character.
2. Provide more information and education to the public and project sponsors about the DR process, including policies and procedures for its appropriate implementation.
3. Improve the internal application review process so that only projects that comply with the applicable Design Standards are sent out for public notification.
4. Offer more transparency and information to the public and project sponsors about project applications and the Department’s decision-making in project evaluation.
5. Ensure that outcomes of the DR process are fair and predictable in order to create a more consistent and equitable entitlement process for project sponsors and the public.
6. Significantly reduce the time and cost of the DR review process for those applications that do not demonstrate “exceptional and extraordinary circumstances”, and reduce the overall time and cost of the application review process.
7. Identify policy issues for the Commission’s consideration and resolution, to better respond to neighborhood-specific issues, changes in the built environment, and policy priorities.
8. Maintain all of the benefits of the current practice, which includes an open process where the public has the opportunity to vet their concerns, an ability for the Department to mandate design improvements to a project, a third party review of the Department’s professional determinations, and an opportunity for the Planning Commission to review emerging planning issues.

Strategies to Achieve Goals for Reform

Phase One

- **Strengthen the pre-application process;**
- **Provide better public information, including an updated and more detailed website, DR application, and maps;**
- **Improve the internal design review process (already commenced);**
 - Including changing the name of the “Residential Design Guidelines” to the “Residential Design Standards”, in order to underscore its required application.
 - Standardizing the internal review process and improving the quality of design by mandating Residential Design Team (RDT) review of most projects and memorializing and publicizing the design decisions made by the RDT.
- **Define and apply criteria of “exceptional and extraordinary circumstances”;**
 - Require DR requestors to demonstrate “exceptional and extraordinary circumstances” in order to have a Commission hearing.
 - Provide the opportunity for the public to request a review of the Department’s application of Design Standards to a permit application, without demonstrating “exceptional and extraordinary circumstances”, and provide a filing fee refund if the Department was in error.
- **Establish a timeline for the processing of DR applications;**
 - DR applications that show “exceptional and extraordinary circumstances” will go to hearing within 90 days of filing.
- **Identify policy issues for the Commission’s consideration.**
- **Use Commission decisions as policy guidance for review of future projects.**

Phase Two

- **Require story poles for certain project types to better inform neighbors and the community of the size and location of a proposed project;**
- **Delegate review of DR applications to an independent professional Hearing Officer, who is an employee of the Commission;**
 - Options range from full delegation to a Hearing Officer (with or without volunteer advisors from community organizations and design professional groups) to a subcommittee of the Planning Commission, to no delegation of authority over DR Hearings.
- **Codify the DR process.**

COMMUNITY ENGAGEMENT AND COMMUNICATION

Pre-application

The most frequent recommendation for reform of the DR process from both the Planning Commission and community organizations was to improve the pre-application process. The pre-application process provides a forum to facilitate early discussions about development proposals with neighboring property owners and tenants, as well as with neighborhood organizations. The intent of the pre-application meeting is to provide an open discourse about the goals of the project and to vet any concerns of neighbors. Project sponsors are not required to modify a project in response to neighbor concerns; nonetheless, such early meetings provide all parties with the opportunity to discuss issues at the outset of the process and provide an opportunity for the project sponsor to make modifications in response to neighborhood comments. This early dialogue enables a discussion of design options before substantial time and costs have been invested in the creation of drawings and submittal of applications for a project. In response to public recommendations, staff has attached a "Pre-Application Packet" for consideration (included as Attachment VII of this report). The goal of this packet is to provide a "user-friendly" guide for project sponsors and the public, with clear pre-application requirements for specific information about the project and the City's development process to be documented on standardized forms. If endorsed by the Planning Commission, the packet will be available through the Planning Department's website and at the Planning Information Center.

The pre-application process is intended to bring neighbors together in good-faith efforts to discuss any initial concerns and possible adverse impacts from a project, and to discuss the project's compatibility with the surrounding neighborhood context. The pre-application process is not, however, intended to be a forum in which to discuss personal design preferences, lifestyle choices, or to question the project sponsor's intent for development of their property. The pre-application process has been successful for many people, and the Department hopes that the additional information provided in the invitation, the new standardization of this process, and the better-defined requirements for project descriptions, will provide even more parties with positive outcomes. These improvements may also reduce the number of DR filings.

The Department believes that the following reforms to the pre-application process will add much-needed transparency and accountability by mandating that the meetings occur in a standardized, consistent, and more effective manner.

- **Increased scope of projects required to conduct pre-application meetings.**
 - Projects located in NC Districts would be required to conduct pre-application meetings based on the scope of the project (e.g., new construction, vertical additions that add 7'-0" or more to the existing building height, or horizontal additions that add 10'-0" or more to the building depth at any level). Building alterations in NC Districts typically affect residential properties and have impacts outside their zoning districts.
 - Submittal of Variance and Conditional Use applications will require pre-application meetings if their submittal occurs prior to the submittal of an associated building permit application that would trigger a pre-application meeting under the item above.

- **Standardized invitation**
 - Includes property owner(s)' name(s), project sponsor's name, contact phone number and email, project address, block and lot numbers, project description.
 - Includes a project description, existing dimensions, proposed dimensions, and Planning Code-compliant dimensions/measurements.
 - Includes information on how to track building permit applications on-line, seeing when permits are submitted and the assigned planner.
 - Includes the phone number and email for public information about the Planning Code and "Residential Design Standards".
- **Standardized issues/response form**
- **Standardized sign-in sheet, with a check box to indicate a request for reduced plans.**
- **Standardization of meeting location**
 - Meetings must be held at one of the following locations:
 - At the project site;
 - At an alternate location within a one-mile radius of the project site; or,
 - The project sponsor can pay a fee to have a Department-Facilitated Pre-Application at the Planning Department, with staff present to provide technical expertise only. The Department will develop a cost recovery fee for this service which would be the responsibility of the project sponsor.
- **Meeting Time**
 - Meetings must occur on weeknights between 6:00p.m. - 9:00p.m. or on weekends between 10:00 a.m. - 9:00 p.m, unless the pre-application meeting requirement will be satisfied through a Department-Facilitated Pre-Application meeting, in which case it will occur during Department business hours in order to allow for staff attendance.
- **Standardized advance notice of the pre-application meeting**
 - Meeting invitation must be mailed 14 days before meeting (postage date stamp will be used as proof of mailing).
- **Documentation required for project submittal**
 - Internal requirement to mandate receipt of standardized invitation, list of people/organizations invited, sign-in sheet, issues/response form, reduced plans presented at the meeting, and a signed affidavit.

To strengthen further community engagement and communication in the process, the Department has created an on-line map of the neighborhoods throughout the City that provides active links to the names and addresses of all neighborhood organizations registered within each neighborhood. This provides a convenient tool for project sponsors who need to contact the organizations in their neighborhood for the pre-application meetings.

Despite the improvements to the pre-application process discussed above, there will be cases where neighbors are not amicable with one another, when good-faith efforts are not being made, and when unreasonable expectations exist with one or both parties. Further, no matter how much the pre-application process is modified to provide more information or stricter procedural requirements, there will also be some circumstances where neighbors “agree to disagree” about development. *These* are the instances where the DR process will continue to be used, and for *these* situations, the Department must further reform the DR process.

IMPROVED COMMUNICATION

A theme heard throughout this process, both from members of the public and the Commission, is that there is a general lack of communication between the various parties in the development process. The concerns mentioned fall into two basic areas: 1) policies and procedures – how the Department’s internal policies are communicated, how hearings are conducted, and steps in the building permit application process; and 2) project-specific communication – how a specific proposal is communicated to the general public and to neighborhood groups.

To address the first set of issues, staff is proposing two changes:

- 1) Creating a web page to act as a repository of information about the DR process and the Department’s policies related to DR; and,
- 2) Providing DR applicants the option of a DR intake meeting. To address the project-specific issues, staff is proposing a requirement for the use of story poles on projects of a certain size. Staff recommends story poles under Phase Two implementation; more detail is covered later in this report (see page 21).

Most of these proposals can be done without Planning Commission action as they are internal changes to Department procedures; however the Department considers these items essential to DR reform and seeks the Commission’s endorsement of these concepts.

Web-site with Comprehensive DR Information

A lack of readily accessible information about the DR process was a subject broached by the Commission and members of the public, and staff has recognized this as a problem for some time. While general DR information is available on the Section 311/312 Notice and on the DR application, there is no comprehensive source of information about hearings, process, continuances, and past DR outcomes. Inconsistent information is also a problem, because many of the Department’s procedural policies are not published or easily accessed by the public. Information given to the public may differ among individual planners or neighborhood quadrant teams, and DR applicants may not know what types of questions to ask planners since they have never taken part in a DR hearing. To address this problem, the Department is proposing to create a FAQ page on its website that is entirely devoted to DRs. The site will include, among other items, a concise and clear description of the DR process, the definition of “exceptional and extraordinary circumstances,” a list of frequently asked questions about DR, a link to the DR application and a repository of past DR decisions.

DR Intakes

The Department's current proposal allows a DR application to be declined by the Residential Design Team (RDT) without a public hearing for failing to meet the "exceptional and extraordinary circumstances" criterion. The reasoning behind this is to provide more time for the Commission to focus on policy-related issues and on those projects that require Commission review (e.g., CUs and 309s) or that do demonstrate "exceptional and extraordinary circumstances." It will significantly shorten the DR process for projects that meet the "Residential Design Standard's".

Generally this idea received positive responses from members of the public, particularly past project sponsors, as well as members of the Planning Commission. However, there was a concern that without a public hearing, DR applicants would not be able to communicate their case as well in writing on the application as they might during a public hearing. To address this, the Department proposes offering a voluntary DR intake appointment, where staff would meet with the DR requestor to review the application within one week of filing. This would not affect the 30 day filing deadline.

Staff believes this meeting will provide an opportunity for the DR requestor to clarify issues on their application and to ask questions of staff; it would also provide staff an opportunity to ask questions of the DR applicant to ensure that staff understands the salient issues in the DR request. This meeting would be optional, so that those who are more experienced with the DR process could choose not to meet. There would be no additional fee for the intake meeting should the DR requestor wish to take advantage of this option.

Further, staff recommends an opportunity be given to the public to request a review of the Department's application of the Design Standards as it relates to a permit application, without demonstrating "exceptional and extraordinary circumstances". The Department will provide the requestor a filing fee refund if the Department was in error.

Need for Realistic Expectations

Staff found that parties involved in a DR often know very little about the process and have unrealistic expectations about the likely results. These range from expectations on the part of DR applicants of what their rights are with respect to development on adjacent lots or those who believe that projects will be modified due to mediation or a compromise regardless of the merits of the objection, to project sponsors who believe that they only need to meet the Planning Code and can advance an out-of-scale and inappropriate project by bringing it before the Commission rather than modifying the project to address the Department's concerns. Staff has also heard numerous descriptions of inappropriate financial exchanges between project sponsors and DR applicants.

The primary remedy to this is to define "exceptional and extraordinary circumstances" and to require that DR requests demonstrate these circumstances in order to merit a hearing.

Another remedy is to clarify the process for unsupported projects. Since DR is meant to be a second look at projects that do comply with relevant Design Standards, project sponsors would not be able to initiate DR for projects that DO NOT meet the Standards. Instead, the staff-initiated DR process for unsupported projects would be followed.

A CONSISTENT AND TRANSPARENT PROCESS

The entitlement and permit review process can be a lengthy and often confusing endeavor for both the applicant and members of the public. Project sponsors are often frustrated with the amount of time it takes to receive entitlements and approvals to proceed with their projects, and neighborhood groups are often frustrated with the lack of consistent application requirements. While many issues are outside the Department's control, there are aspects of this problem that the Department believes can substantially improve not only the consistency and predictability of the process, but also its fairness. Those areas include: 1) providing a consistent and predictable internal review process; 2) providing a clear definition of "exceptional and extraordinary circumstances"; and 3) providing a fair and predictable DR process, including the certainty of timelines for a DR hearing.

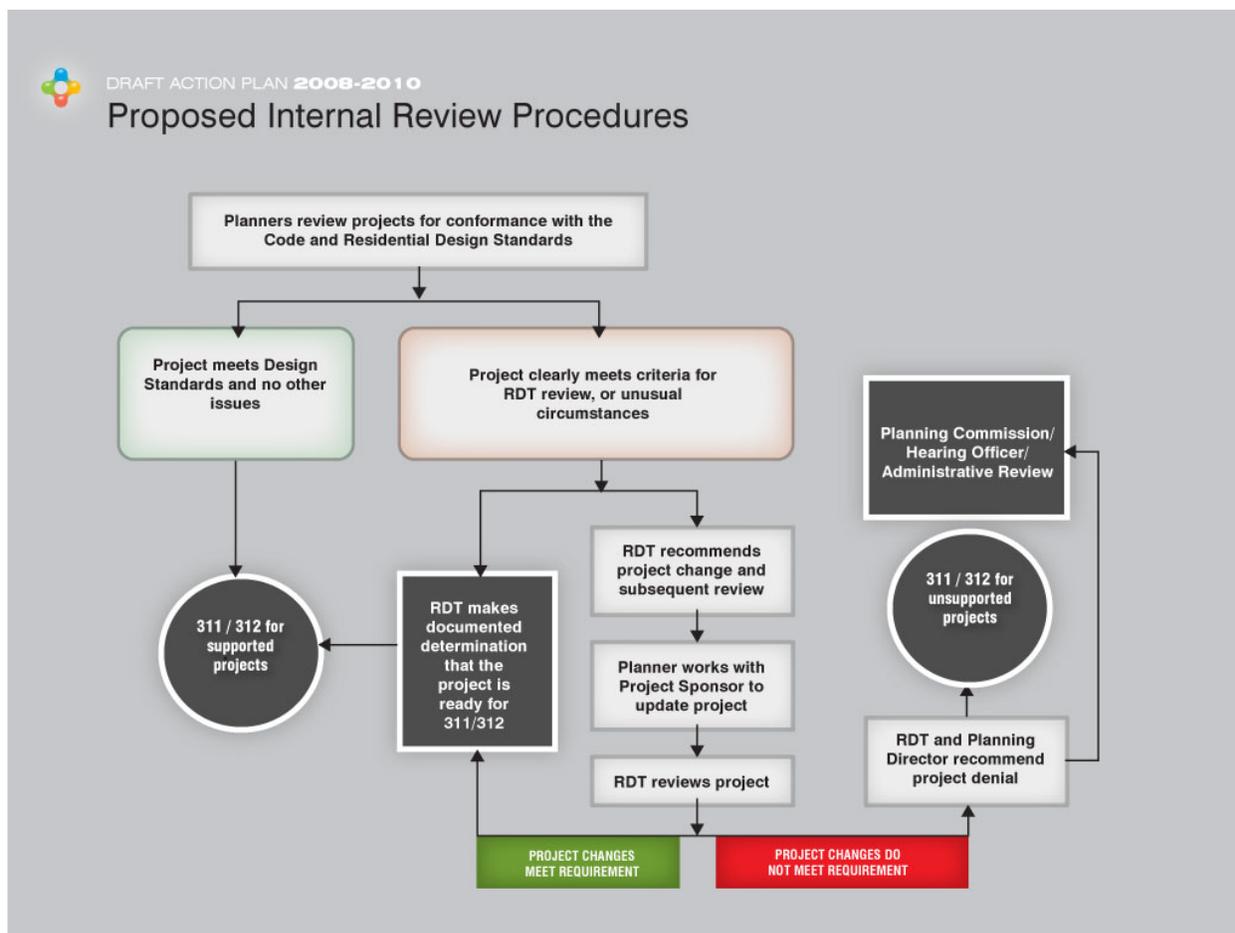
Improved Internal Review Procedures

At the outset of the DR reform effort, the Department recognized that internal review quality and consistency was a contributing factor in the reliance of the public on the DR process. Staff recommends improving internal design review procedures to heighten consistency, transparency, and public confidence in the quality of projects being noticed and approved by the Planning Department, and the Department has already implemented this on a trial basis.

A separate group is developing recommendations for a comprehensive Design Review process, and will bring those recommendations to the Commission as part of the advancement of the Department's Action Plan.

Presently, the Department has created quantitative metrics for the "Residential Design Standards" in order to create more consistency in our internal review, and as a result, better quality projects (See Attachment VIII.) These metrics set thresholds at very low levels, so that projects not exceeding the thresholds are small enough in scale and impact that they COULD NOT rise to the level of "exceptional or extraordinary". The majority of development proposals that require public notification under Sections 311 or 312 of the Planning Code will exceed these metrics. As planners review projects, those projects that exceed the metrics will be required to receive a secondary review by the RDT, a group of seasoned planners well-versed in the application of the "Residential Design Standards". The RDT currently consists of eight planners, with representation from all four neighborhood quadrants.¹ The RDT will review the project as submitted and will make documented recommendations as to whether the project needs to be modified in order to comply with the "Residential Design Standards" or whether it meets all Design Standards and is ready for public notification. RDT recommendations are included in any project file, for transparency when project modifications are sought or the public has concerns about a project. The flow chart on the next page describes of the Department's proposed internal review procedures.

¹ Current membership of the RDT includes: Craig Nikitas (*Director's Office*), Tina Tam (*Preservation Coordinator*), David Lindsay (*Northwest Team Leader*), Glenn Cabreros (*Northwest Team*), Tim Frye (*Northeast Team, Preservation Planner*), Ben Fu (*Southeast Team*), Michael Smith (*Southwest Team*), and Elizabeth Watty (*Southwest Team*).



The goal of requiring secondary review by the RDT is to facilitate a consistent application of the “Residential Design Standards” for projects that expand existing building envelopes. Staff believes that this internal process (which was recommended during the December 11, 2008, Planning Commission hearing) is a strong improvement to the Department’s procedures, and began implementing them February 1, 2009. The Department found that the results thus far have been positive with regard to consistent and improved design, and that there have not been any substantial delays in the timely processing of projects.

In order to ensure that a sponsor’s project rationales are understood by staff, and to prevent any misunderstandings with regard to the Department’s recommendations, the staff planner and his or her supervisor will offer to meet with project sponsors if the RDT recommends project modifications during any stage of review. This will enable a project sponsor to explain thoroughly the intent of the project and will provide a venue for a discussion between the project team and department staff. The project planner may always return project to the RDT if there are issues that were not communicated during the original review by the RDT.

Due to the RDT’s systematic review of a broad scope of projects, the RDT will be well-suited to identify policy issues associated with residential development. As a reference for the Commission and senior management, the RDT keeps a running log of emerging policy topics and issues that arise from the

common-place application of the “Residential Design Standards” and Planning Code (included as Attachment IX of this report).

Definition of Exceptional and Extraordinary

Defining “exceptional and extraordinary” is one of the biggest challenges in improving the DR process; currently the term lacks specificity, which creates uncertainty in the process and produces inconsistent results in the review process. Defining “exceptional and extraordinary” would also help potential DR filers to decide whether a DR is warranted, and how to frame their argument within a planning context. Staff weighed several different approaches to defining this term, ranging from citing specific examples to quantifiable measurements. However, these approaches proved to be too limiting in their reach and could not address every potential situation. In the end, staff felt that a definition that was based upon adopted policies and guidelines would be more useful.

Since the “Residential Design Standards” (referred to as the Guidelines) were developed to provide a regulatory means to require projects to respond to their context, and given that the “Residential Design Standards” can not anticipate every situation, staff recommends that the definition of “exceptional and extraordinary” be based upon limitations inherently expressed in the “Residential Design Standards”. For the Commission’s consideration, staff developed the following definition of “exceptional and extraordinary” as it pertains to development:

“Exceptional and extraordinary circumstances occur where the common-place application of adopted Design Standards to a project does not enhance or conserve neighborhood character, or balance the right to develop the property with impacts on near-by properties or occupants. These circumstances may arise due to complex topography, irregular lot configuration, unusual context or other conditions not addressed in the Design Standards.”

This definition allows a broad range of issues to fall within the definition of “exceptional and extraordinary”, but also allows past precedents and established policies to determine when a project does not present an exceptional and extraordinary circumstance. Under this definition, projects that have unusual site constraints or design challenges that are not addressed in the “Residential Design Standards” would be heard by the Commission or Hearing Officer; DR applications where policy has already been decided based on the “Residential Design Standards” could be dealt with at a staff level.

Examples of Exceptional and Extraordinary Circumstances in Recent DR Hearings

1911 Funston

1911 Funston Avenue is unusual in that it is on an extremely steeply sloped lot, adjacent to a public stairway, Aerial Way, and where all of the adjacent homes are aligned at the rear. While privately owned, the rear yards for these houses have historically acted as a public amenity, providing open space and a view shed to pedestrians who use the Aerial Way. The proposed project was to construct a 2-story horizontal addition at the rear of the existing 2-story, single-family dwelling. The lot’s severe slope meant that the any addition to the rear of the building would be significantly taller than just the height of the enclosed space. In fact, the proposed addition for this project measured 72’ above grade at the zero, downslope edge.

The Staff planner assigned to this project required reductions to the original proposal in accord with the Residential Design Standards before it was sent out for 311; however the neighbors still filed a DR on the project because of the impact the addition would have on their properties, the public view, and neighborhood character. The Commission concurred that there was an exceptional and extraordinary circumstance and required further reduction to the project so that those impacts were reduced.

The Design Standards contain guidelines for sculpting a building when all of the buildings at the rear are aligned; they address major public views. However, they do not address situations where the slope creates a structure that is three times the height that it would be if it was constructed on a flat parcel, or where the view is relatively minor, but which is a particular public amenity that helps define neighborhood character. Because of these issues, this project demonstrates exceptional and extraordinary circumstances and a DR request would be brought to the Commission if a DR was filed on the project.

2 Kronquist Court

2 Kronquist Court is located at the end of a cul-de-sac on a lot that is oriented so that the long side of the lot is parallel to the street. Most of the buildings along Kronquist are two stories tall, and built by the same developer during the 1950s. While many of the buildings have been altered, the block maintained cohesive two story massing. The proposed project was to construct a 3rd story addition onto a 2-story single-family home, which would have disrupted 2-story massing pattern.

In a typical situation, the Residential Design Standards would require that the addition be setback 15' from the main wall of the front façade to maintain the scale on the block face. However, the particular lot situation here, including its location at the end of a (rare in San Francisco) cul-de-sac and its orientation to the street, meant that the standard application of the Residential Design Standards would not have been optimal given the orientation of the lot. In the end, the Commission took DR and decided that the addition should be moved away from the east side property line –the center of the cul-de-sac- to preserve the two-story massing. Because of the special lot situations and limitations of the Residential Design Standards, a project such as this would still be brought to the Planning Commission if a DR was filed on the project.

101 Poppy Lane

Poppy Lane is a small alley bound by Moffitt, Sussex, Bemis and Diamond Streets near where Glenn Park, Diamond Heights and Noe Valley converge. 101 Poppy is the only lot that exclusively fronts Poppy Way, so the entire lot is located within the mid-block open space. The lot also has a slope greater than 20%. The property is zoned RH-1 and the proposal was to construct a 3-story, 4,600 sq. ft. single-family house. Many of the neighbors who looked out onto the subject property felt that the development was too large and out of context for the site and filed a DR on the project.

The Residential Design Standards was designed to address a typical lot situation in San Francisco where all of the lots face a main street, and the area at the middle of the block is kept free of development to serve as the mid-block open space. They do not address situations where an entire lot is located within the mid-block open space. A project like this demonstrates exceptional and extraordinary circumstances and would be brought to the Planning Commission because of the unusual lot situation not addressed by

the Residential Design Standards. In the end, the project sponsor modified the size of the proposal and the Commission agreed that it was appropriate given the context. However, the Commission did place landscaping and construction time conditions on the approval to further mitigate the impacts of the development on adjacent neighbors.

Examples of Circumstances Not Exceptional and Extraordinary

The following four graphics illustrate three project applications that would not qualify as exceptional and extraordinary – the proposals all fall within precepts of the Residential Design Standards.

GRAPHIC A: EXISTING NEIGHBORHOOD CONTEXT

To illustrate two typical projects that do not exhibit exceptional and extraordinary circumstances, here is a mid-block segment of two-story residential buildings in a consistently-developed RH-1 neighborhood.



GRAPHIC B: HYPOTHETICAL HORIZONTAL ADDITION

This enlarged photo shows the subject building in its existing extent in blue, with a proposed two-story rear extension (horizontal addition) in pink.

The proposed addition shown below steps down to the rear yard open space, and is inset five feet on each side. The residential design standards recognize this condition (Page 27), and allow well-sculpted additions, which minimize their impacts on the mid-block space, to extend beyond the rear building walls of neighbors.

This project does not exhibit exceptional or extraordinary circumstances.



GRAPHIC C: HYPOTHETICAL VERTICAL ADDITION

This enlarged photo also shows the subject building in its existing extent in blue, with a proposed third-story vertical addition in pink.

The proposed addition shown is set back fifteen feet from the existing main building wall, and is also held back ten feet from the existing rear walls of the subject and adjacent buildings. The Residential Design Standards recognize this condition (Page 25), and allow well-designed additions to extend above the prevailing building heights if they are set back to maintain the street wall, and if they eliminate high roof parapets by providing fire-resistive roof assemblies, thus minimizing visual impacts of the additions.

This project does not exhibit exceptional or extraordinary circumstances.



GRAPHIC D: CONTEMPORARY FAÇADE DESIGN

This photo below illustrates a newer residential building (2003) in an established neighborhood with a much older but somewhat mixed context. Most of the neighboring buildings were constructed between 1902 and 1914, and many are Italianate or Mediterranean in style.

The new building acknowledges the important characteristics of its neighbors, but does so in a non-historic, contemporary vocabulary that has elements of Craftsman, Japanese, and Moderne design. It is successful because it respects the heights, massing, proportions, articulation patterns, topography, and materials of its block. Where its elements deviate from the older context (windows, railings, cornice), they do so to contribute to a strong, well-integrated, and rational design, which enhances the richness and rhythms of the blockface.

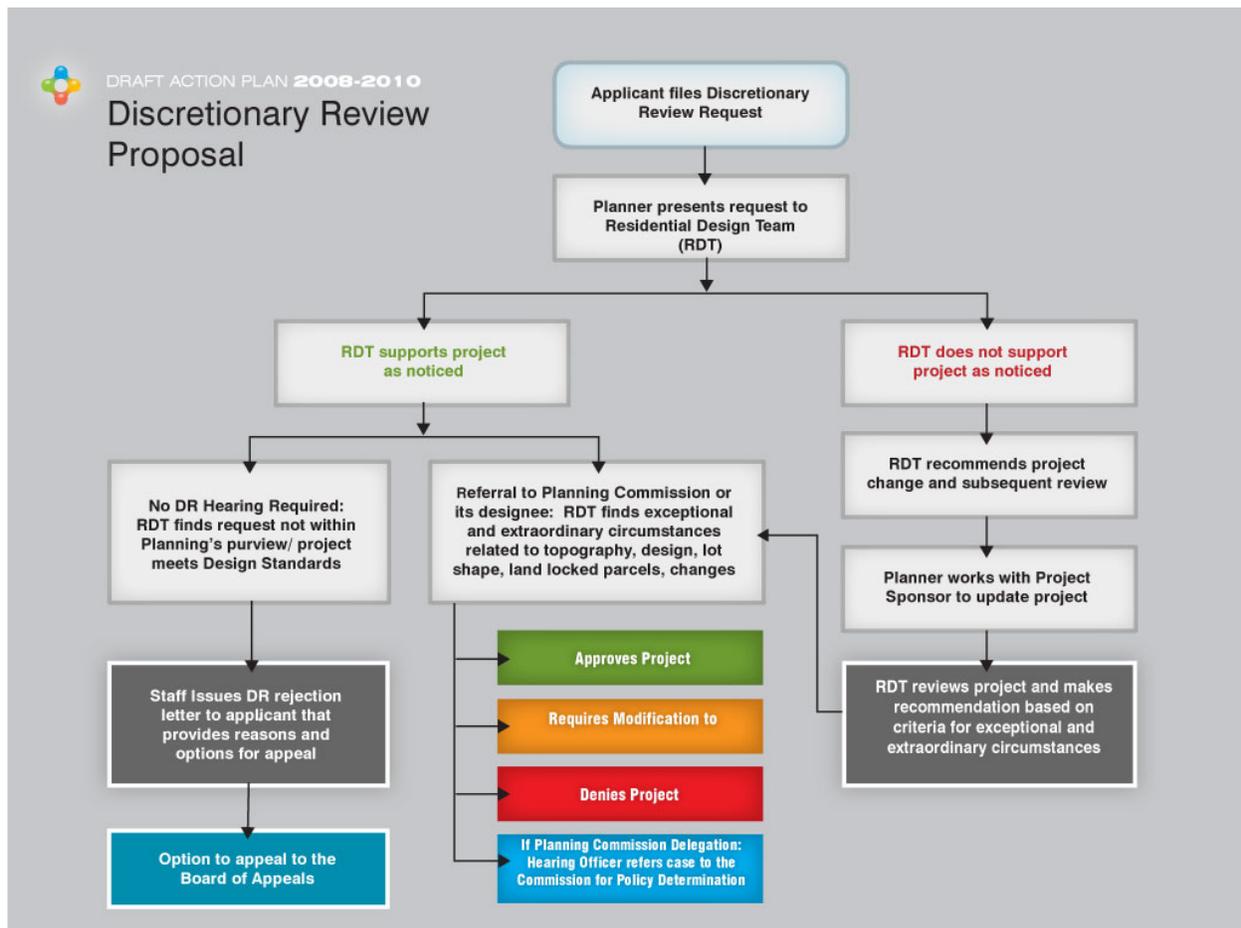
The Residential Design Standards strive to conserve neighborhood character, but they do not mandate or encourage false historicism. Although this project was the subject of a DR request in 2001, because it is respectful of the established neighborhood character, and is also an excellent design “of its time,” there are no exceptional or extraordinary circumstances.



Review of DR applications

The RDT and the project planner will review a DR application and document the decision in a letter to the DR requestor that explains why “exceptional and extraordinary circumstances” are not present, or alternatively, in its referral to the Planning Commission or its Hearing Officer, the RDT will provide a rationale for why they agree with the DR requestor that there are “exceptional or extraordinary circumstances”. If the RDT agrees with the DR requestor that changes are necessary to the proposed project, the project planner will work with the project sponsor to make the necessary changes. The RDT will document for the Planning Commission or its Hearing Officer whether the RDT supports the project as modified.

If a DR request requires policy guidance in order to be resolved, the Department believes the case must be referred to the Commission. See the Section of this report titled “Exceptional and Extraordinary” for examples of projects that would fall under this category.



Conversely, if the RDT feels that a DR request does not rise to the level of exceptional or extraordinary circumstances, and staff applied the Design Standards correctly, the RDT will instruct staff to deny the DR request. This denial will be in the form of a letter that outlines why the Department does not concur with the DR request, and it will inform the DR requestor of their rights to appeal the issuance of the

Building Permit to the Board of Appeals. A detailed explanation of “exceptional and extraordinary” circumstances is outlined above.

The Department also recommends that the public be given an opportunity to request review of the Department’s application of the Design Standards to a permit application, without demonstrating exceptional and extraordinary circumstances. This review would be with the RDT. If the RDT finds the Department in error, the Department would require modifications to the project and provide a refund to the requestor.

The Advisory Committee and other members of the public recommend that the Department increase opportunities for public input into the DR process. As such, the Department will include an intake meeting or post-intake meeting at the option of the Discretionary Review requestor so that the planner can walk through the criteria of “exceptional and extraordinary circumstances” and understand the applicant’s issue(s) with the project. This intake meeting will offer benefits to both the Department and the applicant as it would provide education to the requestor while providing a clear understanding of the issues to staff. Should the RDT ultimately find that the DR Application does not require a hearing because the issues are either not within the Department’s purview or because the project clearly meets the *Residential Design Standards*, the planner and his or her supervisor would offer to meet with the DR requestor to explain the decision in person.

Defined DR Time Period

The entitlement process is lengthy in San Francisco, taking anywhere from three-to-six months for a standard project to complete the Planning process. Add to that the time required by the Department of Building Inspection and other agencies to review the proposal, and it can take up to a year for a building permit to be issued for a simple residential addition to be issued. The DR process only increases the amount of time it takes to go through the Planning process.

Staff believes that DRs must be acted upon within a set time period so that a DR will not be drawn out over months and perhaps years. A drawn-out DR process can place a huge financial burden on project sponsors by increasing carrying costs, it can increase stress on families whose homes are affected by the delay and it can also create more acrimony between neighbors. In order to provide more certainty in the DR Process, staff is proposing the following policies to be adopted by the Planning Department:

- All DRs will be reviewed and acted on by the Residential Design Team within 30 days of filing.
- Projects that do not demonstrate an exceptional or extraordinary circumstance will receive a written letter from the RDT explaining the decision to deny the DR application within two week of the RDT’s determination.
- Projects that do demonstrate an exceptional or extraordinary circumstance must be heard by the Commission or hearing officer within 90 days of the application date, including any proposed continuances by the DR Applicant or the Project Sponsor.

POLICY OPTIONS AND FINANCIAL CONSIDERATIONS FOR THE COMMISSION

As previously stated, the Department recommends Phase One of DR reform, improvements to the pre-application process and to the internal design review process, and a requirement that DR applications demonstrate “exceptional and extraordinary circumstances” in order to advance to a Commission hearing, be implemented first. These reforms directly address several of the shortcomings of the current DR process, while deferring the more controversial options – notably delegation to a Hearing Officer, story poles, and the codification of the DR process – to Phase Two. As noted above, the Commission would direct the Department to initiate this second phase only after reviewing and weighing the results of the first phase through a public process.

Hearing Officer Delegation and Oversight (Phase Two)

The most controversial reform for community organizations is the delegation from the Commission to a Hearing Officer. The Department therefore recommends that this option be considered in Phase Two implementation, after the Commission has implemented and evaluated Phase One reforms. Should the Commission elect to delegate its authority to review DR to a Hearing Officer, staff will work with the Planning Commission to structure how authority is delegated from the Commission to the Hearing Officer and how to best relay information back to the Planning Commission. As a starting point, staff recommends that the Commission be referred all Discretionary Review cases that require policy interpretation for resolution. Staff recommends that this referral be through the Director, the Zoning Administrator or the Hearing Officer so that they all have an opportunity to refer such cases to the Commission. Staff also recommends that the Commission be briefed regularly, whether weekly, monthly or quarterly, on the disposition of DR requests and be made aware of technical clarifications on the Design Standards. Further, staff recommends that through the RDT and Hearing Officer processes, the Department improve the identification of policy issues that require Commission guidance and schedule hearings to address these issues on an as-needed basis. Staff will begin this process in Phase One implementation. These issues may include discussions about the applicability of the “Residential Design Standards” to a specific neighborhood context, the development of Neighborhood Commercial Standards and updates to the Urban Design Element (see Attachment IX).

Ultimately, the Commission will need to decide the best method to maintain oversight of its Hearing Officer. Options range from reporting requirements, administrative “consent” agendas, and decision ratification. Staff recommends robust reporting requirements over options that reopen DR requests since the Action Plan’s objective is to reduce impacts on the Commission’s calendar. Staff believes creating additional layers of review would harm, not help, the process. If the Commission prefers a ratification process or an appeal process from the Hearing Office to the Commission, it is better that the Commission continues to hear DR applications. Public comment did include some helpful suggestions for the Commission to consider related to the Hearing Officer concept, including adding two ex-officio volunteers to the Hearing Officer to present community and design interests.

Story Poles

Currently, Planning Code Sections 311 and 312 require project sponsors to notify property owners and occupants within 150’ of the subject property of a proposed development. The notice that goes out to the neighbors may include a full set of plans on 11”x 17” paper and a written description of the proposal that is prepared by staff. The applicant is also required to post the written description of their project on their building for the duration of the 30-day notification period. San Francisco is unique in the thoroughness

of its notification requirements; few, if any, other jurisdictions have such an extensive noticing requirements for projects of the scope subject to 311/312. Moreover, while thorough, the current requirements rely on the general public's ability to read plans and visualize how a project relates to adjacent properties.

In conducting the public outreach meetings on DR reform, the idea of requiring story poles came up frequently. The Department's current policy on story poles is that they are not required as part of the notification process; however as a "good neighbor" gesture, staff may recommend that the project sponsor put them up if requested by a neighbor. While researching this issue, staff found that several municipalities require story poles as part of the application and review process; however, those jurisdictions tend to be smaller communities where one's private viewshed is protected. Given the unique development pattern in San Francisco, staff believes that requiring story poles on certain types of project would be beneficial so that neighbors can better understand the massing of a proposed project.

There are several issues which need to be addressed with regard to story poles before they can be required as part of the 311 process. Among those issues are the added costs for erecting story poles, who will take responsibility for certifying their accuracy, how long they should and can remain up and at what point in the process should they be erected. While staff generally believes that the cost to erect story poles will be relatively minor, it will add to an already expensive process. Furthermore, to have story poles certified by an independent surveyor or engineer may cost several thousand dollars. The Department is currently developing policies and procedures for story poles and will bring recommendation to the Commission as part of Phase Two implementation.

Cost and Time of the New Process

Reflecting initial comments from the public, the Department is working to ensure that the new proposal will be less time- and cost-intensive than the current process to the public and project sponsors. The cost to the Department will be neutral proposal because the proposal requires more internal review, but DR applications should decline due to better community engagement, information, and setting realistic expectations. However, based on the initial proposal, the Department believes that for DR requests that do not demonstrate "exceptional and extraordinary circumstances", the cost to the project sponsor, the DR requestor and the Department will be substantially reduced. For requests that are "exceptional and extraordinary", the cost to the project sponsor and the requestor will be about the same. Staff believes it is appropriate to shift costs away from DR requests that are not "exceptional and extraordinary" to those cases that are.

Other comments suggest that staff should review cost-sharing options with the Commission to determine the appropriate source mix (i.e. DR requestor, project sponsor and building permit surcharge) for the program. Currently, the Department's approach places a small burden on the requestor and has the majority of the cost borne through the DR building permit surcharge. The Commission may wish to reconsider this.

CONCLUSION

The Department feels that the proposal, outlined above and in the Draft Policy Resolution (Attachment I), maintains the benefits of the existing process while advancing the key goals of the reform described on page 4 of this report. The proposal provides for more community engagement in the development process, improves communication and the quality of customer service provided to the general public and project sponsors, and creates a more systematic, transparent, predictable development process. Design standards will be improved by the heightened level of scrutiny applied to projects and by the renaming of the “Residential Design Guidelines” to be the “Residential Design Standards”. Overall, the Department’s DR reform proposal should provide improvements for all interested parties, which is the goal of the Department’s Action Plan.

Based on the community feedback, the Commission’s direction, and the DR reform proposals submittals by members of the community, the Department recommends that the Commission Adopt the Policy Resolution (Attachment I) to Endorse Phase One Discretionary Review Reform, and Adopt an Intent to Initiate Planning Code Amendments to Sections 311 and 312 to implement these improvements (Attachment II).

RECOMMENDATION: Adopt Policy Resolution and Intent to Initiate Amendments to Planning Code Sections 311 and 312.

Attachments:

- Attachment I - Resolution to Endorse Phase One Discretionary Review Reform
- Attachment II - Resolution to Adopt an Intent to Initiate Planning Code Amendment to Sections 311 and 312 to Implement Phase One Discretionary Review Reform.
- Attachment III – Attendance at October 29th, November 5th, 12th and 19th, 2009, outreach meetings
- Attachment IV – Attendance at February 10th, 2009, outreach meeting
- Attachment V – Formal Proposals from Community Members presented February 10th
- Attachment VI – Written Public Comments on the Department’s Discretionary Review Reform Proposal
- Attachment VII – Pre-application Packet
- Attachment VIII – Quantitative Metrics for the Residential Design Standards to Trigger Residential Design Team Review
- Attachment IX – Policy topics for the Commission’s Consideration



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE APRIL 2, 2009

Date: March 23, 2009
Case No. 2009.0227TU
Project Sponsor: Planning Commission
Staff Contact: Elaine Forbes, (415) 558-6417
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craig.nikitas@sfgov.org
Aaron Starr, (415) 558-6362
Aaron.starr@sfgov.org

Re: **Discretionary Review Policy**

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REVISING PLANNING COMMISSION POLICIES AND PROCEDURES FOR DISCRETIONARY REVIEW, INCLUDING EXPANDED AND STANDARDIZED PRE-APPLICATION AND PUBLIC INFORMATION REQUIREMENTS, A WELL-DEFINED DESIGN REVIEW PROCESS, A DEFINITION OF "EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES", AND A TIMELINE FOR THE PROCESSING OF DISCRETIONARY REVIEW APPLICATIONS.

WHEREAS, the current Discretionary Review process may not produce consistent or fair results, makes the development process more lengthy and costly for all parties involved, and diverts the Planning Commission from addressing significant planning issues; and

WHEREAS, the community is often disengaged from the early stages of project development, when the cost to the project sponsor of design modifications is typically lower; and

WHEREAS, the current Discretionary Review process is often exercised as a way to remedy poor communication throughout the development process; and

WHEREAS, Discretionary Review is driven by the temperament of neighbors, the level of community involvement, and the funding of the developer, rather than by sound planning principles and land use objectives, thus leading to uneven protections across neighborhoods; and

WHEREAS, Planning Commission decisions for individual cases may not lead to policy directives, thus producing varied results for similar projects; and

Planning Commission Policy on Discretionary Review Reform

WHEREAS, the Planning Commission does not see a representative sample of building permit applications and therefore cannot easily dispense consistent and standard treatment to those permits before them; and

WHEREAS, the current Discretionary Review process can lead to inappropriate financial exchanges and create conflict between neighbors; and

WHEREAS, projects that comply with the Planning Code and good design principles are often required to undergo significant time delays and spend a great deal of money, even when no changes are ultimately required; and

WHEREAS, the Planning Commission is in support of improved community engagement through a strengthened pre-application process; and

WHEREAS, the Planning Commission wants the Department to provide more transparency in its decision-making processes, policies, and procedures; and seeks improved public communication; and

WHEREAS, the Planning Commission changes the name of the "Residential Design Guidelines" to the "Residential Design Standards"; and

WHEREAS, the Planning Commission seeks to improve the quality of the Department's design review so that only appropriately-designed projects are noticed to the public under Sections 311 or 312, thus reducing the need for Discretionary Review as a means to gaining quality design for one's neighborhood; and

WHEREAS, the Planning Commission would like to focus its attention on broader-reaching policy issues, providing comprehensive direction to the Department rather than on a case-by-case basis; and

WHEREAS, the Planning Commission seeks to create a consistent and predictable process to ensure that outcomes of the Discretionary Review process are fair and reliable, and to reduce significantly the time and cost of the process for those requests that do not demonstrate exceptional or extraordinary circumstances; and

WHEREAS, the Planning Department staff has conducted its own research, engaged the community about Discretionary Review reform, and reviewed previous audits and reports about Discretionary Review; and

WHEREAS, the Planning Department recommends a phased implementation, with the first phase addressing a standardized and improved pre-application process, improved public information access, a well-defined design review process, a definition of "exceptional and extraordinary circumstances", and a timeline for the processing of Discretionary Review applications all as described in the attached Report, dated March 25, 2009, and adopted hereby.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission endorses Phase One of the Discretionary Review reform effort and urges the Department to implement the aforementioned Policy changes; and

FURTHER BE IT RESOLVED, that the Planning Commission will evaluate the effectiveness of these Policy improvements within a year of this Policy's effective date, and will consider additional reforms as recommended by the Department. The effective date of this Resolution will be upon the adoption of the related Planning Code Text Amendments pursuant to Case No. 2009.0227T.

I hereby certify that the foregoing Resolution was ADOPTED by the Commission at its meeting on April 2, 2009.

Linda D. Avery

Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: April 2, 2009

I:\Temp\Process Improvement\DR Reform\Commission_4.2\Policy Resolution.doc



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE APRIL 2, 2009

Date: March 26, 2009
Case No.: **2009.0227TU**
Project Sponsor: Planning Commission
Staff Contact: Elaine Forbes, (415) 558-6417
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ADOPTING AN INTENT TO INITIATE PLANNING CODE AMENDMENTS TO REVISE PLANNING CODE SECTIONS 311(d) AND 312(e) TO STATE THAT A REQUEST FOR DISCRETIONARY REVIEW WILL BE HEARD BY THE PLANNING COMMISSION OR ITS DESIGNEE IF THE APPLICATION DEMONSTRATES EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES, TO REMOVE THE OPTION FOR PROJECT SPONSORS TO REQUEST DISCRETIONARY REVIEW AND RELY INSTEAD ON STAFF INITIATED DISCRETIONARY REVIEW FOR UNSUPPORTED PROJECTS, AND ALL REFERENCES IN THE CODE TO THE "RESIDENTIAL DESIGN GUIDELINES" SHALL MEAN THE "RESIDENTIAL DESIGN STANDARDS".

WHEREAS, the Planning Commission derives its discretionary review (DR) authority from San Francisco's Municipal Code under the Business & Tax Regulations Code, Article 1 Permit Procedures, Section 26 (a):

"Subject to Subsection (b) below, in the granting or denying of any permit, or the revoking or the refusing to revoke any permit, the granting or revoking power may take into consideration the effect of the proposed business or calling upon surrounding property and upon its residents, and inhabitants thereof; and in granting or denying said permit, or revoking or refusing to revoke a permit, may exercise its sound discretion as to whether said permit should be granted, transferred, denied or revoked" (emphasis added); and

WHEREAS, the Planning Commission's discretionary powers were first interpreted on May 26, 1954 by Dion R. Holm in City Attorney Opinion No. 845, where Holm cautioned that the authority granted to the Commission by Section 26 of the Business & Tax Regulations Code should be reserved for "exceptional cases":

“I think it is entirely plain, on the authority of the above enunciated general principles, that the reservation of authority in the present ordinances to deal in a special manner with exceptional cases is unassailable upon constitutional grounds. The possibility of abuse of the power granted does not disprove its existence; that possibility exists even in reference to powers that are conceded to exist. An occasional wrong decision by the granting authority is of less importance to the community than the unrelieved arbitrariness of an iron-clad ordinance. This is, however, a sensitive discretion and one which must be exercised with the utmost restraint” (emphasis in original); and

WHEREAS, this Opinion was reaffirmed on April 30, 1979 by City Attorney George Agnost in Opinion No. 79-29, where he cited the importance of discretion in the land-use decision making process:

“The chief difficulty in establishing a zoning plan is to make it effective and at the same time avoid arbitrariness. Human wisdom cannot foresee the exceptional cases that can arise in its administration. With the great increase and concentration of population problems have developed, and constantly are developing, which require and will continue to require, additional restrictions in respect to the use and occupation of private lands in urban communities. (Village of Euclid v. Ambler Realty Co., 272 U.S. 365; Bassett on Zoning, New York Russell Sage Foundation (1940))...Sound administration requires that some person or agency be invested with discretion to determine whether the erection of a building of a particular kind or for a particular use, when considered in the context of circumstance and locality, constitutes a subversion of the general purposes of the ordinance.”

WHEREAS, on November 2, 1989, the Commission adopted the first guidelines for residential design, which were revised and incorporated into Planning Code Section 311(c)(1) on December 4, 2003. These Guidelines eliminated the arbitrariness of an iron-clad ordinance, and allowed for projects to be approved, modified, or denied by the Department based on consistency with these Guidelines. The Commission has the authority to delegate their approval function to the Planning Department under the San Francisco Charter, Section 4.105; and

WHEREAS, the “Residential Design Guidelines” are considered by many Project Sponsors to be a “guide” rather than a required set of design standards that must be applied to all new construction and alterations of residential properties in R Districts. In an effort to underscore the mandatory application of these Codified design principles in the review of every residential building permit in R Districts, the Department seeks to modify the Planning Code to change all references of the “Residential Design Guidelines” to “Residential Design Standards”; and

WHEREAS, the Discretionary Review process is intended to take a second look at projects that meet the applicable Design Standards, unsupported projects shall follow the staff initiated Discretionary Review standards; and

WHEREAS, on July 17, 2008, the Planning Commission endorsed the Planning Department’s Action Plan, with one of its six objectives to “enable the Planning Commission to focus on higher-level policy issues”, and suggesting “reform [of] the Discretionary Review Process, with the public, the Planning

Commission, and staff as intended beneficiaries” as a means of achieving this objective. In response to the endorsement of this item of the Department’s Action Plan, the Department formed an internal working group with the goal of developing a draft proposal to reform the Discretionary Review process; and

WHEREAS, the Department’s internal working group reviewed the Board of Supervisor’s Budget Analyst’s audit, the Matrix Consulting report, and the SPUR/AIA report, all of which recommended reforms to the Discretionary Review process. All three reports concluded that the current Discretionary Review process often resulted in arbitrary and inconsistent outcomes, and took time away from the Commission that could be used for addressing projects with greater City-wide impacts as well as policy-related matters; and

WHEREAS, the Commission has already delegated the review and approval function of building permit applications to the Planning Department, and may wish to delegate its review authority of Discretionary Review applications that demonstrate exceptional and extraordinary circumstances to a designee of it’s choice; and

WHEREAS, a change in the Code to allow for the Planning Commission to delegate its authority over Discretionary Review applications does not eliminate the public’s right to a hearing by the Board of Appeals; and

WHEREAS, currently Sections 311 and 312 of the Planning Code mandate a hearing before the Planning Commission if a discretionary review application is filed by 5:00 p.m. of the last day of the notification period. In order for the Commission to be able to delegate this discretionary power to a designee of its choice, Planning Code Sections 311 and 312 will need to be amended;

NOW THEREFORE BE IT RESOLVED that the Planning Commission hereby adopts a Resolution of Intent to hold a duly noticed public hearing on May 7, 2009, to consider an amendment to Planning Code Sections 311 and 312 in accordance with the requirements of Planning Code Section 302, to allow the Planning Commission to delegate their authority to review Discretionary Review applications that show exceptional and extraordinary circumstances to a designee of its choice, and to change all Planning Code references of the “Residential Design Guidelines” to “Residential Design Standards” as submitted and attached hereto as Exhibits A and approved as to form by the City Attorney.

I hereby certify that the foregoing Resolution was ADOPTED by the Commission at its meeting on April 2, 2009.

Linda D. Avery

Commission Secretary

AYES:

NOES:

Resolution XXXXXX
March 26, 2009

CASE NO. 2009.0227TU
Amendments to Planning Code Section 311 & 312

ABSENT:

ADOPTED: April 2, 2009

DR Outreach Meeting sign-in sheet

DATE: 10/29/2008

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DR Outreach Meeting sign-in sheet

DATE: 11/5/2008

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DR Outreach Meeting sign-in sheet

DATE: 11/5/2008

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HIMSY JIM	RCA	186-LTU HL	MINERSHAM@	ACL
KELLY WATERS	YA STUDIO	2407 Harrison St #2	KELLY@YA-STUDIO. COM	920.1839

DR Outreach Meeting sign-in sheet

DATE: 11/12/2008

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JULIE DENNY FOR CANDACE BURRIS	"	1581 Masonic	Julie@CandaceBurris.com	415-451-0804 510 326 6707
Joram Altman	Joram Altman Architect	1295 Page	Joram@jsa architect.com	415 282 2626
Rosina Tong		45 Alviso St.	rosinatong@yahoo.com	415 994 9311
JEAN NEBLETT Jean Neblett	P.H. Brosten	628 Rhode Island		415-550-2613

DR Outreach Meeting sign-in sheet

DATE: 11/12/2008

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Steven R Currier	OMMRA	P.O. Box 34899 941154	steven.currier@sfdistrict5.org	5879150
HENRY RACENI LONICZ	OCCIDENTAL EXPRESS	1019 HOWARD ST S F CA 94103	occexp@aol.com	415.621.7533

DR Outreach Meeting sign-in sheet

DATE: 11/12/2008

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ALBERT COSTA	T BROWN + PARTNERS	1620 MONT.		415 986 0101
XIAOLANG HAN	Project Applicant	1671 11th Ave	seanhhan@hotmail.com	415-370-9358
DAVID PILPEL	-	2151 27th Ave SF CA. 94116-1730	-	415 977-5578
MICHAEL SCHULTE	-	@ELSIE	Michael@Schulte-architecture.com	
CRISTY JOHNSTON	Excursion Action Group	4702 MISSION ST.	CRISTY@EAGSF.ORG	(415) 585-0110
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DR Outreach Meeting sign-in sheet

DATE: 2/10/2009

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HROTH FULWILL CSN		1401 15 th Ave		
Rae Doyle	GNPMA	121 Kensington	94127	671-6962
Judith Hoyem	EVPA	4042 17 th St.	94114	552-1259
LOU FELTHOUSE	LOUIS FELTHOUSE ARCHITECT	1663 MISSION STEELE	LFELTHOUSE@LIFELTHOUSE.COM	922-5668
GEORGE WOOD	COW HOLLOW ASSN	2158 Baker St	ggwood@aol.com	921-5577
Kevin Wallace	Wallace Remodeling	400 Day	Kevin@wallaceremodeling.com	561-1473
Paul Wermel	PHRA	2309 California	paulhwermel@speakeasy.net	929-1680
Laurie Petipas	RHN	1341 Union St. #1		474-1225

DR Outreach Meeting sign-in sheet

DATE: 2/10/2009

PLEASE PRINT YOUR NAME	ORGANIZATION NAME	ADDRESS	EMAIL ADDRESS	PHONE NUMBER
Penelope Clark		94133 2544 Leavenworth	penelopeclark@yahoo.com	
Bruce Bonadua		220 Sutter	brucebonadua.com	
Jeremy PAUL		60 OTIS	jeremy@quicksdrawsf.com	
Jody Burdis		1158 Queen	jburdis@xol.com	
Brooke Sampson	CHA	2645 Filbert	brooke.sampson@yahoo.com	
David Sternberg		1331 Harrison	dsternberg@sternbergbenjam.com	
Mike Antoini	SFCC Planning Commission	2927 Franklin	wordweaver21@aol.com	
Nancy Wierfel	SPEAK	2516 23rd Ave		
Henry Karnilowitz	OE	3762 22nd St	occe@panol.com	
Bob Passmore	TUC	293 Cambridge St SF 94114	bpassmore@keynet.net	415-507-9872
Peter Cohen		33 West	pcohen@steych.com	
NORMAN KONDY	LINCOLN PARK HOMEOWNERS ASSOC	276 32ND AVE	nkondy@sbcglobal.net	415-386-3956
A. Martinez		1408 Stewart	amartinez@sbcglobal.net	(510) 708-5586

DR Outreach Meeting sign-in sheet

DATE: 2/10/2009

PLEASE PRINT YOUR NAME	ORGANIZATION NAME	ADDRESS	EMAIL ADDRESS	PHONE NUMBER
Rose Hillson	assoc. w/ Jordan Park Improvement Assoc. U.	115 Parker Ave. SF	gumby@windspring.com	unlisted
Eric Parkys	N/A	30 woodward ave	eric.parkys@linsgov.com	
Tim Cole	SFHousingActionCoalition	99.5 Mkt #1525	tim@sfnac.org	541-9001
Jed Lane	Marloma Park Tract	3570 526 avenue	jed@jedlane.com	425-9810
DORICE MURPHY	EUREKA VALLEY TRAILS AND ART NETWORK	175 YUKON ST	—	863-0207
GEORGIA SCHUTTISH	Self	460 DUNCAN	SCHUTTISHTR@sbglobal.net	
JOHN SCHLESINGER	AVA SAN FRANCISCO		john@schlesinger.com	826 3553
JOHN SCHLESINGER	CSFN	1322 Florida	sfjberk@mac.com	824-0617
Joseph Butler	AAA Preservation Consortium	324 Chestnut St	sfjosephbutler@hotmail.com	776 9416
Vincent Labiano Abello	Arch	237 Mullen Ave	SF vplac@hotmail.com	415 819 3990
Arnie Leiner	Architect	1108C Bryant	arnie@leinerarch.com	415 863 5225
Sue Heston	SF PG	870 Mkt #128	heston@earthlink.net	362-2718
Rose Tsai		116 9th Ave	Rosetsai@yahoo.com	
Peter Winkelstein	PAR	129 24TH AVE	PUNKELSTEIN@GMAIL.COM	379-3532



Miraloma Park Improvement Club

January 22, 2009

Attention: Lisa Chau—requested input on DR Reform
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Dear Director Rahaim, Planning Department Staff, and Planning Commissioners:

The Miraloma Park Improvement Club (MPIC) is a neighborhood group representing about 2200 homes on the slopes of Mt. Davidson. We have our own Design Guidelines, created in collaboration with the Planning Department and adopted by the Commission in 1999. In response to Director Rahaim's request of January 15 for detailed recommendations regarding reform of the discretionary review (DR) process, we continue our long commitment to assisting in optimizing the planning process by submitting the following responses to the latest draft proposals by the Department (Oct. 29, 2008).

MPIC Recommendations on the Proposed Internal Review Process

While the MPIC agrees with the timing of public notification and with the intentions of the internal procedures as proposed by the Department, we feel very strongly that at least one member of the proposed Residential Design Committee (RDC) should be a community representative familiar with SF planning and zoning issues. Also, we recommend that the Pre-Application Process, which has been successful in early resolution of disagreement about projects, be kept in force. The Pre-Application Meeting should continue to take place before submission of the project for permit review. The same neighborhood associations copied on the 311 notices should be invited to the Pre-Application Meeting. To improve the notification process for the Pre-Application Meeting, MPIC recommends that the Planning Department specifically identify relevant neighborhood associations for projects in every neighborhood and refine its instructions for the proper method of outreach by the sponsor. We therefore recommend the following implementation practices:

- The Planning Department should request registration with the Department of any organization that wishes to be notified with respect to a project in any neighborhood.
- The Department should create maps for architects and sponsors that advise (e.g., by an overlay or list) which associations should be notified with respect to any specific address.
- The Department should create an interactive system of response from notified associations that they will or will not attend the specific site meeting.

In the matter of where and when the sponsor's Pre-Application Meeting should be held, MPIC recommends:

- The meeting should be held at the site unless there is some strongly compelling reason to hold it elsewhere, such as threats at the site to life or safety. A Pre-Application Meeting not held at site of the proposed project should be held at a site convenient to all concerned parties.
- The meeting should be held at a time when most working people can easily attend: in the evening or on a weekend.
- The project sponsor should offer to provide up-to-date plans for review to any interested parties within 1 week after the meeting if the party cannot attend.

MPIC Recommendations on the Proposed Discretionary Review Procedures

If a DR is requested, MPIC recommends:

- Keep the filing fee reasonable so as not to allow equal access to all the DR process, regardless of economic or financial status. The fee could be graduated, with the first fee, for requesting an additional RDC review, kept low. Reasonable additional fees could be added for additional hearings.
- Defining as concisely as possible, and providing minimal criteria for, the terms "exceptional" and "extraordinary" as applied to projects that might qualify for DR, so that prospective appellants will have a clear basis on which to judge whether the sponsor's project is or is not eligible for DR, and thus whether a DR request would be appropriate or futile and a waste of the appellant's time and money.
- The Planning Commission should set a regular monthly agenda item for a presentation by the Hearing Office on cases heard and decisions made during the preceding month. We believe that this will keep the Commission informed and give the Commissioners the opportunity to guide the new program. No comment by the public would be allowed on cases referenced during this presentation.
- When there are multiple pending requests for DR based on similar concerns or objections, the Hearing Office should review these cases and the issue(s) involved before the full Commission and request relevant policy decisions from the Commission. This review would include a brief description of the projects and a brief description of the issue(s) involved in the DR requests.
- When the Commission hears the presentation of the Hearing Office on its monthly case load, the Commission will confirm or reject the Hearing Office's determination on each case. If the Commission does not agree with the Hearing Office's decision in any case, the Commission could require that the Hearing Office reconvene and reconsider the case in the light of Commission comments, or the Commission could

require further review before the full Commission for the case in question. The Commission would thus retain ultimate authority for the decision.

If the DR request is denied without a hearing, the Board of Appeals would be the only remaining recourse for the appellant.

On the subject of the proposed “Hearing Officer,” MPIC recommends the following:

- The position should be staffed by more than one person, in order to avoid the potential for bias or influence.
- Two options should be considered for the makeup of the Hearing Office, both scenarios to be compensated on a per-case basis, with either the loser paying or the fees split 50/50.
 - Option 1: The Hearing Office would consist of a group of retired individuals knowledgeable about the planning process who would be similar to arbitration judges and would assigned in rotation to each case. Neither the sponsor nor the applicant for additional review would have any control over who is assigned their case.
 - Option 2: The AIA dispute resolution method of a three-person Hearing Group would be adopted, with one professional assigned to each party as advocates and one remaining neutral.

MPIC Recommendations for DR Hearings at the Commission Level

At a Commission hearing, we recommend a limit of three advocates or supporters allowed to testify for each side (sponsor or appellant for DR). This will permit one person (e.g., an architect) to give expert testimony, one other to speak for the sponsor or DR appellant if that person is not able to present well for any reason, and a third advocate (e.g., an attorney) to address any remaining issues. Submission of written correspondence would not be limited under this proposal.

Respectfully submitted by



Corresponding Secretary, MPIC

Miraloma Park Improvement Club's Recommendations for the Planning Department's Internal Review and Discretionary Review Process

Proposed Internal Review Process Community Recommendations.

The MPIC Recommends;

- A community representative on the internal Residential Design Committee.
- Comments on the Pre-Application Process;
 - Retain the Pre-Application Meeting prior to the submission of the project by sponsor for permit review.
 - Invite the same neighborhood associations copied on the 311/312 notices to the Pre-Application meeting.

Internal Review Process

The Planning Department (PD) should specifically identify relevant neighborhood associations for projects in every neighborhood and refine the instructions for the proper method of outreach by the project sponsor. To that end;

- Any organization that wishes to be notified must register with the PD
- The PD should create, for architects and sponsors a map overlay or list , of groups that should be notified regarding a specific address. (A GIS map for example)
- The PD should create an interactive response system so that notified associations can indicate intent to attend or not for each notification.
- Associations that do not respond to notifications will be dropped from the maintained list after a set number of failures to respond.

Internal Review Process

The Pre-Application Meeting; Location and Time

- The meeting should be held at the site unless there is some **strongly compelling** reason to hold it elsewhere, such as threats to life and safety.
- Any meeting not held at the site should be held at a site convenient to all parties.
- The meeting should be held at a time when most working people can easily attend, such as a weekend or evening.
- The project sponsor should be prepared to provide up-to-date plans for review to any interested party within 1 week after the meeting, to any requesting party that could not attend yet requests to review .

Discretionary Review Process

If a Discretionary Review is Requested the MPIC recommends;

- The PC Keep the initial filing fee low to allow equal access to all regardless of financial status.
 - Additional graduated fees could be added for additional hearings. But we feel strongly that the initial fee should be kept low.
- Undertake to define as concisely as possible with at least a minimum criteria set for the terms “exceptional” and “extraordinary”.
 - Our belief is that a minimum criteria will create a clear bar that must be met to invoke these subjective descriptive adjectives.

Discretionary Review Process

Our community supports the creation of a Hearing Office.

- We suggest that the office consist of more than one person to avoid any potential for bias or influence.
- Two options should be considered for the makeup of the Hearing Office (HO), both compensated on a per-case basis, with either the loser paying or the fees split 50/50.

Discretionary Review Process

- **Option 1:** The Hearing Office could consist of a group of retired professionals versed in planning, code and the design guidelines. The assignments for each DR would rotate and neither the sponsor nor applicant would have any input on the assignee.
- **Option 2:** The Hearing Office could be composed along the lines of an AIA dispute resolution panel. Three hearing officers, versed in planning, code and the design guidelines , one assigned to advocate for the sponsor and one for the applicant while the third acts as a neutral party and the deciding vote.

Discretionary Review Process

For oversight of the Hearing Office (HO) we recommend that the Planning Commission (PC) set a monthly agenda item to hear a report from the HO.

- This report will be a short case synopsis review with the decision made by the HO in each case.
- No public comment will be allowed during or on any aspect of this report.
- The PC could retain final decision authority on each DR by accepting or rejecting the HO decision.
- The PC could order the HO to reconvene and reconsider any DR in light of the PC comments or the PC could call up any DR it feels needs to be heard by the PC.
- If there are multiple pending requests for DR on similar concerns or **issues the HO could request policy direction from the PC.**

Proposed Discretionary Review Process Community Recommendations.

When a DR hearing is held before a HO, or the PC, MPIC recommends that each side be limited to three speakers at the most. This would allow for experts and /or supporters for each side to be able to present for an inarticulate or language challenged sponsor or applicant.

➤ Written correspondence is not limited by the three person rule.

Thank you for hearing our concerns and proposals.

I am an owner of a residential property and I am very concerned about the many frivolous DR filings. I believe that there has to be exceptional and extraordinary circumstances for a DR to be accepted.

I have seen where a neighbor has protested a project on my street and then did exactly what she was protesting. Then when the neighbor on her other side wanted to do the same, that is raising a house to provide off street parking and renovation, she fought them tooth and nail.

I have noticed many cases where neighbors have caused projects to be stalled using arguments such as views.

I support having a hearing officer and a strict criteria for filing of DR's.

I would also very much like to be listed as a speaker at the meeting this week.

Thank you.

[Henry Kamilowicz](#)

[Occidental Express](#)
[Consulting • Design • Construction • Management](#)
1019 Howard Street
San Francisco, CA 94103-2806

Discretionary Review

*Bret Harte Terrace-Francisco Street Neighborhood Association
55 Bret Harte Terrace, San Francisco, CA 94133*

25 January 2009

Ms. Lisa Chau
Department of City Planning
1650 Mission St.
San Francisco, CA 94102

Dear Ms. Chau:

If you have ever attend Discretionary Review hearings before the Planning Commission and before the Board of Appeals, you may very well have concluded some are very worthy projects and should have been granted the discretionary review process and some should not have been granted.

Thus to reduced the number of discretionary review projects coming before the Planning Commission, a screening process should be instituted. A rigorous "pre-application" would reduce the number of discretionary reviews going before the Planning Commission. This was proposed at an earlier time but was not given a chance. I believed some criteria were already developed. This proposal is far superior to the appointment of a "**Czar**" who could be influenced. To place this much power in one person, who is supposed to be wise and possess so much wisdom would be perceived as taking away a basis right of the people. There is a difference between one person hearing the case and seven commissioners.

You have to give the Pre-App process a chance. Try it out for two or three years, and if works, you will not have to do battle reform the if the DR process.

Sincerely Yours,

James A. Lew

My comments are from the perspective of the DR Requestor. I think it is very laudable of the Department to reform this process. I think most DR Requestors have very good intentions. They are neighbors who have usually lived in their own home for a great length of time, so they appreciate and understand their immediate environment and have a pretty good understanding of the impact of a new project, whether it is a remodel or a brand new structure. They have an understanding that a planner may not have the time to cultivate because the staff has so much work. I think that sometimes the DR Requestor can become a minority voice of a project. But that minority voice can be an important viewpoint of the impact of the project that should not be overlooked, just because it may be a minority view. Staff and the Commission should remember that it is time consuming and emotionally consuming to attempt a DR. Plus it is very expensive, so I don't think anyone becomes a DR Requestor lightly. Often I think the DR Requestor is viewed as something of a pest, an obstructionist, not only by a project sponsor, but by the Department as well. There is a lot of hostility once it gets to the Commission. The current process prior to a DR being filed by a Requestor attempts to solve issues before they get to the Commission. However, this current process does not work because it favors the project sponsor and if the issues are not resolved before they get to the Commission then the DR Requestor looks as though they *are* obstructionist and just cranks trying to deny owners their property rights. I would bet that most DR Requestors are neighbors in our low density residential neighborhoods who are generally not trying to deny a fellow property owner their rights, but are long term neighbors, renters, but usually property owners who are up against "flippers" who are seeking to maximize a profit on an investment. Perhaps this will change with the economic downturn, but this being San Francisco the type of situation we have had the last 5+ years will probably return at some point. (I live in Noe Valley and perhaps that is the most extreme example of the flipping phenomenon but it is certainly not limited to my neighborhood. Here are some of my ideas for really limiting DRs, which could actually be ideal, creating good projects with good design and preserving the best of San Francisco's residential neighborhoods.

1. Department/Commission bias. Please do not take this personally, but it is my experience that the other than immediate neighbors, i.e. those on either side of a project, Planning doesn't really care about other neighbors concerns. These other neighbor's concerns range beyond the light/air issues which seem like solid, measurable qualities but can also be amorphous and used against DR Requestors (i.e. "their light and air are not affected" is a common way for staff to dismiss complaints against a project. This may be intellectually dishonest because it denies some real issues that should be planner's issues). In the initial notification of a project, the property owners who are notified are those so-called immediate neighbors on either side as well as the adjacent three lots to the rear of the property and the three directly across the street from a project. Here is an example: In the issue I was involved with a neighbor who was one of the rear three was specifically told by the planner, "there is nothing you can do". (The other two properties in the rear were rentals, I would have been the fourth if I had been notified). This person, one of the three rear property owners, gave up and even when it came time for the expanded involvement of the 300 feet they still did not want to be involved, because they had been told by staff there was nothing they could do about it.

SOLUTION #1: Expand the initial notification beyond the current lots to the within 300 feet. If that is deemed too much then a compromise could be at least 6-7 lots away, in the rear on the sides and across the street. Each situation is different and putting more neighbors into the debate early on, as the project is getting off the ground could clear up a lot of problems and misunderstandings that lead a project sponsor to feel like he is in the clear and won't have any delays, but the neighbors feel like they are being put upon and steamrolled. If more people are involved from the beginning, the less likely it would get to the Commission. A project could move forward faster. (However there are somethings that need to be done to get a better design and better information to the neighbors that should be the project sponsors responsibility which I will discuss in solution #2 below.) Also this would allow more people to have input. Often now the immediate neighbors, the ones on either side of the project can seal a deal with a project sponsor, freezing everyone else out. I saw it in my DR, where once they had a deal and the immediate neighbor got some benefits out of it (paint job, new deck, tree removal) my DR request was basically dead. The irony is that once the project was done, everyone now hates it and says it is a very unattractive, oversized building. (Again, that is why you will need other measures as I will discuss in solution #2). If the pool of early, initial input was expanded and more neighbors had a say initially then a project no one likes could have been avoided, as well as a better design and maybe also the DR.

2. Most times people cannot tell precisely what a project will be -- good or bad. Drawings, elevations can be unclear. In my particular case the elevations were incorrect and there was no way to prove it until the project was under construction and then it was too late. At the Commission I had a rendering done that showed the project did not comply with the Residential Design Guidelines (it was taller than the existing house right next door up the hill from it). In spite of the fact I went to the expense of having a rendering done that showed this, the Commission chose not to believe me because the elevation submitted by the developer showed the opposite. This is what I mean about minority view, bias against a DR requestor, etc.

SOLUTION #2: Materials submitted by DR Requestor should not be dismissed out of hand. I have seen this time and time again. There is a way to get an accurate assessment of a project, meeting the RDG and it is this: Have the project sponsor pay for an independent, Department accepted individual to create a rendering based on photographs taken by the Department and the elevations submitted by the project sponsor. This could be done in the beginning when the application is made and the initial elevations are accepted, so staff and neighbors, the expanded group listed above in Solution #1, could get a virtual view of a project. But the critical thing is that the renderings should not be done by the project sponsors designers, BUT rather by an independent designer. I paid \$500 only to be dismissed by the Commission. However, the renderings I submitted were correct and they also showed what a bad design the project was. The project sponsor pay to do notification mailings now, they could pay this fee as well. If these independent, Department sponsored renderings were done it would help to cut down on DR requests and also be another source of information about a project that could bolster a

project sponsors argument if it still went to the Commission and someone did a "fake" rendering in opposition to the project. It could also help to ultimately get a good design.

3. Most reasons for projects being rejected by neighbors have to do with the perceived increase in size, that a new project, whether it is a remodel or new project are too big, too out of scale. Even if a project is within the zoning requirements, so what? Frankly, the zoning is at the high end, an extreme of what is allowable. There should be other benchmarks available to neighbors and the Commission as well as the staff to determine the suitability of a project.

SOLUTION #3: A new project, remodel or new structure should be no more than twice the square footage of the existing house or equal to the adjacent houses in square footage, plus 100 to 350 square feet. This would maintain scale. It would allow for compliance with the RDG which are vastly underused and often misused as just boilerplate in justifying a project. And it could cut down on DRs because, anything that did not meet these standards would immediately go to a DR hearing, no questions asked. If project sponsors knew for certain there would be no DR, then maybe they would comply with this requirement. I would think this type of requirement would meet with most neighbors approval. Certainty for everyone, neighbors and project sponsors would be the outcome.

4. Many new projects are too large too tall even within the height and bulk limits. Face it, they are made that way to create views for new projects that add to increased value for that project. Roof decks specifically do that. Yet, even though the Department is granting this view to a new project, DR requestors are denied to raise it as an issue. The mantra is no one is entitled to a view. This hypocrisy really should end.

SOLUTION #4: Have project sponsors put up that netting/poles that many municipalities use to show neighbors what the mass and size will be like. If this is done early in the process then some compromises could be reached. This along with a rendering discussed in Solution #2 will give both staff and neighbors a better understanding of the project. This netting could also be used to show massing, particularly in the rear of the project where new construction is often just a big mass, where the neighboring existing houses rear walls are on several different planes, which is actually much more interesting and much more San Francisco.

5. Community Boards are very nice people, but they have no design/planning expertise. If the parties go there and try to work something out, but nothing happens, then the DR requestor looks obstructionist.

SOLUTION#5: Using the ideas listed above, along with a staff as Ombudsmen, not the staff dealing with a project directly, but even Building Department Staff, sit down with all the information. And work out a solution. You need real professional input as the project sponsor and neighbors hammer something out, not just someone who is looking for everyone to feel good. These types of details are difficult to work out at the Commission and should not just be left to staff but should have neighbors as well as the project sponsor input.

Overall I think there is a general feeling by citizens that once you get to the DR process at the Commission there is little chance of being really heard. You have a hearing, but no one is really listening. Citizens, neighbors do have good ideas. Obviously if it gets as far as the Commission, neighbors have not been heard in the early going of the process . As I said above, neighbors don't like to file DRs. Whether you are a group of 20 or one lone person a neighbor has the right to be heard and assumed to have valuable information. People know their City, their neighborhood, their block and their street. They know the space around them. That valuable information may help to create a better project and there needs to be a much more active, proactive and challenging process way before it gets to the Commission in order to help create good projects. That way perhaps everyone will be heard. Thank you.

Dear Ms. Chau: I will speak at the Community Outreach meeting. Thank you. See you then.

Sincerely,
GEORGIA SCHUTTISH

*Georgia Schuttish
460 Duncan Street
San Francisco, Ca. 94131*

I've read through the DR Reform Project materials a couple of times now and I think that the concept of DR is valid. DR today is (and should remain) a political process to resolve questions of policy that cannot be addressed by planning code. It sounds like the arguments for changing DR and replacing public hearings with a Residential Design Committee and Hearing Officer are:

- The cost to the City to process DR's is growing
- Most DR's are "spite" DR's filed by neighbors on the West side against other neighbors
- Most DR's are about loss of light, air and view – but there is no right to a view
- Most DR's are rejected by the Planning Commission anyway

My concern is that while there are a lot of frivolous DR's, eliminating the entire option for a public hearing in front of the Planning Commission is a bit excessive. It would discard the best things about DR just because some people abuse the system. I would much rather see modifications to the front end of the DR process that would help "filter" out frivolous DR's while allowing valid DR's through to the Planning Commission.

This could include:

- Addition of a project Pre-Approval process that forces project sponsors to meet with neighbors before project designs are finalized, and expensive architectural drawings are produced. Even an exchange of a simple pre-Application form that describes the nature of the intended project and asks for suggestions and concerns and explains what rights neighbors "do have" as well as what rights they "do not have" (i.e. a right to a view), might defuse tension that otherwise would result in a DR.
- Routing all DR's to a Residential Design Committee and Hearing Officer may be a good way to filter out frivolous DR's, but should include the following stipulations:
 - Any DR that is filed by 3 or more neighbors (or a registered Neighborhood Group) should bypass the new process and go directly to the Planning Commission (as a mandatory DR).
 - Any DR filed against a multi-unit project should bypass the new process and go directly to the Planning Commission (as a mandatory DR).

I also have concerns about Hearing Officer decisions not being conducted in a public forum. I suggest that all Hearing Officer meetings be held in a large public facility, and be broadcast on public access TV and webcast on the Internet. Deliberations and discussions should stay clearly in the public eye.

I would love to explain my issues in more detail at the February 10th meeting if appropriate.

Matt

Penelope Clark
2544 Leavenworth Street, San Francisco, CA 94133
February 2, 2009

Lisa Chau, San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Subject: Discretionary Review Reform

Dear Ms. Chau:

As a long time chairperson of my neighborhood organization's design and zoning committee, I would like to comment on DR reform. I do not think the replacement of the Planning Commission is by a special hearing officer is a good policy because:

1. Leaving the judgment to one person will probably not be acceptable to the filer. It could lead to more appeals—lengthening the process—particularly if the hearing officer is new to the City. No one wants their case heard by a “jury of one”.
2. The members of the Planning Commission are residents of San Francisco (and usually long time residents) who know the City well and have a personal stake in keeping San Francisco livable. Also, they are a diverse group with a reputation for fairness; their judgment is more trusted by city residents. Unfortunately, the Department is viewed as very pro development.
3. Strengthening the pre-application process should help educate both the project sponsor and the potential DR filer about the process and should eliminate many DR filings. Coupling a stronger pre-ap process with the creation of a hearing officer is totally arbitrary. It could also add to the expense of the process by adding the salary of an unnecessary professional position.

There is one significant group of DR filers for whom the department needs to reform the process. These are filers who know the process well and use it to delay legitimate projects by filing DR's that are without merit and then use continuances and appeals to string out the process as long as possible, hoping to kill the project by adding unnecessary time and expense. My suggestions:

1. Limit all continuances by DR filers to one. After one continuance the filer would have to have a back up person if they are unable to personally attend the hearing. Project sponsors should not be so restricted since they might need additional time for preparation and/or negotiation.
2. The DR process could be shortened by limiting the ability to appeal. If a DR filer cannot convince at least one commissioner of their DR's merit, and the Commission votes unanimously not to take DR, it should not be eligible for appeal. This should eliminate the unnecessary length of the process created by malicious or unmerited filings and discourage their being filed in the first place. Legislation could be passed on this policy, if necessary.

Yours very truly,



CC: Members of the Planning Commission

The main problem with projects that get into the discretionary review (DR) process is that they do not follow the Planning Code. If people will stick with the code and not try to deviate from it, there would not be as many DR cases to be heard. The planners at the Planning Department do not check each project with a fine-tooth comb to ensure adherence to the code. Continued lack of compliance to the code only highlights those projects as DR candidates. More neighbors and neighborhood groups may file DRs in future. It is also of note that just because a neighborhood does not protest a project does not mean that they like the project in their area. The question from projects that are granted that clearly do not fit into the neighborhood is: How did the Planning Department ever allow that one to go in? And it is true that there is inconsistent and unequal granting or denial of projects in the City.

Overall, the entire process of reviewing a project for compliance needs to be done via a detailed, step-by-step matrix or checklist of the Planning Code. Every part of the Planning Code must be translated into a line-by-line checklist of sorts. That means line items such as: In RH-2, is the rear yard open space of the project 45%? Define what "45% of rear yard open space" means. If there is a vague word such as "inappropriate," that needs to be defined in examples. Use examples from real DR cases.

In this detailed, step-by-step matrix or checklist, you will also have an index to definitions (already in your Code in some cases, but planners/architects not reading them?) in your new "Planning Code Guide." One needs to read through the Code and create these checklists/matrices so that anybody will know what to expect from a project. Zoning Administrator "interpretations" of the Code must be made clear and precise. Too many people are dancing around the Code and creating projects that, to the surrounding neighbors, become DR candidates. Again, go through the Planning Code line by line and get it down to specifics. If a flowchart must be created to understand one part of the Code, then create the flowchart but also have the checklist because the planners do not check out everything involved in a project or they do not know. With the rapid turnover in planners, none of them are experts on the Code. They do not catch violations of the Code.

As an example, there is a requirement to put the drawings of all existing and planned structures on the 311 Notification. This is not always done. The planners need to kick these back to the project sponsor until that is done.

All square footages of all levels and totals for each unit on multi-unit structures should also be on the plans. This is also another issue that the planners do not catch. If the public is forced to tell the planners what the code states, there is something wrong with the process. The public should not have to go through the codes and find these errors and mistakes not caught by the planner to whom the project was assigned.

Also, you need to get the project plans submitted by the project sponsors time-stamped and held to legal submittal requirements. New rules must be in place to prevent DR cases from dragging on for years. It is neither fair to the applicant of the DR or the project sponsor. The neighborhood residents that once supported a project may move away. The community environment changes so the DR application starts to take on new supporters and attract new non-supporters. Worse yet, people in the neighborhood will have the impression that the Planning Department is not willing to save the character of certain neighborhoods and will give up and move away, eroding the so-called "affordable housing" left in the City. As is known, new housing in residential districts zoned RH-1 or RH-2 are usually not as affordable as the building that is altered or demolished prior to completion.

All 311/312 notifications need to be posted on the Planning Department website as well as on a dial-in recording (for those without Internet access) that lists all the demolition projects going on Citywide (e.g. NW quadrant, NE quadrant, etc.). In addition, any project that changes the façade or the existing footprint of the building should be on this list even if deemed a remodel.

There also needs to be a matrix on the open space left by developments. Sometimes the development is all within the same zoning area. If one lot is zoned for a small open space and the adjoining lot is zoned for larger open space, the larger should prevail for the sake of keeping a smaller carbon footprint or an average taken.

There also needs to be a stiffer guideline for leaving more open space in the residential zoned areas of the City. Crime increases as the areas get denser. People need to use open space for their health. It becomes also a safety issue so that people can escape from fires and earthquakes into open areas in the rear and sides and front.

The Planning Code also discriminates against certain neighborhoods over others. The much more active communities, and usually those with more political and financial clout, often have additional requirements in the Code to ensure disagreeable projects are not granted permits in their neighborhood. The “better” neighborhoods can fend off offensive projects. This bias causes development to occur in the less affluent neighborhoods and displaces many people who cannot afford the newly built housing. All neighborhoods in the City should be granted equal protection. In the move toward a greener City, there should also be a matrix for carbon footprints of projects.

There also needs to be a follow-up checklist after a project is completed. Too often, requirements of a project are not fulfilled after the final “certificate of occupancy” is granted by the Building Inspection Department. Nobody in the Planning Department goes to check on projects after they are built to ensure adherence to the plans submitted. Nobody from the Planning Department goes to see if the 20% front landscaping was put in. If nobody follows the code and the rules, the public will have less trust in the planning process. This may lead to future delays.

Community meetings are not held for many 311 notification projects. There is no policing of this and when people find out from their local coffeeshop about a project, the DRs start being submitted. The Planning Department needs to have the Project Sponsor sign an affidavit that they notified all the neighbors, held a community meeting, gathered signatures, etc. A planner has even stated that a community meeting will not be held for a project with a 311 Notification. That is not following the rules. The actions of some of the planners and their response to people

questioning a project sometimes get very frictional. Often, the information sharing ends and everyone is left with a DR and other legal issues. This is great for the legal industry, but at the expense of the City Planning Commissioners and planners who spend an extraordinary amount of time playing King Solomon between developer and neighbors.

If the Planning Code does not work as it is right now – and it seems to be the case – we have to have a discussion of what is “appropriate” in different sections of the City. Sometimes, if one says that we can average everything, that may not always work to lessen DR filings, but it may be a starting point. Averaging should not be used if there are buildings whose envelopes already clearly exceed the stricter provisions of the Code. And, there are some exceptions to every rule and those need to be addressed in DRs.

Many of the provisions in Sections 235 (Special Use Districts), 238 (Nob Hill Special Use District), 241 (Dolores Heights Special Use District), 242 (Bernal Heights Special Use District), etc. are in place because of the degradation of the character of the neighborhood and from impacts in the surrounding areas. Nob Hill, Dolores Heights, Bernal Heights, etc. have their own additional provisions which shows that the Code is not about being fair to all properties in the City. Then you have Section 244, Residential Character Districts, but the Residential Design Guidelines (1989) are not adhered to. The Guidelines need to be incorporated as part of the Code which it is. They are not just some foggy design concepts but rather rules that must be followed to ensure neighborhood compatibility for new construction and alterations. Do not call them “Guidelines.”

Section 244.1, Westward Park Residential Character District, and any future special use or character districts, will continue to be formed unless and until there is compliance with the basic Planning Code provisions. Some of the Special Use Districts were created to accommodate the developer of a project because it would not fit into the existing limitations of the Planning Code; but this opens the door for more DRs. Each time special accommodations are made for a project, the Planning Code is weakened because people see it as a futile attempt to try to get developers to stay within the Planning Code provisions and they ask themselves, “Why even bother to have the Planning Code?” This needs to be fixed.

If you notice from the codes, there is no “Richmond District Character District,” no subset of the Richmond area called “Seacliff Character District” or “Jordan Park Character District,” no “Sunset District Character District,” no “Laurel Heights Character District” and no “Pacific Heights Character District” or “St. Francis Woods Character District” because within each of these areas are many diverse sub-areas that need to be studied. You almost have to make a rule for every Assessor’s Block based on architectural and historic data. This may be needed in order to stem the tide of DRs.

Most of the residents in the previous districts also have the means to initiate private lawsuits, hire teams of professionals such as architects, historians, etc. to bring their case before the Planning Commission. And here is where the DRs will likely not diminish unless we figure out how to fix the reasons for the DR submittals.

Before the project goes to the Commission, there should be a requirement to go to community mediation where talks have come to a standstill. Maybe set one up so that people will not be forced at the last minute to look at the developer's latest and greatest drawings. Sure, it becomes another layer of administration, but it may save hours further down the process.

If a project is initially deemed a remodel only to later be found that a demolition is required, a new 311 Notification must go out. All fees for demolitions must be collected. Follow-up should also be coordinated with the Building Inspection Department and the Assessor-Recorder's Office.

All Planning Department projects need to have a log of all materials for a project. People "lose" important documents. Again, these documents should be time-stamped.

This is why I would like to be a participant in getting something together to help the Planning Department and the Commission and the public not waste so much time with DRs.

Thank you for your time and attention to this document.

Rose Hillson
Jordan Park Improvement Association
115 Parker Avenue
San Francisco, CA 94118

DR Reform Meeting, Feb. 10, 2009
by Rose Hillson

- Lack of compliance to the Planning Code leads to DR filings and the unequal granting and denial of projects
- Problem: Planners do not all know the Codes or care to ignore them in reviewing and accepting projects. The churning of the planners pretty much guarantees that 311/312 notifications go out with plans that are not compliant with the Codes.
- Solution: Postpone all projects 6 months if not found compliant with Codes. Create a step-by-step matrix/checklist of the Planning Code to simplify the review of projects. e.g. in RH-2 zones, one checklist item may be to ask:: Is the rearyard open space 45%? And show examples of how that is measured for rectangular and irregular lots. Every line in the code to be translated to this matrix/checklist. All portions of the Planning Code will be explained in detail for various circumstances so that nobody is guessing as to whether something is allowed or not
- Incorporate the 1989 Residential Design Guidelines into your new “Planning Code Requirements Manual” as code rather than as “guidelines”
- The matrix/checklist must include unusual situations from actual cases and decisions from the Zoning Administrator so that in future, vague and arbitrary decisions are not made that benefits one party over another.
- All submitted plans require accurate measurements of new project, of the lot, of the adjacent buildings and lots and a photo of the front and rear of the lot as well as an aerial of the entire block. And if the exact plan dimensions cannot be determined by the information on the reduced drawings of the 311/312 Notifications, they should be kicked back to the project sponsor for clarification and a new 311/312 Notification sent out with an additional fee.
- All project submissions should be logged and time-stamped so that everybody knows when the deadline is. Currently, it is a widespread practice for project sponsors to submit drawings that are not even close to what they are going to build. Sometimes, the drawings of the “real project” do not surface until the “11th Hour” IFO the Planning Commission and new rules need to be in place with hefty penalty fees to prevent such occurrences in future.
- All 311/312 Notices should be online and searchable by Application No. or address or Project Sponsor/agent. All revisions need to be posted as well. All façade remodels need to be noticed to the public. Any building over 50 years old should go through Historic Preservation before such things as garage doors and windows are replaced. These are remodels.
- In the case of a revision where a remodel becomes a demolition, a new notification needs to be sent out with additional fees collected by Planning, DBI, etc.
- We need to include a “greening code” requirement in the checklist/matrix. Too often, for streets that have front landscaping, the street trees are never put in after the project is completed. For new builds, every effort must be made to run utility lines to allow for greening. Lots that abut with different green space requirements should take the larger open space requirement or average based on surrounding conditions.
- The Planning Code treats property in different parts of the City unequally as I said in the beginning. That is due to the “Special Use Districts” such as in Sections 235, 238, 241 & 242, Nob Hill, Dolores Hts, Bernal Hts., respectively. That is not fair and open

DR Reform Meeting, Feb. 10, 2009
by Rose Hillson

government. More of these special use districts and “Residential Character Districts” as described in Section 244, will make their presence known in future. There may be the Seacliff Character District, the Laurel Hts Special Use District, the Jordan Park Historic District, the Richmond Special Character District. People have to be aware that such areas have been well-established and people in these areas tend to keep within the height/ bulk and open space requirements. And when somebody comes into these areas with an eye to maximize the use of the land with no regard for the neighbors, many DRs get filed. In these areas, any jarring buildings will unfortunately end with a DR if the project does not meet the Planning Code and design details in every respect.

- There needs to be an Affidavit signed by the neighbors and the community members that a Community Meeting has been held and the project discussed with all. I have had one planner absolutely refuse to have the project sponsor hold a community outreach meeting even though required by the 311 Notification. This is not playing by the rules and the project should be delayed with additional fees. Basically, any non-compliance to the Planning Code and notification and meeting requirements should be penalized via delays and/or monetary fines of a percentage of the building cost or people will continue to misbehave.
- Demo calcs should not be some secret methodology that only the architects and planners use to determine if a building is or is not a demolition. The definition of “demolition” needs to be revisited.
- Finally, before any project is taken on by the Planning Commission, both sides must attend a mandatory community mediation meeting with all parties involved present including the property owners, the agent/architect, the neighbors and other community stakeholders. An affidavit needs to be signed with proposals from all sides stating how to remedy the logjam.

Alfred Martinez
45 Alvarado Road
Berkeley, CA 94705

San Francisco Planning Department
1650 Mission Street
San Francisco, CA 94103-2479

Dear Sirs:

I am supportive of the need for Discretionary Review Reform and have firsthand knowledge on the subject since I am a design professional and have been involved in several reviews before the SF Planning Department.

The current discretionary reform proposal as discussed at the November 5, 08 meeting is not in the best interest of society, taxpayers, or the San Francisco Planning Department (Dept). The best proposal to reduce and properly adjudicate discretionary review applications is to increase discretionary review fees to accurately reflect actual costs which should be borne by the applicant. Pairing costs to expenses is neither unfair nor burdensome and routinely employed in private industry and government. This policy also provides the added benefit of allowing the adjudicating discretionary review officer more time to fairly access each and every application prior to ruling and better serves the City.

The Dept's proposal to add a level of bureaucracy to an already overwhelmed process is misdirected. The cost to taxpayers is unfair since as pointed out almost all discretionary reviews are routinely denied. Passing this cost onto the applicant who is seeking discretion, which by its very nature is defined as "tactful, modest, restrained, and unobtrusive" is both fair and just. How can the Dept's proposal of adding another layer of bureaucracy at a cost to every San Francisco taxpayer reconcile with it unobtrusive? This rationale stands the meaning of discretionary review on its head, is pandering and bad governance. Those requesting the additional governmental service, discretionary review, should have the privilege of exercising it, but they, not every taxpayer in the City, should pay their fair share for the service!

Discretionary review is not a right. Enough is enough and asking applicants to pay for reconsideration services which they are requesting should be encouraged, but at a fair and reasonable cost. For example, fees under these circumstances could be waived or adjusted under a sliding scale for individuals with disabilities or applicants over the age of 72.

Alfred Martinez

DR Reform Proposal

February 10, 2009

Peter Cohen
Judy Hoyem
Jacqueline Mohanna
Paul Wermer

DR Reform: Goals

- Reduce DRs by reducing the need for DR
 - Complete, transparent Pre-Application process
 - Improved notification process
 - Better management of plan changes: No Surprises
 - Certainty for project sponsors and neighbors
- System that does not impose more work:
 - Not additional meetings – Earlier meetings!
 - Avoid DR paperwork by documenting issues/plans

DR Reform: Pre-Application

- Enhanced Neighborhood Outreach Process (pre-311 notice)
 - Complex projects need more than 1 meeting
 - Stage 1 – Concept sketch plans/proposal: early feedback
 - Stage 2 – Draft plans (site plan, elevations, floor plans)
 - Expand to 312 (NCD), CU & variance projects as well
- Consistent notification format with 2 week notice
 - Expanded notification list: Neighborhood Association, BBN groups
 - Include Neighborhood Association contact information
- Meeting documentation to case file & participants
 - Document issues & responses w/in 1 week
 - Follow-up meetings where appropriate

2/10/2009 **Change Control protocols for plans. No 311 Notice**

3

DR Reform: Standard DCP Notices

- 311/312 notice standards for Variances & CU
 - 30 day standard notice period identified in title bar
 - Includes Neighborhood Association contact information
 - Add Historic and Environmental determination information
 - Notice to all residents and non-resident property owners
 - Require notice to residents (currently “to the extent feasible”)
- Opt-in for electronic notification/Opt-out of postal
 - Case files available on-line at Planning (.pdf format)

DR Reform: Other Improvements

- RDG Revisions
 - Required, not optional Guidelines
 - More precise standards to recognize :
 - Topography
 - Mid-block open space
 - Neighborhood character
 - Existing building patterns
- Change Control for plans
 - Cover sheet with negotiated changes
 - Contractor and DBI aware of agreements
 - Triggers for re-notification
- Planner outreach to Neighborhood Associations
 - E-mail notice of new case files, with Project Sponsor contact details
 - Regular updates to Neighborhood Organizations database

2/10/2009

Cohen, Hoyem, Mohanna, Wermer

5

DR Reform proposal package

draft March 1, 2009 (submitted to Planning Dept)

Goal = Reforms package to improve the development review process to reduce the need for discretionary review, and achieve high quality development through an effective review process. DR *prevention*, and *certainty* for project sponsors and neighbors.

Reform package components:

1. Pre-Application Community Outreach standards

- the relatively new Neighborhood Outreach requirement is a good policy, but needs to be a consistent “best practice”
- achieve minimum level of certainty for neighborhood involvement
- voice feedback/concerns directly to sponsor early in process
- build relationship between sponsor and neighbors/neighborhood
- document discussions between sponsor and neighborhood
- essentially formalize the pre-application community outreach that already happens on “good” projects

Proposal:

- Standardized notification format and procedure
 - Standard title for notification: “(site address) Proposed Project, Neighborhood Outreach Meeting”
 - Complete project description—eg, as standard for 311 notice
 - Identify authorized agent for project sponsor and contact information
 - Planner contact information
 - Alternatives for responding if not able to attend outreach meeting
 - 2 weeks minimum advance notice prior to outreach meeting
 - Notice sent to radius area (per standard applicable to project), BBN listings, and local neighborhood organization
- Hold outreach meeting at project site
- Site plans and renderings should be available at the outreach meeting
- Documentation of comments on project – sponsor prepares summary and sends to Planning staff and outreach meeting attendees and parties who otherwise responded to the notification, within 1 week of outreach meeting. Documentation also demonstrates sponsor’s outreach efforts.
 - Planning Department should prepare an Instruction Sheet for project sponsors clarifying standard requirements for Neighborhood Outreach and best practices for effective outreach process.

Pending ideas:

- For large projects, or projects where neighborhood objections might reasonably be expected, recommend a two stage outreach process:
 - Stage 1 – sketch-level plans/proposal for initial early feedback
 - Stage 2 – draft plans complete (site plan, elevations, floor plans) for final feedback
- Story poles if there is a proposed expansion of existing building envelope

- Neighborhood Outreach requirement (currently only for 311 notice projects) should be applicable to: – Neighborhood Commercial (312-notice projects); Variance projects; Conditional Use projects; Garage Additions

2. Standardized DCP Notifications

- clear information
- sufficient time to respond constructively
- encumbent upon effective pre-notice through Neighborhood Outreach process

Proposal:

- 311/312 notification standards applied to all Variances and CU applications (eg, Planning’s “universal planning notification” idea), with modifications below.
- 30 days response time for all notices
- Title Bar for notification should include: “30-Day Notice” (eg, similar to 15-Day Revision notice)
- Notice identifies local neighborhood organization(s)
- Indicate Environmental Review Determination for project
- Indicate results of Historic Resources evaluation (if applicable)
- Specifications for plans set:
 - 1) site plan with adjacent buildings shown;
 - 2) elevations with neighboring buildings shadow-lines shown
 - 3) floor plans
- all plans should clearly indicate *existing* versus *proposed changes* – should be intended for/legible to a general public audience
- Notice sent to all residents and non-resident property owners within radius area

Pending ideas:

- Project plans available via Planning Dept website link, with hardcopy plans available on request to planner (with max 5 days to receive once requested).
 - Possible transition period for DCP to develop systems for effective electronic plans conveyance, meantime continue with hardcopy plans attached to Notices
 - Near-term, Planning can create ‘opt-in’ for electronic transmittal (such as BBN process), and give neighborhood organizations an opportunity to ‘opt-out’ of hardcopy transmittals

3. Design Guidelines

Proposal:

- Codify enabling language to allow local design criteria/guidelines that augment generalized RDGs
- Creates a system of mapped local residential design standards over time (eg, analogous to the family of “Named-NC” districts in the Planning Code with area-specific controls)
- Professional vetted in collaboration with DCP

Pending ideas:

- Establish standards/best practices for *use* of design guidelines/criteria by case planners?

- Consider creating a working group with community reps to create those standards together with DCP staff

4. Certainty of drawings/plans

—managing change control through project review and approvals process.

Proposal:

- Establish threshold for triggering re-notice and/or additional neighborhood outreach meeting
 - Eg, any increase to building envelope design during the Notice period requires 15-day Revision notice with revised plans set
- Planning Department should prepare an Instruction Sheet for project sponsors with clear protocols for tracking changes to project plans and standards for communicating changes to neighborhood.
 - Eg, clarity on plans Revisions Notes: a list of bulleted points added to the front page of the permit set identifying in text the requirement imposed as a result of DR or as a result of the negotiations to avoid DR. The list should refer to the sheet or sheets where the drawings have been altered to reflect the change.
 - Eg, using *cloud* outline on plans to highlight revised features

Pending ideas:

- (future “parking lot” issue) DBI consistency of building plans permitted once DCP entitlement for site plan – avoid scope creep during permitting and construction process

5. Planning Staff Outreach

---open up a communication line to neighborhood organizations as part of case review protocols
---Planners then know who will be points of contact as project moves through internal review process

Proposal:

- Courtesy email notice to local neighborhood organization(s) by case planner at outset of opening project file
 - DCP’s “Neighborhood Organizations” database as source
 - Neighborhood Orgs responsible for relaying current information to DCP to keep database accurate

6. Discretionary Review process reform (comments on Planning Dept’s proposal)

Proposal:

- Pre-Application Community Outreach process to best practices standards should be completed *prior* to DCP project review process is initiated—eg, outreach treated as part of determining “complete application” for department processing
- Mandatory “intake meeting” as first step once DR request is filed (objective to clarify substance of dispute and mediate if possible)—attendance by DR filer + 1, project sponsor + 1, DCP case planner + quadrant Team Leader

San Francisco Neighborhood Network

- Required written clarification and substantiation by DCP staff and Residential Design Committee (RDC) on initial support/non-support determination on DR request
- If RDC determination is to “reject” the DR request outright (without referral to the hearing officer), the DR filer has option to appeal to Board of Permit Appeals
 - RDC Rejection Criteria need to be established with public input
 - RDC Rejection criteria should be restricted to items outside the scope of Planning Dept (e.g., items within DBI scope, such as construction noise or engineering concerns – But RDC would need to ensure appropriate forum exists to address any issues related to construction, engineering or usage of the site)
- If RDC recommends project changes per its review, should trigger communication of those changes back to neighborhood (in the spirit of transparency)
 - Note: details of *how* that should happen need to be discussed so it’s the least burdensome on project sponsor as possible
- Residential Design Committee to hear brief presentations from DR filer and from project sponsor when DR cases are being reviewed
- Retain public participation in hearing officer process
- Retain Commission prerogative to “call DR cases up” for hearing—all DR cases reviewed by hearing officer to be included on consent calendar, with Commission able to pull items for full hearing at subsequent date.
- Create a Public process to consult on proposed criteria for defining “Exceptional and Extraordinary Circumstances”

Pending ideas:

- Establish basic criteria for filing discretionary review request? (eg, expectations for a reasonable case being made...)

Thank you and the director for extending the invitation to attend the community outreach meeting on Tuesday Feb. 10. I will attend the meeting.

It is clear that Planning Department staff has worked very hard to develop the proposed modifications and I am delighted that they include features to reduce frivolous DR Requests that do not substantiate the extraordinary circumstances require to justify a DR, establish a more consistent method of interpreting and applying the Residential Design Guidelines to proposed projects and reducing the valuable time of the Planning Commission currently wasted on frivolous DR requests so they can focus more on policy issues. Thanks to the Planning Department staff for the tremendous effort developing the proposed modifications and for devising modifications that will vastly improve the process in a fair and just fashion.

I have one additional comment regarding the DR process that was not included in the proposed modifications. The fee for requesting Discretionary Review is too low and facilitates frivolous DR requestors ability to delay a project and cause economic hardship to project sponsors by protracting the process, adding costs to the sponsor for the professional services from architects and land use attorneys to provide the services necessary to support a project thru the DR process. The cost to the Planning Department to administer the DR process is in excess of \$3,200.00. DR requestors with the means to pay the full cost should be charged the full cost just as a project sponsor who's project requires a mandatory DR like for a dwelling unit merger. Community groups and DR requestors whose income is under an amount where the full fee would be a hardship as determined by the Planning Department should be allowed a reduced fee to make the process available to everyone in San Francisco. I have seen too many projects unfairly disrupted or completely derailed by the nimbys,(not in my back yard), who pursue personal agendas inconsistent with the Planning Code and Zoning regulations and know the current system well enough to use Block Book Notations to be noticed on all projects, the DR process to slow project approval or extort cash from project sponsors to withdraw DR request, Board of Permit Appeals to add further delays and cost to project sponsors and finally the Board of Supervisors to challenge exemptions from environmental review and continue delays and costs to project sponsors. I truly believe that if the fee was raised to the full cost it would deter some of this type of outrageous abuse of the system.

I applaud the efforts to finally reform the DR process and hope that you will consider the fee issue that I have raised and approve the proposed modifications.

Sincerely:

Louis Felthouse
Louis H. Felthouse Architects Inc.
1663 Mission Street, Suite 520
San Francisco, CA 94103-2484



November 26, 2008

Via E-Mail john.rahaim@sfgov.org and U.S. Mail

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Mr. John Rahaim, Director
San Francisco Planning Department
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Re: Discretionary Review Reform

Dear Director Rahaim:

We are excited to hear that the Planning Department is continuing to fulfill its Action Plan by initiating a discretionary review (“DR”) reform process. While DR plays an integral role in San Francisco’s planning structure, it is clear that there is room for improvement of the DR process. We are writing you now to express our strong support for effective DR reform as well as our suggestions on how the process should be improved. Our firm has developed extensive collective knowledge of DR through years of serving clients in their entitlement and permitting needs, and at countless DR hearings, and we hope our input will be helpful.

We believe that the current process wastes the time and budgets of the Planning Commission, the Planning Department and property owners and neighbors by inefficiently evaluating every DR application that is submitted. The Planning Commission will have more time to focus on larger projects and policy issues if those DR applications that do not warrant its time and consideration are dispensed with through other means. We are optimistic about the establishment of a new Residential Design Committee (“RDC”) and Hearing Officer, as has been recently proposed by the Planning Department, but believe the following should be considered for these reforms to be effective:

1. Design professionals should be permitted to meet with the RDC during their review of a project. Having the project architect or engineer present with the RDC would allow them to explain their design choices, provide background information relating to the plans or answering any questions committee members may have. Currently, the review of plans by planning staff for their compatibility with residential design guidelines can be unnecessarily extended for months, as emails, faxes and phone calls are exchanged during the process. A design professional could answer all questions and concerns at one meeting, saving immeasurable time. Limiting attendance to a design professional will ensure a project sponsor’s personal feelings will not impede the review.

**Also admitted in New York*

Mr. John Rahaim, Director
San Francisco Planning Department
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2. There should be two to three rotating Hearing Officers, with random assignments to each DR application as it is filed. We strongly support the creation of a Hearing Officer position that would review DR applications and handle those that do not require Planning Commission review. We recommend that at least two or three Hearing Officer positions are created to avoid a backlog of cases, and that the Hearing Officers are assigned to applications on a rotating basis. This is a system routinely used by courts in assigning cases to judges. In this case, you would have Hearing Officer A and B. As cases come in, they are assigned alternately and by chronological order to each of these officers (Case No. 1 would be assigned to Hearing Officer A; Case No. 2 Hearing Officer B; Case No. 3 back to Hearing Officer A; and so on).

3. The Hearing Officer should not consider Code compliance issues. Whether a project is in compliance with the Planning Code is a technical matter best left to the expertise of Planning staff and Zoning Administrator. Allowing the Hearing Officer to consider such issues would unnecessarily slow the process. It is clear under the DR process that once a project has been checked for Code compliance and a Section 311 Notice goes out, both the project sponsor and the staff are satisfied that the project meets the minimum standards of the Planning Code. Occasionally, whether this is in fact the case becomes an issue during the Planning Commission's DR hearing. This typically does not result in significant delay, because at the DR hearing, both staff and the Zoning Administrator are typically present. Therefore, any Code questions that come up are quickly answered by the staff. However, we assume that the Hearing Officer would be operating alone, without the assistance of staff during the actual hearing. It must be absolutely clear to all parties, including the Hearing Officer, that these hearings should not be delayed or continued because of Code questions asked during the hearing. It must be assumed that the staff has properly checked the plans and the project is Code-complying.

4. It should be clear when the Hearing Officer has the discretion to refer a DR application to the Planning Commission. The purpose of DR reform is to limit the applications that the Planning Commission hears to those that involve a policy determination. If the Hearing Officer's authority to send a DR application to the Planning Commission is not clearly enumerated, the entire reform effort could potentially be subverted by a Hearing Officer who refers ineligible DR applications to the Planning Commission. The Hearing Officer should only be able to refer an application to the Planning Commission under clear and narrow circumstances. Under no circumstances should a referral be made to the Planning Commission because of "neighborhood opposition" or "public interest in the project". Referral to the Commission should be strictly limited to policy cases of first impression where an unusual fact pattern gives rise to questions that the Planning Commission should be addressing.

Mr. John Rahaim, Director
San Francisco Planning Department
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5. The briefing schedule for submissions to the Hearing Officer should be adopted.

A clear briefing schedule should be established for applications that are referred to the Hearing Officer from the RDC, based on the hearing date. We think that the Board of Appeals briefing schedule is a good example to follow, although it may not be necessary to allow a reply brief to be submitted.

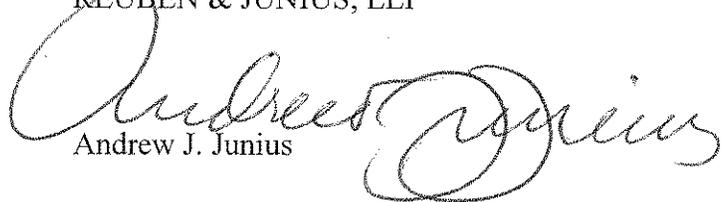
6. Please clarify the Planning Department's internal review procedure for projects that are ultimately referred to the Hearing Officer.

In the Proposed Internal Review Procedures slide of your DR reform presentation, the prongs that follow the RDC and Planning Director project denial recommendation are confusing. We are unsure if it is the intent of the staff to signal that even unsupported projects will have Section 311 Notices issued (which is required per the Planning Code), and that irrespective of and parallel to that Notice, a hearing will be set before the Hearing Officer? The arrows in this slide are confusing and what appears to be intended is that there will be an automatic Hearing Officer review following the 311 Notice, whether a DR is filed or not, because the staff is not supporting the project and in fact recommending denial. We would also assume that, like the existing system at the Planning Commission, the Planning Commission (and in this new case, the Hearing Officer), could disagree with the staff and approve the project notwithstanding the staff's recommendation of denial.

We believe that implementing these recommendations will make the DR reform successful in reducing unnecessary time and money spent by all parties and thereby make DR more effective in ensuring projects are substantially in compliance with design guidelines and in allowing the Planning Commission to make timely, informed decisions on questions of Planning policy. Thank you for the opportunity to provide these comments and please let me know if you have any questions or would like to discuss DR reform more. We look forward to working with you in the future to make DR reform a success.

Very truly yours,

REUBEN & JUNIUS, LLP


Andrew J. Junius

cc: Larry Badiner – Zoning Administrator
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<alanburradell@hotmail.com>

12/06/2008 07:13 AM

To <c_olague@yahoo.com>, <rm@well.com>, <wordweaver21@aol.com>, <plangsf@gmail.com>, <bill.lee@flysf.com>, <mooreurban@speakeasy.net>, <hs.commish@yahoo.com>
cc <john.rahaim@sfgov.org>

Subject Ripley project

Hello Commissioners. I am a citizen who watched the Ripley case live last night on SFGTV.

As I listened to this case, it was clear to me why it's so important to revise the DR process.

My comment may at first seem like a criticism of the Planning Commissioners, but actually it's complimentary of all of you and critical of the DR process.

My view and my point is simply this: each of you commissioners is valuable to us the citizens because of the policy making role you perform. You each bring your policy perspectives to the cases you hear. For example, President Ologue last night commented on the Ripley project from a policy perspective.

But what she did not do, is comment on what makes elements of the project "exceptional and extraordinary".

Now, again, I'm not providing criticism here for President Ologue or the rest of you Commissioners - quite the contrary. I applaud you for the passion you have for your policy positions.

I think it's unfortunate, however, that these cases are brought to you because the vast majority of these DR cases are simply not related to policy matters, of which I believe should be your focus as a Planning Commission.

Next Thursday please take action to improve the DR process and vote yes on the Planning Departments proposal.

Alan Burradell

Alexander Schroeder
4534 19th Street
San Francisco, Ca. 94114

Dear Planning Commission:

As a San Francisco homeowner whose house needs extensive and expensive upgrades, I strongly support the Planning Commission and Planning Department's efforts to reform the Discretionary Review process.

Under the current DR process a Project Sponsor whose project has already been determined to comply with the Planning Code and Residential Design Guidelines can be held up unfairly for an excessive amount of time and at great expense.

It is very unfortunate that homeowners, who brave the complexities and expenses of remodeling their home to update *their property* and make it more livable, can be held hostage by very subjective and self-serving notions of neighbors.

It is especially troubling that projects which have been determined to meet the Planning Code and the Residential Design Guidelines and that have already given up otherwise allowable square footage of buildable and much needed interior space to appease neighbor concerns, sometimes in several iterative compromises, then still find themselves faced with the same neighbor opposing the project by filing for a DR and then the appeal(s!).

If and when the project does go before the Planning Commission, I have seen the Commission wrongly appease the DR Requestor by "hacking away" additional square footage, so that ultimately the new addition becomes worthless as the equally important interior space it was supposed to provide.

In many cases I have seen, the DR Requestor's demands are clearly unjust to the Project Sponsor, and these cases should never have been allowed to progress to the level of Discretionary Review.

The process, as it currently stands has the potential to be highly abusive to the Project Sponsors. To me it appears to have serious legal questions and in effect amounts to a form of extortion. It appears as an unjust exercise of something equivalent to Eminent Domain but without any compensation for the sacrifices in time, money, professional services required, and most of all the actual amount and usability of the intended additional space a homeowner is entitled to create on *their own property* by Code and by Planning Guidelines.

I can only hope the proposed improvements are well-designed, comprehensive, and will be a benefit to all. The proposed improvements to the Planning Department's internal review must provide a more predictable and consistent process for permitting and must minimize the current arbitrary and divisive nature of the current DR process.

I greatly appreciate the Planning Commission and Planning Department being proactive in improving the DR process.

Please approve the Planning Department's proposed improvements.

Sincerely, Alexander Schroeder

November 12, 2008

Dear Distinguished Panel Members,

I am a homeowner living at 1581 Masonic Ave in San Francisco. I have lived in the neighborhood for 28 years. We lived directly across the street from our current residence for 23 years, where my husband and I raised our two daughters. San Francisco has long been our home, as you can well see. I feel truthfully disheartened and possibly ready to move from an area that has a long been considered home for me. We have experienced incredible strife and hardship that has resulted from our desire to improve and create a new vision of home at our current residence.

The reason for our hardship has to do with our next door neighbor and their connection to a past contractor that we are presently in litigation against. The last significant hardship that we have had to deal with is the city's allowance of the issuance of complaint for matters that are directly allowed by the city per their code and permit process.

Let me begin by giving you a brief history. We began construction in May 2006 with a contractor who never took an exam to receive his contractor's license, and was instead grandfathered in by the state through the inheritance of his father's license. We did not discover this until we were involved in the litigation process. We terminated association with them in December 2006, as we began to have numerous concerns.

We are presently in litigation with this contractor. **Please see attached letter from our attorney.** This substantiates our present litigation with said contractor, who has provided information that has assisted our neighbor to register complaints.

Through much email correspondence and on-site contact, it was our understanding that the contractor and his on-site project manager were handling all matters related to the permit process needed to assure compliance with the city. How scary to discover, and with great consequence to us now, that the majority of permits needed were never rightfully secured. We have worked hard with the city to correct all these matters.

I would like to begin by saying that we have had nothing but positive experiences in dealing with the city officials in both your building and planning departments. Kate Connor, Dennis Carlin, Joe Duff, Kevin Brusatori, and Tim Frye. All these individuals are professional, and take the responsibility of their jobs seriously and with the utmost integrity.

You will notice that the first complaint issued by our neighbor was on 3.1.07, related to work beyond scope and they have since issued seven (7) complaints against us. Please be aware that these complaints are also for work matters allowed by the city under their permit and code process. The reason proper permitting was not done is because of our contractor and not because of us. These seven complaints have taken us to appeals court, various hearings, to Planning and DBI many times; not to mention everything needing to

be re-drawn, re-done, and re-submitted. This has caused such hardship, both emotionally and financially, to such a degree, that we have not been unable to finish our home. The financial amount related to attorneys, architects, engineers and time spent by our project manager, not to mention loss of sleep, feelings of oppression, revenge and harassment. This has all filled our lives for over two years now. The financial costs are estimated to be in excess of \$80,000. We have not been unable to finish the front of our home, to landscape, to finish lighting, painting, or interior fixtures. We have not been unable to secure a final on our project which means we could not even sell our home to be able to stop this insanity.

This one neighbor has been able to cripple us, in our building process by using your departments with his one single voice when everything that we are doing is allowable without a variance per city code. Obviously, the appeals process and discretionary review process needs to be revised.

* I recommend that a form be created, under penalty of perjury, which has questions with limited allowable responses to not exceed 50 words. Then a site visit would be made by someone in planning to see if the criteria met the "exceptional and extraordinary circumstances that justify further consideration". It seems that during the on-site visit that your officials should be able to uphold your building codes and permit process. These codes and permits allowed were written for a reason. Leaving out personal biases, individuals of this city should be able to remodel, construct and otherwise create a more livable environment that thus limits unnecessary expenses and undo hardship because a neighbor doesn't like what your doing or they just don't like you; and now they have a venue to use to create hardship.

Please note that at the appeals hearing untruths were presented in a power point presentation that we could not refute because we had five minutes immediately following their presentation to present our information. This particular hardship, for a completely allowable fence, cost in excess of \$20,000.00 dollars, just for legal fees. We had 60 household petitions signed by neighbors in support of us.

Please do whatever you can to change the policies of your department so others do not have to experience these same hardships.

Yours Truly,



Candace Barnes
1581 Masonic Avenue
San Francisco, CA 94117

SUMMARY OF COMPLAINTS FOR 1581 MASONIC AVE 11.12.08

1.31.2007 COMPLAINT # 200790576:

Complaint regarding installation of a beam in the back exterior of property without a permit.

Complaint filled by previous contractor who was fired 12.2006; this contractor installed this beam. Currently in a law suit with said contractor.

Permit to correct issued 2.02.2007

3.01.2007 Side walk

Complaint related to replacement of sidewalk with pavers. This is Neighbors 1st complaint.

Permit issued.

4.10.2007 COMPLAINT # 200798796:

Complaint regarding possible Plumbing work being done under another's permit.

Complaint made by previous Plumber who was fired 12.2006.

Amended 7.12.2007

5.29.2007 COMPLAINT #200705872:

Complaint Work Beyond Scope

Complaint filed by neighbor. This is neighbors 2nd complaint 5.28.2007, and 3rd complaint 6.04.2007; all made to Dennis Carlin our DBI Inspector. This information came to the neighbors from the previous Project Manager for 1581 Masonic... Inside information. Again we are in a lawsuit against this person.

6.19.07 COMPLAINT #301397570

Complaint issuance related to Cal/Osha matters (General) Injury and illness prevention program, etc.

This is neighbor's 4th complaint.
Fine Paid

1.03.2008 COMPLAINT #200837632:

Complaint for Stop Work on Fence Permit #200712069826...going to Appeals Board. This is neighbor's 5th complaint.

Complaint made by neighbor on 12.26.2007. Dennis Carlin made a sit visit 12.12.2006, after receiving numerous complaints from the neighbor. We showed him our valid permit, number above, all was well. There was a mistake from the city regarding a BBN and thus we went to The Board of Appeals on 1.16.2008 to assess if our case warranted a full appeal. An appeal was warranted and we went back to the Board of Appeals on 4.9.2008 for our Hearing. A revised Fence plan was resubmitted and approved on 5.16.2008 (9826).

4.18.2008 ORDER #177,763 Issued from Director of Public Works

Complaint was for Removal of Palm Trees from front of property.

Complaint filed by neighbors, this is their 6th complaint. Trees were removed in 11.2006. We went to hearing on 8.20.2008. Decision made 8.27.2008. We are still protesting this decision.

7.17.2008 COMPLIANT # 2008865053:

Complaint was for Not Following Plans Regarding Windows and Doors.

Complaint filed by Neighbors who have information from the previous Project Manager.... Inside information. This is their 7th complaint.

Resolved 10.2008... lots of time and \$\$\$\$

8.12.2008 BBN ISSUED AGAINST BALCONY PERMIT #

Permit submitted 5.2008 delayed due to Windows and Doors complaint above. This is their 7th complaint

I

dipak31@aol.com

12/06/2008 08:14 AM

To John.Rahaim@sfgov.org

cc OCCEXP@aol.com

Subject DR Reform

PLANNING COMMISSIONERS
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Subject: Letter in Support of Discretionary Review Reform

Dear Planning Commission:

I strongly support the Planning Commission and Planning Department's efforts to reform the Discretionary Review process. Under the current DR process, there are too many opportunities for abuses such as frivolous DR hearings that squander time and resources of not only homeowners wanting to improve their homes but also the Planning Commission and Planning Department.

The proposed improvements are well-designed, comprehensive, and will be a benefit to all. The proposed improvements to the Planning Department's internal review will provide a more predictable and consistent process for permitting and will minimize the current arbitrary and political nature of the current DR process. I greatly appreciate the Planning Commission and Planning Department being proactive in improving the DR process.

Please approve the Planning Department's proposed improvements.

Regards,

Dipak R. Patel

William Pattengill
415 Bella Vista Way
San Francisco CA 94127

December 7, 2008

To: Planning Dept.

Re: Discretionary Review Reform

Dear Commissioners:

There seems to be a growing awareness among the public that the DR process as originally conceived has outlived its original purposes. Where once it was a much-needed bastion against abuses by developers against the neighborhoods, the pendulum has swung too far in the opposite direction. It is apparent that the process can be used as a weapon by NIMBY neighbors and their associations to hijack the permit process for otherwise deserving low-impact projects.

The abuse of the current DR process can wear down applicants with costly delays and expenses, and burden the Planning commission with frivolous or politicized DR requests.

The proposed improvements seem to re-balance the process with a hope of fairness for both applicants and their neighbors. Please consider the proposal for reform.

Sincerely,

William Pattengill



----- Forwarded by Elaine Forbes/CTYPLN/SFGOV on 12/10/2008 05:59 PM -----

"Tam,Victor"
<TamV@sfusd.edu>
12/10/2008 05:59 PM

To <c_olague@yahoo.com>, <rm@well.com>,
<wordweaver21@aol.com>, <plangsf@gmail.com>,
<bill.lee@flysfo.com>, <mooreurban@speakeasy.net>,
<hs.commish@yahoo.com>, <elaine.forbes@sfgov.org>
cc
Subject SUSPECT: Writing in support of the new DR process
t

45 Alviso Street
San Francisco, CA 94127
10 December 2008

San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2414

Dear Commissioners,

I am writing as the owner of a home in the Ingleside Terraces. My wife and I went through the DR process after over a year of negotiations with our neighbors and the Ingleside Terraces Homeowners' Association. We tried unsuccessfully to avoid going to DR by trying to meet the on-going demands of one of our neighbors. The City planner can attest to the fact of how many numerous revisions we went through, widdling our project down to the point where my wife and I decided to go to DR having no other options.

My experience was that the DR process was unfair and unnecessary. It pits neighbor against neighbor. I can't help but to wonder how many successful negotiations have actually resulted from this process. Even though our project, which originally was designed to comply with the City's planning guidelines, nonetheless had to be reduced only to comply with the demands of two neighbors in the process to try to avoid DR. I believe it would have been a much more fair and uniform process had we been able to follow a process such as this new one being proposed with the Residential Design Committee and the hearing judge. I believe it would help to avoid some of the unfair and arbitrary demands that project sponsors must contend with to have their projects approved in this City.

I urge you to support the proposal for this new process.

Sincerely,

Victor Tam
owner

Victor Tam

Victor Tam

----- Forwarded by John Rahaim/CTYPLN/SFGOV on 12/11/2008 09:37 AM -----

Steven Aiello
<pstevenaiello@sbcglobe.net>

12/11/2008 09:08 AM

To c_olague@yahoo.com, rm@well.com,
wordweaver21@aol.com, plangsf@gmail.com,
bill.lee@flysfo.com, mooreurban@speakeasy.net,
hs.commish@yahoo.com
cc john.rahaim@sfgov.org

Subject SUPPORT PlanDept DR Reform proposal

Good Morning President Olague and Commissioners,

I strongly support the Planning Department's pending proposal for DR Reform, and look forward to testifying in favor of it later today.

I participated in the last round of DR reform back in 2004, and submitted to the Commission a suggestion for policy changes (attached for reference). Most of what I wrote back then is now moot due to the Commission's adoption of pre-application, simple v. complex, and fee reduction. However, one section discussing possible threshold definitions for "exceptional & extraordinary" may hold some relevance for your upcoming review, and I have copied it below for easy reference.

Thank you for considering this important reform to the SF planning approval process, and please approve the Department's proposed DR reforms.

Very Truly Yours,
Steven Aiello

Steven Aiello

ATTACHMENT 3

1. **DEFINITION OF "EXCEPTIONAL & EXTRAORDINARY" CIRCUMSTANCES:** The goal is to eliminate confusion in the definition of "exceptional & extraordinary". Currently, the policy definition shifts with each project reviewed.

a. Clearly define and consistently enforce a standard definition of “exceptional & extraordinary”. A major issue driving the number of DRs filed, and their attendant costs, is the lack of a clear definition of the threshold issue, “exceptional & extraordinary”, required for access to the Commission’s discretionary power over Planning Code compliant projects. Defining this threshold will have benefits:

i. Eliminates confusion on the part of the individual considering a DR filing. The lack of a clear definition allows an excessive range of individual interpretation as to what is “exceptional & extraordinary” and encourages Voluntary DR initiators to proceed even though they have little chance of ultimate success before the Commission;

ii. Provides clear direction to Staff planners in preparing and supporting their determinations. For those DR initiators who proceed according to their individual interpretation, a clear standard will assist staff in analyzing the merits of the case, and provide clear precedents for the Commission in deciding the case, in light of past cases.

b. Possibly define “exceptional & extraordinary” as projects outside of the AIA criteria for “Simple” DR. In its letter of April 27, 2004, the San Francisco Chapter of the American Institute of Architects proposes that if a “simple v. complex” method of rating DRs is adopted, then the “simple” category be clearly defined to include ordinary items and issues, such as principally permitted uses, private views, and new construction or additions that do not exceed the height and depth limits of adjacent buildings. The “complex” category would include all other projects not subject to the “simple” criteria.

If the Commission decides to go the route of “simple v. complex” policy reform, then the criteria developed to define the respective categories can also be used to define “exceptional & extraordinary.”

By definition, if a project falls under the “simple” category, then it is not likely to be “exceptional & extraordinary”. Conversely, a “complex” project is more likely to fit within “exceptional & extraordinary”.

c. Consider an alternate definition: the *Ordinary* standard. The Residential Design Guidelines are based on an architectural concept known as *pattern language*, first developed by Christopher Alexander (et al), Emeritus Professor of Architecture at UC Berkeley, in his book “A Pattern Language”, published in 1977. The general thesis is that the physical patterns of our built environment can and do affect how we perceive and utilize the constructions therein, and that the art of design is to promote positive patterns and discourage negative ones.

Instead of wrestling with how to define “exceptional & extraordinary”, perhaps an *Ordinary* definition would be easier to achieve. An *Ordinary* definition would include those positive design patterns, both traditional and contemporary, already established in the new Residential Design Guidelines, effective January 1, 2004. Projects determined by Staff to be compliant with the RDG, would fit within the *Ordinary* definition, and thus not rise to the level of “exceptional & extraordinary”. Too often, DR disputes center on overly rigid individual interpretations of the RDG, and devolve into an aesthetic battle over which beholder’s eye sees more beauty.

Similarly, the *Ordinary* definition could be used to define recurrent patterns of contention, not directly related to the building itself, but indirectly affected by the building. These could include: private views not protected by easement, issues of residents not located on the block in question, construction noise, and light and air to rear yards. Typical DR cases falling under an *Ordinary* standard would unlikely be “exceptional & extraordinary”.

ZERO DESIGN COMPANY

324 Park Street / San Francisco / CA 94110 /
P. Steven Aiello, Owner

The San Francisco Planning Commission
1660 Mission Street, 5th Floor
San Francisco, CA 94103-2414

RE: DISCRETIONARY REVIEW POLICY & FEE RECOVERY REFORM

May 17, 2004

Dear Commissioners:

As a concerned citizen, homeowner, and professional designer whose work is subject to the permit approval system and discretionary review, I offer the following policy suggestions, in an effort to support you in making effective and fair reforms to a broken process and system.

My primary focus in this policy proposal is the reform of the DR fee recovery system. I recognize, however, that fee recovery is inevitably tied to the policy side of DR, and the other policy reform issues currently under discussion. I have therefore also included suggestions for reforming the policy side of DR, and possible methods for implementation.

Striking the right balance between both sides of DR is vital to improving the health of the Planning Department, the morale of the Staff, the integrity of the Planning Code, and the pressures on the Commission. The right balance is also especially vital for protecting both the public interest and the private participants in the DR process.

In essence, I urge that the Commission return to its September 25, 2003 directive to the Department to fully enforce existing Planning Code Sections 352(b) and 350(c), and, as provided in those sections, charge Voluntary DR initiators the full time and material costs for staff planners to process the private DR application.

Combined with other prudent changes to the policy side of DR, derived from and based on the new Residential Design Guidelines, I believe that the overall cost of processing privately-initiated, Voluntary DR applications will be lower than current costs for the Department, and thus the DR initiator, if full cost recovery is implemented.

As the Commission knows well, the reform of discretionary review is highly contentious, very complex, and involves many legitimate competing interests to be considered, and, ultimately balanced for effective reform. Please refer to the attached pages for my detailed suggestions for improving the entire process. They cover:

- Attachment 1: Positions on the Current Reform Proposals for Policy and Fee Recovery
- Attachment 2: Suggestions for Trial Period, DR-master, Mandatory Benchmark Review
- Attachment 3: Suggestions for Definition of "Exceptional & Extraordinary" circumstances
- Attachment 4: Position on Fee Recovery Reform

My proposal has three main parts designed to reinforce one another. However, they can be independently implemented and still bring meaningful reform to the current system. I hope this information is of service to you in your difficult task ahead. Please call with any questions, comments, and clarifications you might have. Thank you for your time and attention!

Sincerely,

Steven Aiello, Owner
Zero Design Company

ZERO DESIGN COMPANY

324 Park Street / San Francisco / CA 94110 /
P. Steven Aiello, Owner

ATTACHMENT 1

CURRENT FEE RECOVERY PROPOSAL FOR DISCRETIONARY REVIEW COSTS:

I know that the Department needs funds to invest in long range planning and a modern computer infrastructure, and I support the proposal to allow a reasonable application surcharge on all building permits reviewed by Planning for these items. Proper funding of these items will allow the Department to fulfill its mission of planning for the City's future, and serving the public. These are true public interests.

A similar surcharge is also proposed to fund the Department costs for privately-initiated Voluntary DR applications. I strongly oppose this "DR surcharge" for the following reasons:

1. All project sponsors will be charged for a process, frequently political in nature, that they often do not control, most are not subjected to, and all wish to avoid;
2. Project sponsors will, in effect, be funding the opposition to their permit application;
3. Non-contentious projects will, in effect, be subsidizing contentious projects;
4. It is based on the faulty idea and political myth that *only* project sponsors create the "DR-problem";
5. The sections allowing full DR fee recovery from the DR initiator were designed to protect the Commission's sensitive discretionary powers from abuse;
6. It creates for the public the impression that DR is a normal situation of negligible cost.

CURRENT POLICY REFORM PROPOSAL: COMMUNITY OUTREACH & PRE-APPLICATION MEETINGS:

I generally support the idea of a Pre-Process if it serves to reduce the number of DRs and the amount of staff time required to process them. However, I note that the following issues need attention:

1. An already difficult permit approval process becomes longer. Mandatory Community Outreach and Planning Pre-Application meetings will delay the official beginning of the permit process: filing an application with DBI;
2. The contentious atmosphere surrounding projects that end up in DR is often the result of unrealistic expectations or differences in personal philosophy by one or more participants regarding the others: the project sponsor or neighbor or planner;
3. DR cases often involve allegations of all sorts and highly personal disputes between neighbors;
4. The Community Outreach Meeting places a burden on the Project Sponsor, with additional cost, without providing a recognizable, measurable process benefit.

Regardless of the above issues, I have found that a Pre-Application Meeting with an experienced staff planner can provide me with valuable information regarding planning issues that can affect my proposal and complicate the approval process.

If the Commission decides to implement the Pre-Application and Community Outreach Meeting requirements, then it should adopt the recommendations offered by the AIA SF chapter for simplifying the current staff proposal.

CURRENT POLICY REFORM PROPOSAL: SIMPLE V. COMPLEX DISCRETIONARY REVIEW:

I am supportive of standardizing the DR process, so that all applicants are treated fairly and equally according to clearly defined standards. However, I note that the following issue needs attention:

1. Difference of interpretation is a driving force behind DR filings. The same arguments over "exceptional & extraordinary" will be easy to transfer to what is "simple v. complex" without clear and fair standards.

If the Commission decides to implement the "simple v. complex" requirements, then it should adopt the recommendations offered by the AIA SF chapter for simplifying the current staff proposal.

ZERO DESIGN COMPANY

324 Park Street / San Francisco / CA 94110 /
P. Steven Aiello, Owner

ATTACHMENT 2

1. **TRIAL PERIOD / "DR-MASTER" / MANDATORY BENCHMARK REVIEW:** The goal is to create objective DR data, a single staff source for DR data management, and a firm period against which the DR data may be measured.
 - a. Select a firm trial-period for simultaneous implementation of all DR policy changes, from one to three years. This will allow the Commission to establish a clearly defined baseline to measure the effectiveness of any and all policy changes and monitor progress along the way. It will also create certainty for all process participants during the trial period.
 - b. Align the trial period to the fiscal budget cycle. This will produce the most accurate data and avoid the traps of averaging, interpolation, and/or extrapolation between calendar years and fiscal years. Perhaps the most appropriate period to start implementation of a new policy would be the fiscal year 2005-2006.
 - c. Appoint or hire a "DR-Master". Select a single staff-person, who as a regular part of their duties would be responsible for: collecting DR data in a standardized format and preparing benchmark reports. Now that the Housing Element is settled, the Planning Director, Zoning Administrator, or other Senior Planner could serve this function until the funds are available to fill open positions or expand the duties for an existing position.
 - d. Implement mandatory data collection in a simple, standardized checklist format. The staff planner assigned to a case shall input DR status data with the DR-Master at each stage of the project process. Items to include:
 - i. Total number of DR filings, divided into specific categories and sub-categories:
 - (1) Mandatory: demo, merger, special planning areas (Ballpark, IPZs, East. Neigh., et al.);
 - (2) Voluntary: Staff, Permit applicant, Neighbor applicant, Multiple filings against single project.
 - ii. Resolution of case tracked by category:
 - (1) Withdrawn or Settled prior to Commission hearing;
 - (2) Commission Action: Deny DR, Take DR with minor project modifications, Take DR with major project modifications, Take DR and deny project.
 - iii. Time required for each DR case:
 - (1) Track total amount of staff time required processing each DR case;
 - (2) Track total amount of calendar time for each DR case from filing to resolution.
 - iv. Coordinate with Board of Appeals, if possible:
 - (1) Track number of DR cases appealed to the Board of Appeals;
 - (2) Track Board of Appeals final resolution: same categories as Commission Action.
 - e. Perform review and analysis of policy changes at defined benchmarks. DR-Master shall prepare a report and deliver it to the Commission at each benchmark interval (6 months or 1 year suggested). Report shall contain a summary of the checklist data for the current interval period, summary of previous data periods for comparison, and summary analysis of data trends. With these regular reports, the Commission, the staff, project sponsors, and concerned neighbors will have a consistent, objective and reliable information source, based upon actual DR filings and resolutions, to form the basis for any policy adjustments the Commission and the public feel are required.

ZERO DESIGN COMPANY

324 Park Street / San Francisco / CA 94110 /
P. Steven Aiello, Owner

ATTACHMENT 3

2. **DEFINITION OF "EXCEPTIONAL & EXTRAORDINARY" CIRCUMSTANCES:** The goal is to eliminate confusion in the definition of "exceptional & extraordinary". Currently, the policy definition shifts with each project reviewed.
- a. Clearly define and consistently enforce a standard definition of "exceptional & extraordinary". A major issue driving the number of DRs filed, and their attendant costs, is the lack of a clear definition of the threshold issue, "exceptional & extraordinary", required for access to the Commission's discretionary power over Planning Code compliant projects. Defining this threshold will have benefits:
 - i. Eliminates confusion on the part of the individual considering a DR filing. The lack of a clear definition allows an excessive range of individual interpretation as to what is "exceptional & extraordinary" and encourages Voluntary DR initiators to proceed even though they have little chance of ultimate success before the Commission;
 - ii. Provides clear direction to Staff planners in preparing and supporting their determinations. For those DR initiators who proceed according to their individual interpretation, a clear standard will assist staff in analyzing the merits of the case, and provide clear precedents for the Commission in deciding the case, in light of past cases.
 - b. Possibly define "exceptional & extraordinary" as projects outside of the AIA criteria for "Simple" DR. In its letter of April 27, 2004, the San Francisco Chapter of the American Institute of Architects proposes that if a "simple v. complex" method of rating DRs is adopted, then the "simple" category be clearly defined to include ordinary items and issues, such as principally permitted uses, private views, and new construction or additions that do not exceed the height and depth limits of adjacent buildings. The "complex" category would include all other projects not subject to the "simple" criteria.

If the Commission decides to go the route of "simple v. complex" policy reform, then the criteria developed to define the respective categories can also be used to define "exceptional & extraordinary." By definition, if a project falls under the "simple" category, then it is not likely to be "exceptional & extraordinary". Conversely, a "complex" project is more likely to fit within "exceptional & extraordinary".

- c. Consider an alternate definition: the *Ordinary* standard. The Residential Design Guidelines are based on an architectural concept known as *pattern language*, first developed by Christopher Alexander (et al), Emeritus Professor of Architecture at UC Berkeley, in his book "A Pattern Language", published in 1977. The general thesis is that the physical patterns of our built environment can and do affect how we perceive and utilize the constructions therein, and that the art of design is to promote positive patterns and discourage negative ones.

Instead of wrestling with how to define "exceptional & extraordinary", perhaps an *Ordinary* definition would be easier to achieve. An *Ordinary* definition would include those positive design patterns, both traditional and contemporary, already established in the new Residential Design Guidelines, effective January 1, 2004. Projects determined by Staff to be compliant with the RDG, would fit within the *Ordinary* definition, and thus not rise to the level of "exceptional & extraordinary". Too often, DR disputes center on overly rigid individual interpretations of the RDG, and devolve into an aesthetic battle over which beholder's eye sees more beauty.

Similarly, the *Ordinary* definition could be used to define recurrent patterns of contention, not directly related to the building itself, but indirectly affected by the building. These could include: private views not protected by easement, issues of residents not located on the block in question, construction noise, and light and air to rear yards. Typical DR cases falling under an *Ordinary* standard would unlikely be "exceptional & extraordinary".

ZERO DESIGN COMPANY

324 Park Street / San Francisco / CA 94110 /

P. Steven Aiello, Owner

ATTACHMENT 4

3. **DISCRETIONARY REVIEW FULL FEE RECOVERY:** The goal is to ensure that those who initiate DR pay the full value for the service of DR. With other policy changes that set clear standards for DR, more certainty will be created for the DR applicant as to the merit of their claims.
- a. Fully enforce existing Planning Code Sections 352(b) and 350(c) for Voluntary DR filings. The mechanism for full fee recovery from Voluntary DR initiators already exists in the Planning Code, but is not enforced. No changes to the Planning Code are required to implement full fee recovery. The benefits of enforcing the existing Code sections are:
- i. Conserves Department financial and staff resources for Planning's most important missions. If current trends continue for fiscal year 2003-2004, about 267 DR filings will cost the Department approximately \$433,000 according to Senior Planner Jonas Ionin's DR Policy Report dated April 1, 2004. This averages approximately \$1622 per DR case. These numbers represent only the staff planner's time spent on each case, and are exclusive of time resources spent by the Commission, Planning Director, Zoning Administrator, and Administrative Staff. The actual cost is probably closer to the \$2500 per case estimate given by Director Green in response to Commissioner Bill Lee's question at the December 10, 2002, Planning Commission meeting. If so, the actual DR cost for fiscal year 2003-2004 is closer to \$667,000.

The public resources consumed by private DR filings present a significant opportunity cost for the Department's other, more important citywide missions, such as the Better Neighborhoods community planning process, Program EIRs, and the update of the General Plan. It also diverts resources from needed investment in the Department's computer infrastructure and Long Range Planning Division.
 - ii. Collection mechanisms are already established. Effective June 1, 2004, the Department will begin charging project sponsors for cases subject to Mandatory DR (demos, mergers, et al) for the full time and materials required for staff analysis. The notice of this is already on the Department's website. The same collection mechanisms for Mandatory DR should be used for Voluntary DR, with necessary modifications adapted to the Voluntary process.
 - iii. Equally applies to whoever files for DR and preserves access to the Commission. Whether it is neighborhood opposition or project sponsor opposition to a staff determination, both sides will be equally treated by the fee structure. Charging the full cost of DR does not deny access to DR. Instead, it places the proper value in proportion to the exercise of the Commission's highest power: the discretion to modify citywide policy, as enshrined in the Planning Code, on a case-by-case basis to the benefit of private interests.
 - iv. Discourages frivolous and/or "spite" DR filings. Too often neighborhood opposition or project sponsor opposition to a staff determination is the result of "hard feelings" and an inability of the parties at hand to achieve a compromise and avoid protracted conflict. "Complex" DR cases will still consume plenty of staff time and Department resources. A filing fee of \$300 will be insufficient to discourage frivolity and spite for the more "complex" cases.
 - v. Properly places high value on professional planning and project review services. Commission minutes show that Commissioners regularly praise the Department staff for their hard work and dedication in the face of difficult and contentious circumstances. Staff morale is very low and gets lower with each DR filing. The Commission can raise morale by charging full fees to the DR initiator. This will send the direct message to Department staff that their time and dedication have real value, that they are appreciated, and that their professional determinations have merit. The DR initiator must pay the public freight for their private interests.

John Lum
<john@johnlumarchitect.com>

12/10/2008 11:11 PM

To c_olague@yahoo.com, rm@well.com,
wordweaver21@aol.com, plangsf@gmail.com,
bill.lee@flysfo.com, mooreurban@speakeasy.net,
hs.commish@yahoo.com, john.rahaim@sfgov.org
cc ellemow@yahoo.com, tedbolivar@yahoo.com,
mark.a.silva@comcast.net
Subject Discretionary Review Reform

Dear President Olague and Commissioners Miguel, Antonini, Borde, Lee, Moore and Sugaya:

I am writing a quick note to express my strong support of DR reform. Over the 14 years that I have had my architectural practice, we have had to deal with at least seven Discretionary Reviews, a majority of which were filed due to personal vendettas against clients, misunderstanding of the planning code by the DR applicant, or just plain obstructionism....in essence, DRs that clearly had no merit.

Meanwhile my clients have been held hostage to the process, spending countless hours (as well as dollars) in negotiations and modifications to appease neighbors without any recourse. The current DR process is patently unfair, in that it allows for someone to file a DR without any justification and suffer no recourse. The delays add at least 3-6 months to the process of getting approvals. as well as increase costs substantially.

I believe the concept of a DR hearing officer, similar to a Variance officer, shows that the proposed DR reform can work.

Thanks for your consideration,

John Lum, Architect

"Linda Frey"
<lindalfrey@gmail.com To c_olague@yahoo.com
> cc elaine.forbes@sfgov.org
12/11/2008 10:09 AM Subject support for reform of Discretionary Review Process

PLANNING COMMISSIONERS
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Letter in Support of Discretionary Review Reform

Dear Commission President Christina Olague:

We are writing to indicate our support for the Planning Commission and Planning Department's efforts to reform the Discretionary Review process. Under the current DR process, there are too many opportunities for abuses, such as frivolous DR hearings that squander time and resources of not only homeowners wanting to improve their homes but also the Planning Commission and Planning Department.

In July of 2008, our uphill neighbors requested a discretionary review of our plans to add a small, one-story addition (250 square feet) to the back of our home in Glen Park. In preparing these plans, we had carefully followed all of the Planning Department requirements, and had worked closely with an architect to ensure that what we were proposing was covered by the code and well within our rights as homeowners. We were not requesting any exceptions or variances to complete the remodeling project, and Planning Department staff indicated both to us and to our architect that the neighbors' request did not in fact constitute "exceptional or extraordinary circumstances." Nonetheless, we were informed that the request would necessarily result in a discretionary review process that would have significantly delayed our project, and would have resulted in significant expense for additional drawings and analysis by our architect. As a result, we were forced to accept an unfortunate modification to our plans that requires us to lower the ceiling in part of our new kitchen (resulting in three different ceiling heights in one room!) as well as a significant reduction in our cabinet space. All of this to cut an 18 inch by 18 inch chunk out of the ceiling of our addition, which our neighbors seem to think will increase the light they get through a small window at the back of their house (!)

Of course, it is completely fair that neighbors should be notified of projects such as this and should have the right to raise concerns. However, in our view, a case like ours

should have been decided quickly – and at almost no cost – based on the judgment of the Planning Department that this particular request did not constitute "exceptional or extraordinary circumstances."

The proposed improvements to the Discretionary Review process are well-designed, comprehensive, and will be a benefit to all. The proposed improvements to the Planning Department's internal review will provide a more predictable and consistent process for permitting and will minimize the arbitrary and political nature of the current DR process.

We greatly appreciate the Planning Commission and Planning Department being proactive in improving the DR process. Please approve the Planning Department's proposed improvements.

Sincerely,
Linda Frey and Noah Goldberg, 86 Whitney Street, San Francisco

San Francisco Planning Commission
1650 Mission Street
Suite 400
San Francisco, CA 94103-2414

By Hand

SUBJECT: DISCRETIONARY REVIEW REFORM

Dear Commissioners:

The Pacific Heights Residents Association (PHRA) represents 500 member households living within the area bounded by Van Ness Avenue, Presidio Avenue, Union Street and Bush Street. PHRA's mission is to maintain the quality of life and the residential character within these boundaries.

Discretionary Review is an essential tool that helps us in this mission, and the DR process is highly valued by our members.

PHRA agrees that the DR process, as currently implemented, is not the best possible solution, and that improvements to the process are needed. Unfortunately, the proposal ([DRoutreachmaterials.pdf](#)) fails to progress the goal of good planning leading to good projects in a timely manner.

In particular, PHRA strongly opposes the proposal to replace most DR hearings by the Planning Commission with hearings by a Hearing Officer. This attempts to treat a symptom while failing to address a number of the underlying causes that lead people to file DRs.

We are convinced that the Planning Commission hearing process adds significant value. The collective insight and experience of the Commission has repeatedly proven its value.

Expecting a Hearing Officer to provide this group wisdom is unrealistic. In particular, there would be no debate/question by neutral parties with different perspectives on the problems. The range of expertise required by the Hearing Officer would be enormous, probably beyond the ken of ordinary mortals. The evidence is clear: decisions on complex matters by an individual are not as good as decisions by a small group. Furthermore, the stated expectation that the Hearing Officer will not be affected by political considerations is naïve and unrealistic.

That said, several of the proposed measures make a good start towards an improved process, and with additional improvements should reduce the overall DR load at Planning Commission meetings. In particular, we support improving the review process prior to 311/312 notice, with a Residential Design Committee (RDC) made up of senior staff reviewing proposals against Residential Design Guidelines, and recommending changes, approval or rejection. The proposed process needs to be expanded to clearly identify means of incorporating neighborhood feedback early in the process; the current pre-application process unfortunately falls short of expectations and needs.

PHRA also believes that Planning support in resolving disputes over designs will reduce the number of DRs, as well as reduce the time needed in Commission Hearings to deal with DRs. Mediation does not detract from the planner's professional expertise. Rather, the planner's professional expertise and experience make them ideally suited to help neighbors understand how best to resolve conflicts related to planning matters.

Similarly, updating the Residential Design Guidelines, with more attention to neighborhood specific criteria, will improve the planning process.

The public outreach meetings were very helpful at telling us what Planning was proposing, and soliciting an answer to the simple question "Do you like it?" Unfortunately the meetings did not permit the level of dialogue needed to identify complex concerns and identify possible solutions.

PHRA urges the Planning Commission to direct Planning staff to work with neighborhood groups to continue to refine this proposal, understanding how best to incorporate neighborhood input into the overall planning process in a way that minimizes the need for DRs. Until this is completed, the proposal is not ready for a decision on implementation.

Sincerely yours,

PHW/Copy

Paul H Wermer
For PHRA

"Louis H. Felthouse"
<lfelthouse@lhfarch.com>

11/17/2008 01:32 PM

To "John Rahaim" <John.Rahaim@sfgov.org>
cc "Larry Badiner" <Larry.Badiner@sfgov.org>, <elaine.forbes@sfgov.org>
Subject DR process

Director Rahaim:

I was very pleased to attend the Planning Department's Southwest Quadrant presentation of the proposed Discretionary Review process modifications last Wednesday. It was clear that staff has worked very hard to develop the proposed modifications and I am delighted that they include both features to reduce frivolous DR Requests that do not substantiate the extraordinary circumstances require to justify a DR, establish a more consistent method of interpreting and applying the Residential Design Guidelines to proposed projects and reducing the valuable time of the Planning Commission currently wasted on frivolous DR requests so they can focus more on policy issues. Thank you and your staff for the tremendous effort developing the proposed modifications and for devising modifications that will vastly improve the process in a fair and just fashion.

I hope that you will be able to find a candidate for the position of DR Hearing Officer with the poise, experience and knowledge level of Larry Badiner. I am not nominating Mr.. Badiner as he has too much on his plate as Zoning Administrator to be burdened with yet another Herculean task but perhaps someone like Bob Passmore, the former Zoning Administrator.

I have one additional comment regarding the DR process that was not included in the proposed modifications. The fee for requesting Discretionary Review is too low and facilitates frivolous DR requestors ability to delay a project and cause economic hardship to project sponsors by protracting the process, adding costs to the sponsor for the professional services from architects and land use attorneys to provide the services necessary to support a project thru the DR process. The cost to the Planning Department to administer the DR process is in excess of \$3,200.00. DR requestors with the means to pay the full cost should be charged the full cost just as a project sponsor who's project requires a mandatory DR like for a dwelling unit merger. Community groups and DR requestors whose income and property holdings under an amount where the full fee would be a hardship as determined by the Planning Department should be allowed a reduced fee to make the process available to everyone in San Francisco. I have seen too many projects unfairly disrupted or completely derailed by the nimbys,(not in my back yard), of the world who pursue personal agendas inconsistent with the Planning Code and Zoning regulations and know the current system well enough to use Block Book Notations to be noticed on all projects, DR to slow project approval or extort cash from project sponsors to withdraw DR request, Board of Permit Appeals to add further delays and cost to project sponsors and finally the Board of Supervisors to challenge exemptions from environmental review and continue delays and costs to project sponsors. I truly believe that if the fee was raised to the full cost it would deter some of this type of outrageous abuse of the system.

I applaud your efforts to reform the DR process and hope that you will consider the fee issue.

Sincerely:

Louis Felthouse
Louis H. Felthouse Architects Inc.

**"Frederick Gibson,
Architect"**
<frederick@gibson-
design.com>

11/14/2008 09:59 AM

To delvin.washington@sfgov.org, "Kate Conner"
<kate.conner@sfgov.org>, elaine.forbes@sfgov.org,
elizabeth.watty@sfgov.org
cc
Subject Discretionary Review Reform - Well Done

I attended the Nov. 12th presentation on DR reform, and just wanted to commend the Department on a plan that looks like it will improve the current system. I am currently facing my third DR in the City for a spurious claim as were the other two, and both sides had to hire lawyers and we've now spent over a year trying to get through (1527 Beach Street). The incredible costs to the home owners and to my firm are almost unbearable, and the only result in this DR will be the delay and financial damage to the homeowner and my firm.

I think the only ones who will oppose the DR reform will be those who want to wield the power of spurious DR claims to extract value or simply cause damage to home owners.

Please enact the reform as soon as possible to prevent home-owners from giving up on the City and small firm architects such as myself from going out of business in these very difficult times.

Regards,

Frederick C. Gibson, Architect

Frederick@gibson-design.com
Architecture Designed With Integrity
Frederick Clifford Gibson Architect & Associates

----- Original Message -----

From: nancenumber1

Sent: 12/03/2008 10:34 AM EST

To: Elaine Forbes

Subject: DR letter for 12-11-08 Planning Comm. Mtg.

December 2, 2008

SAN FRANCISCO PLANNING COMMISSION

RE: Discretionary Review Reform

Dear Commissioners:

The proposed broad sweeping changes for the Discretionary Review process are premature at this time, and some are ill advised.

1. The use of the Residential Design Committee (RDC) in effecting positive changes in the design stages of a project has yet to be evaluated. Resolving potential problems before the 311/312 even goes out could avert the need for a DR. Strengthening the preapplication process between project sponsor and neighbors also starts a needed dialogue. Please give the RDC a chance to work before making radical changes. To this end, I support transparency of the actions of the RDC by making their recommendations available online and part of the project file.
2. Installing a single person Hearing Officer to rule on DR applications, where the 7 person Commission used to rule, is not an improvement in the public process. It is likely to be a disservice to all concerned. It will be impossible to convince everyone that the person is immune from bribes in one form or another, uncorruptible, totally knowledgeable and objective. This position "creates the potential for inappropriate financial exchanges" that was a concern of the present system between sponsor and neighbor.
3. If the planner is not involved in mediating between conflicting parties, who will do this? How will compromise between sponsor and opponents be achieved without the planner educating all concerned, and backed by the weight of the Planning Commission to arbitrate disputes? Who will foster development that is reasonable?

4. Our practices are “inconsistent with best practices in other jurisdictions.” How similar are these other jurisdictions with San Francisco? Are they bounded by water on three sides with no place to grow? Are these places both a city and a county? Are their “development - antidevelopment forces” as active as this city has? San Francisco IS unique. We need to preserve the right to debate planning issues before the Planning Commission, not be sidetracked to another bureaucratic process. This would not be a good practice for SF.

5. It is suggested that there are cost savings to be achieved with this DR reform. There is no detailed information available on the proposed savings the reform would achieve. I would like to review these data before accepting the statement that there will be a financial benefit to the Planning Department, especially since there will be new administrative costs to create the Hearing Officer’s office.

Sincerely,

Nancy Wuerfel

Gary Bell
<bellgary@pacbell.net>

To John.Rahaim@sfgov.org

12/03/2008 11:44 PM

cc

Please respond to
Gary Bell <bellgary@pacbell.net>

Subject Fw: Reform the DR Process

John Rahaim
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Letter in Support of Discretionary Review Reform

Dear Director Rahaim:

I strongly support the Planning Commission and Planning Department's efforts to reform the Discretionary Review process. Under the current DR process, there are too many opportunities for abuses such as frivolous DR hearings that squander the time and resources of homeowners wanting to improve their homes as well as the Planning Commission and Planning Department.

The proposed improvements are well-designed and comprehensive. They will benefit the public and the Commission. Additionally, the proposed improvements to the Planning Department's internal review will provide a more predictable and consistent process for permitting and will minimize the current arbitrary and political nature of the current DR process.

I encourage the Planning Commission to reform the DR process. Please approve the Planning Department's proposed improvements.

Sincerely,

Gary Bell

Cow Hollow Association Recommendations
Discretionary Review Workshop
11/19/08

Introductory Comments:

- CHA would consider supporting the newly proposed administrative procedures, provided that the Pre-Application process is strengthened as outlined below, and, a form checklist (to be provided) is used by both Planning and the project sponsor in the Pre-App process, which will provide notice to immediate neighbors and related Neighborhood Associations. We would also recommend that the Hearing Officer is selected from a current or past Commission member.
- Cow Hollow Association is supportive of Planning's desire to improve and streamline the DR process. However, we would be concerned if the role of the Residential Design Committee and proposed Hearing Officer served to deprive citizens of their right to learn about and comment on projects that slip through and are approved without adequate notice.
- Finally, there should be a method to appeal the decision of the Hearing Officer to the Planning Commission.

Pre-Application Meeting between the Project Sponsor and Affected Parties.

1. Standard invitation/envelope mailed 10 days prior to Pre-App Meeting - provide proof of mailing
2. Mechanism for neighbors to directly submit their comments and/or concerns to the Planning Department
 - a. Form/checklist included in the Pre-App notification
 - b. Key neighbors (adjacent/across/behind-min 150 feet) receive in addition a stamped envelope addressed to the Department
3. Planning Staff member present
4. Meeting at subject property

Neighborhood Association Review

1. Each neighborhood would use either a Department prepared form/checklist that follows the RDG, or if neighborhood design guidelines have been developed, a form/checklist that follows the specific elements of design – i.e. CHNDG
2. Neighborhood Association to complete the checklist, mails it into the Department, Department attaches it to the project submittal, and Planning responds to the specific points

Plan Modifications

If requested by a neighbor or Neighborhood Association, when plans are modified, interested parties are notified that revised plans are available at 1650 Mission, 4th Floor and at subject property. Interested parties are given 10 days to review plans at Planning and respond using an available form

311 Notice

Prepared in a standard format, showing measurements, square footage, and plans, and including a photo

Before Filing a DR

DR Applicant must demonstrate one of the following has been accomplished:

1. Attend Pre-App Meeting and or submitted checklist form
2. Set-up an appointment with the project sponsor
3. Set-up an appointment with the project's architect
4. Discuss project with the neighborhood association

DR Applicant Meeting with Planner

1. Planner familiar with the Planning Code, RDG, and neighborhood design guidelines and understands how to assess the DR Applicant's concerns
2. Planner has a strong familiarity with the project and understands how to assess the DR Applicant's concerns
3. Planner can discuss the DR Applicant's concerns with the project sponsor and architect

DR Application

1. Review by Planning Staff of the completeness of the application and its content
2. DR Applicant to demonstrate extraordinary and exceptional circumstances
 - a. Checklist of extraordinary and exceptional circumstances with explanation including:
 - historic resource
 - violates RDG
 - violates neighborhood design guidelines

Project Sponsor

Demonstrate Project Sponsor has accomplished one of the following:

1. Reach out to DR Applicant to discuss concerns and attempt to reach a compromise, thus drop the DR
2. Initiate Community Boards
3. Meet with neighborhood association to develop list of action items and demonstrate their accomplishment

"John Schlesinger" <john@jschlesinger.com> 10/29/2008 04:56 PM

To "John Rahaim" <john.rahaim@sfgov.org>, "Alicia John-Baptiste" <alicia.johnbaptiste@sfgov.org>, "Larry Badiner" <Larry.Badiner@sfgov.org>, elaine.forbes@sfgov.org
cc
Subject Planning Department Action Plan

All:

Excellent presentation yesterday. You really captured most of the important points for the action plan in general and the issues surrounding DR in particular. As mentioned in an earlier email to John, when the time is appropriate, you should make sure there is senior staff participation from DBI, so issues surrounding permit tracking, recommendations from the BPR report, and other issues having to do with the MOU you have with DBI are addressed. When senior planning staff participated in the BPR workshops, greater clarity was brought to a lot of the conflicting issues between the two departments.

Attached is a mark up of your proposed discretionary review visio style chart, for your consideration.

A few observations:

1. I have added the clarification (or meeting, if there is a demand to include this) box, which would allow the RDC to consult with the DR requestor and/or project sponsor. This would prevent any misunderstanding of either the project sponsor's documents and information or the DR requestor's complaint. As you know, so often material gets to the commission that then has to be deciphered, since it has not been properly vetted. If you are relying on staff to deal with these materials in a more administrative manner, this intermediate step is necessary. Also, it gives greater transparency to the process for both the project sponsor and the DR requestor with their consultants (we know there are several people who do this either for project sponsors or DR requestors and will demand to be heard).

I feel strongly that however this intermediate step develops, this should not be advertised as a mediation session or settlement conference. Having led the architectural mediation services for DR requestors and project sponsors under the auspices of the AIA during those overly dysfunctional days of the late 1980's and early 1990's, before the enforcement of the residential design guidelines, I recognize that there are separate skill sets required to conduct these sessions properly. When not done properly, it only hardens the positions on each side and further burdens the time spent by the project planner and the Department. When done properly, it is used as an information gathering session, with observations made by the Planning Staff, so each side knows what the issues really are. Very often this can be done via email, rather than having to have a meeting. Let's keep the burden on parties meeting with each other on the shoulders of the project sponsor and DR requestor, rather than dragging the Planning Department into this mix unnecessarily.

2. There were some conversations regarding the left hand side of the chart, where the Department is recommending that some cases do not meet the standard of extraordinary or

exceptional circumstances and should be approved. Others felt that there would be significant political push back on a process that does not automatically replace the planning commission hearing process with a public hearing before a hearing officer for any case that has issues within the purview of the Department. The complaint will be their only avenue to a hearing process would be the Board of Appeals. I feel that only allowing the RDC to approve projects without a hearing officer for those that are beyond the purview of the Department is too timid. The RDC should be given the authority to approve projects that are not exceptional or extraordinary. The Board of Appeals is the proper venue for appealing the Department's (or in this case the RDC's) administrative decision. You will notice that I have added the box for the Board of Appeals, so it is clear that this may be part of the DR process.

3. There needs to be a "loop back" for those projects that have been revised by the project sponsor and becomes an approvable project. This prevents the chart from showing that the only path for projects that have been changed must be sent to the hearing officer. Failing to do this would put an undue burden on the hearing officer for projects that he/she should not have to see, once it meets the threshold set by the Department and the RDC. This is why I am showing an arrow from the box that shows the planner working with the project sponsor back to the clarification box.

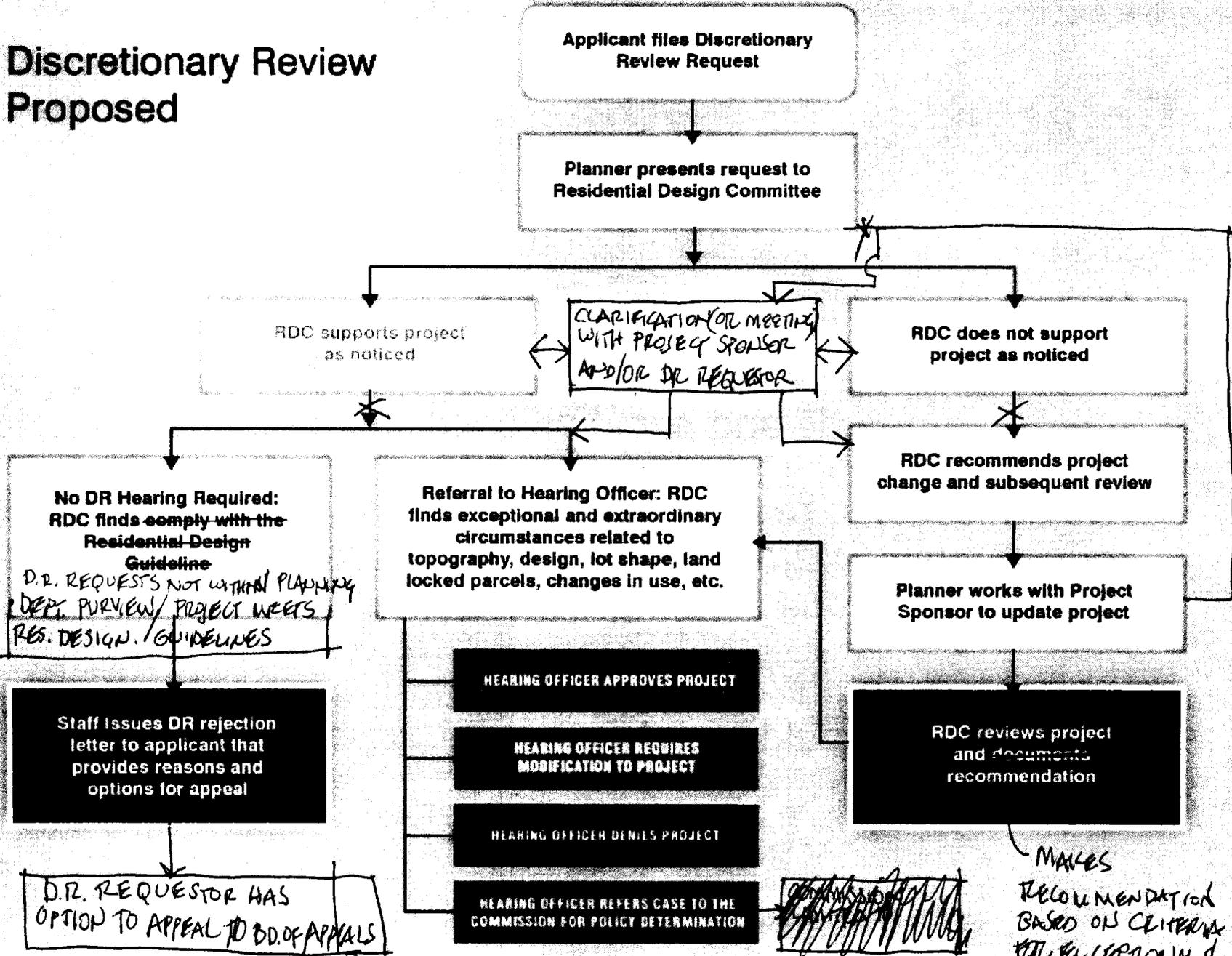
4. There is a potential for the project sponsor to have to revise the project 3 times; First for the RDC, second for the Hearing Officer and third for the Planning Commission. This could result in a process that requires more revisions based on instructions by different parties (who may give mixed signals) than what we currently have, where a planner requests revisions and the project is forwarded to the Planning Commission for final determination. There was a recommendation that the commission be limited to the choices already explored by the project planner or the hearing officer. On paper it may be a good idea, but I can't see the commissioners relinquishing their right to modify a project beyond what has already been recommended, particularly those with architectural training. To avoid this three step design process, where there is even less certainty for the project sponsor, there has to be a working relationship established between the Hearing Officer and the RDC, to ensure that certain criteria are met. Much like what happens when Planning Commissioners weigh in on projects prior to a commission hearing, the Hearing Officer should be able to consult with the RDC and make sure certain principles have been met, without jeopardizing any Brown Act or Sunshine Law issues. Hopefully this would result in less cases requiring significant revisions by the Hearing Officer and focusing the substantive changes occurring at the RDC phase. I have also added language to the box where the RDC "makes" recommendations, rather than documents recommendations, based on criteria for exceptional and extraordinary circumstances. This is stronger than the way current staff reports are delivered to the commission, with more specific benchmarks.

Regards,

John

John Schlesinger, AIA, Architect

Discretionary Review Proposed



MAKES RECOMMENDATION BASED ON CERTAIN ETC EXCEPTIONAL & EXTRAORDINARY CIRC.

From: OCCEXP

Sent: 11/29/2008 06:41 PM EST

To: c_olague@yahoo.com; rm@well.com; Wordweaver21@aol.com; plangsf@gmail.com; Bill Lee; hs.commish@yahoo.com

Cc: John Rahaim

Subject: Discretionary Review reform

Dear Planning Commission:

I strongly support the Planning Commission and Planning Department's efforts to reform the Discretionary Review process. Under the current DR process, there are too many opportunities for abuses such as frivolous DR hearings that squander time and resources of not only homeowners wanting to improve their homes but also the Planning Commission and Planning Department.

The proposed improvements are well-designed, comprehensive, and will be a benefit to all. The proposed improvements to the Planning Department's internal review will provide a more predictable and consistent process for permitting and will minimize the current arbitrary and political nature of the current DR process.

I have seen the DR process abused many times, such as neighbors who oppose projects in their neighborhood and then proceed and do exactly what they oppose on their buildings and then again oppose other neighbors who wish to do the same. I have also seen where a non-resident neighbor has opposed a third story addition even though she had an ILLEGAL third story on her building!

Enough of the abuse and frivolous DR's.

I urge you to please endorse the Planning Departments recommendation. There is though one change in the proposed reform and that is that staff initiated DR's also be heard by a hearing officer.

Thank you.

Sincerely,

[Henry Kamilowicz](#)

[Occidental Express](#)

[Consulting • Design • Construction • Management](#)

December 2, 2008

Planning Commissioners
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Discretionary Review Reform — Support Letter

Dear Planning Commission:

Please support a more fair permitting process. My family and I suffered through the DR process. For a mere \$300 DR application fee, my neighbor triggered a process that delayed our residential project over 2 years and cost us well over \$40,000 to defend a code-compliant project that the Planning Department and the Residential Design Committee deemed to meet the Residential Design Guidelines. These costs do not even include redesign costs and opportunity costs such as lost wages from not working in order to defend our permit.

Please end frivolous DR claims. My neighbor used the DR process to protect his view of my back yard. In the DR application, however, he stated a laundry list of irrelevant objections—without supporting facts. In other words, a nominal fee and a few buzz words trigger a process that costs tens of thousands of dollars not only to the permit applicant but also to the Planning Department—our tax dollars.

Please fix the abused DR process. After we prevailed at the DR hearing, our neighbor's agent sent us a letter threatening appeals of both permits for our home, even though only permit one was being disputed. The last paragraph of the attached letter states: "Not revising your plans, will leave neighbors no alternative but to appeal the issuance of **all permits** to the Board of Appeals" (emphasis added). In other words, the DR process itself is used to intimidate and coerce homeowners. People know the financial and emotional burdens of the current DR process.

Someone even suggested to me that if I wrote a big enough check to the opposition, the DR claim might just go away. I did not take the suggestion seriously, but I later learned that neighbors do use the DR process to obtain all sorts of perks: money, free landscaping, new skylights, a new sidewalk, etc.

The proposed improvements are well-designed and comprehensive. They address these problems and many others. For example, the improved internal review process will provide a more predictable and consistent permitting process, where homeowners will know up front what they can and cannot do. Better utilizing the Residential Design Committee and introducing a Hearing Officer enables the Planning Commission to better focus on big projects and policy issues instead of individual neighbor disputes.

Please approve the Planning Department's proposed improvements.

Sincerely,



Joe Acayan
76 Laidley Street
San Francisco, CA 94131

Cc: Elaine Forbes

LUCIAN ROBERT BLAZEJ

50 LAIDLEY STREET

SAN FRANCISCO, CA 94131-2733

Voice 415.695.1111 ■ FAX 415.641.5409 ■ Cell 415.505.3707

E-Mail: lrblazej@pacbell.net

February 6, 2008

Mr. & Mrs. Joseph Lee Acayan
76 Laidley Street
San Francisco, CA 94131

Re: 76 Laidley Street –BPA Nos. 2006 1010 4591 and 2006 1016 5080

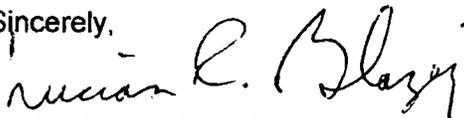
Dear Mr. & Mrs. Acayan:

As you know neighbors strongly oppose your project to build a 735-square foot two-story pool-house and office in the rear portion of your property. The reason we oppose this intrusion into the mid-block open space is because what you propose is a precedent that would be most unfortunate and disruptive to the entire block, if other neighbors decided to do the same. Clearly, the office you propose, looking toward the back of existing homes would be intrusive and result in great loss of privacy. Also, constructing a two story structure in what is now mid-block open space, will diminish the quality, quantity and esthetic appeal of what we all now enjoy, a naturally peaceful and lovely park-like setting at the rear of our homes.

We hope you will consider revising your plans along the lines that were supported when you met with the "Community Board." Building a pool in the rear yard is acceptable. However, building a second story office is unacceptable, particularly since such a structure could easily morph into a guest house or second dwelling unit. The office and downtown view you desire could well be accommodated and included as part of the remodel and expansion of your home.

We make this request that you consider revising your plans because, with such revisions, neighbors will be in support of the issuance of building permits. Not revising your plans, will leave neighbors no alternative but to appeal the issuance of all permits to the Board of Appeals. Please give this request your serious consideration. We would be pleased to meet with you to discuss this further and come to a mutually satisfactory solution. We look forward to hearing from you.

Sincerely,



Lucian Robert Blazej
Representing Laidley Street Neighbors

Copies: Tergis, Clark

December 2, 2008

Planning Commissioners
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Discretionary Review Reform — Support Letter

Dear Planning Commission:

Throughout the 2-year process of defending our 665 sq. ft. residential project, the DR applicant and his hired consultant consistently and deliberately misrepresented almost every aspect of our project. We ultimately got our permit, but the DR process was grueling and horrible. There is currently no accountability in a DR application. The DR applicant simply listed every possible objection to our project with no supporting evidence. It is no wonder that there are so many frivolous DR claims that squander time and money. I like how the proposed improvements require stronger DR applications.

It was awful to spend so much time and tens of thousands of dollars on defending our code-compliant project against someone with clear disregard for the permitting process and ethical standards. Even in the appeal hearing, they knowingly and consistently lied under oath. The DR requestor's hired consultant even sent us a letter threatening appeals of both permits for our home if we did not agree to his terms (even though only one of the permits was being disputed). Currently, any neighbor has the power to threaten the permit applicant with this burdensome process if the permit applicant does not comply with his or her terms.

The current DR process is a nightmare that no one with an approved code-compliant, residential guideline-compliant project should have to endure.

I greatly appreciate the many proposed improvements to the DR process, especially the assignment of a Hearing Officer to cases, providing clear guidelines, and clarifying the definition of "exceptional and extraordinary circumstances."

Please approve the Planning Department's well-researched solutions to the many problems of the current DR process.

Sincerely,



Marada De Ley
76 Laidley Street
San Francisco, CA 94131

Cc: Elaine Forbes

Planning Commissioners
San Francisco Planning Department
1650 Mission Street Suite 400
San Francisco CA 94103

December 1, 2008

Re: Letter in Support of Discretionary Review Reform

We are writing this letter in total support for the DR Reform, which we were thankfully made aware of.

Being a Project Sponsor we know the pain and agony of having friendly neighbors turn ugly with verbal abuse to us and even to our guests who came to our home. Police and Environmental Protection Agency called for invented reasons during our construction. Or to have the audacity to tell us prior to filing the DR, "We're going to make this hurt. It's going to cost you." Well they were right. The expense of defending the already approved remodel plans is in excess of \$8,000. Now put that next to the \$300 the DR requestor had to pay, where is the equality there? The above expense doesn't include the man hours and stress we had to endure in preparation of the hearing. We the Project Sponsor have our hands tied. We have to see it through so we spend the money even though we have no recourse. Because of this we are so happy that the Planning Commission and the Planning Department on being proactive in improving the DR process.

Being a business person in the city of San Francisco for over 30 years we have invested in properties not only in this city but other Bay area locations as well. We have found working with the Building and Planning Departments in all counties to be very thorough in their own process of making sure everything complies to code for the area. That is their job. It seems the Planning Commission should be available for the bigger picture, or for those higher level policy issues that is mentioned in the Action Plan Objectives. Not to micromanage the Planning Department.

In these uncertain economic times it seems to be the perfect time to shed this extra weight and cost from the Planning Commission and us the tax payers of the this fine City. The Planning Department should be allowed to review and if they choose not accept a submitted DR that does not demonstrate exceptional and extraordinary circumstances. Operative words here are "exceptional" and "extraordinary".

We have seen the Discretionary Review Reform Public Outreach information, dated November 19, 2008, and we agree that the proposed improvements are

well designed, comprehensive, and would benefit all parties. Let's minimize the current arbitrary and political nature of the current DR process.

We appreciate you taking the time to listen and please consider approving the Planning Department's proposed improvements.

Sincerely,

A handwritten signature in black ink that reads "Sandra & Fred Herrera". The signature is written in a cursive, flowing style.

Sandra and Fred Herrera
763 University St
San Francisco CA 94134

Kimberlee Stryker Design, Landscape Architecture
LANDSCAPE HISTORIC GARDENS PLANNING

Dec. 2, 2008

Planning Commissioners
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

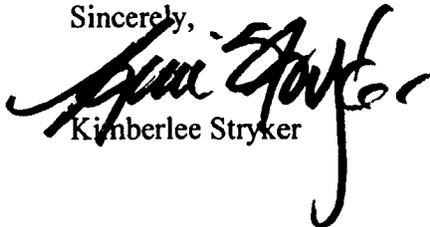
Subject: Support of Discretionary Review Reform

Dear Commissioners,
I strongly support the Planning Commission and Planning Department's efforts to reform the current process for Discretionary Review (DR). I have seen numerous abuses of the DR process over the years which have delayed good projects from being built in a timely way. The cost has been high for clients and for neighbors who want improvements in their neighborhoods. Under the current DR process too many opportunities for frivolous hearings waste time of the Planning Commission and Planning Department staff, as well as the time and money of the majority of responsible homeowners and their architects/designers who follow San Francisco codes. As the Design Review process currently stands, often rules are arbitrarily enforced based on how organized the opposition is rather than the merit of a project. That is unfair to the majority of the public and unduly burdensome to the Planning Staff and Planning Commission.

The proposed reforms are well-designed, comprehensive and will benefit everyone by offering a more predictable and consistent process for permits and will minimize the current arbitrary and political nature of the current DR process. These proposed reforms will also help minimize conflict and animosity in our neighborhoods and between neighbors.

Your efforts to help de-politicize the Design Review and bring more fairness to the process would be much appreciated. I ask you to please support these reforms. Thank you for your interest.

Sincerely,



Kimberlee Stryker

1736 Stockton Street
San Francisco, California 94133
Telephone: 415.433.3136
E-mail: kstrykerdesign@yahoo.com

PLANNING COMMISSIONERS
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Letter in Support of Discretionary Review Reform

Dear Planning Commission:

I strongly support the Planning Commission and Planning Department's efforts to reform the Discretionary Review process. Under the current DR process, there are too many opportunities for abuses such as frivolous DR hearings that squander time and resources of not only homeowners wanting to improve their homes but also the Planning Commission and Planning Department.

The proposed improvements are well-designed, comprehensive, and will be a benefit to all. The proposed improvements to the Planning Department's internal review will provide a more predictable and consistent process for permitting and will minimize the arbitrary and political nature of the current DR process.

I greatly appreciate the Planning Commission and Planning Department being proactive in improving the DR process.

Please approve the Planning Department's proposed improvements.

Sincerely,

Patricia and William Magee
2425 Wawona Street
San Francisco, CA 94116

(*) In addition to the above, I recently went through a DR Process which was a waste of the commission's time. The DR sponsor hired a lawyer who used the hearing as a means to lobby against single family dwellings becoming rental properties. As this has merit, it was not the place to make this challenge given our plans had met code entirely. As a result of this, our plan approval has now been delayed by 6 months. We are born and raised in San Francisco who just wanted to expand our home for our growing family. It is a shame that well intentioned people have to suffer as a result of flimsy DR complaints.



Elaine
Forbes/CTYPLN/SFGOV
12/05/2008 01:56 PM

To
cc
bcc

Subject Fw: Support Letter for DR Reform

Dear Planning Commissioners:

I am strongly in favor of the Planning Commission and Planning Department's efforts to reform the Discretionary Review process. I have seen too many people take advantage of this process to intimidate and slow down home remodel projects and now am facing it first hand for ourselves.

We have been going through the procedures to do a home addition and have reached out far in advance to our neighbors to work through all potential concerns with everyone close to us. Unfortunately, there are a very small but very vocal group that have formed and refuse to cooperate with us in earnest because they know they have the upper hand on us by the threat of the DR process. Our architect today was warned by one of the neighbor's fathers that they have set aside \$100,000 for attorneys to fight our project and are ready to use the system to their advantage. We have been willing to negotiate and have successfully come to an agreement with one of our neighbors who was willing to compromise sincerely. Unfortunately, the lax rules of the current DR process gives no motivation for the other neighbors to try to resolve this in sincerity since they know they will be able to tie us up in the DR process and in appeals.

The DR process was set up as a process to appeal projects only when there are exceptional and extraordinary circumstances and the Commission has been advised by the City Attorney that discretion "must be exercised with utmost constraint." Unfortunately, the current DR process has strayed from this and any neighbor can file a DR without supporting facts. They know that by the threat of starting the process that many owners will back down, give in or abandon their projects through intimidation. We need to restore some balance to the system and only allow DR projects when there are "exceptional and extraordinary circumstances".

We don't have the financial resources to fight a long and drawn out battle. These few other neighbors are being backed by deep pockets which puts us at a unfair advantage. Please help end this frivolous waste of our time and the City's money.

We have also seen another couple that we are friends with go through a long battle with their neighbors due to this process in Noe Valley. In the end, they were so beaten down and disgusted with San Francisco that they ended up moving to Seattle. Additionally, we have been watching another couple on our block go through the same ordeal ahead of us with other surrounding neighbors and they have been intimidated and basically black-mailed to give in to their surrounding neighbor's demands.

We are even more vulnerable since we have to apply for a variance to take our home back a few more feet to add a internal staircase. The DHIC Design Review Board commented at our neighbor meeting that our plan was incredibly sensitive to light, air and the preservation of open green space. But, as they brought up, none of this matters because there are a few vocal individuals who don't agree and can hold us up and shoot our project down through the DR process.

I greatly appreciate the Planning Commission and Planning Department being proactive in improving the DR process. Please do initiate these changes as they are long over due and greatly needed.

Please approve the Planning Department's proposed improvements.

Sincerely,

Steve Kopff and Pete Lenox
3987 20th Street



Elaine
Forbes/CTYPLN/SFGOV
12/05/2008 01:57 PM

To
cc
bcc
Subject Fw: I am in Support of Discretionary Review Reform

Dear Planning Commission,

In February 2007 I purchased a home in Dolores Heights and planned to improve it following the strict guidelines of this special use district. With the help of our architect we worked with our neighbors, the Dolores Heights Improvement Club, the SF Historical resource planners, and the planning department to create plans for the home I wanted to raise a family in. The threat of a DR was used by a small but vocal set of neighbors during this planning process and made this a one way negotiation: them demanding and us giving in. During the 5-month process we saw the gamut from unreasonable requests to create our additional living space underground to barely disguised "offers" to extort money from us in return for being agreeable.

I will most likely never benefit from the planned DR reform as I suspect it will come too late for us, but I am witnessing first-hand how broken the process is and I would like to save future generation of homeowners the misery of DR-terror.

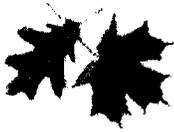
I strongly support the Planning Commission and Planning Department's efforts to reform the Discretionary Review process. Under the current DR process, there are too many opportunities for abuses such as frivolous DR hearings that squander time and resources of not only homeowners wanting to improve their homes but also the Planning Commission and Planning Department.

The proposed improvements are well-designed, comprehensive, and will be a benefit to all. The proposed improvements to the Planning Department's internal review will provide a more predictable and consistent process for permitting and will minimize the current arbitrary and political nature of the current DR process.

I greatly appreciate the Planning Commission and Planning Department being proactive in improving the DR process.

Please approve the Planning Department's proposed improvements.

Sincerely,
Cedric Dupont
3962 20th Street



Elaine
Forbes/CTYPLN/SFGOV
12/05/2008 01:58 PM

To
cc
bcc
Subject Fw: DR Reform Support Letter

Dear Planning Commission:

My wife and I added 300 square feet to our previously 800 square foot house two years ago. We weren't looking to build an extra unit, nor were we looking to radically transform the structure of our house. We just wanted more space for our family. While the Planning Dept granted our permits, we came to understand how difficult the process could have been. Two neighbors were initially against the project. Fortunately for us, they lacked the motivation (what little was required) to make our life miserable by appealing the department's decision via Discretionary Review. We were fortunate, but other people like us--who simply want to change the design of their house, or who want to add more space for a growing family--are not. I'm glad to hear that you folks are considering proposals to reform the Discretionary Review process.

I strongly urge you to approve the Planning Department's proposed improvements. The changes won't deny anyone the right to a reasonable and thoughtful appeal of a decision; they will, however, restore a sense of order and predictability to the process, allowing our Planning Dept to focus on more pressing concerns. Trust me, I stand to gain absolutely nothing if you approve the changes. I'm just a lowly teacher who was lucky enough to buy a place 10 years ago. I'm not making any more changes, and I'm not going anywhere. I just want to ensure people such as I have the same opportunities. Thanks in advance for your consideration.

With humility,

Joshua Gnass
2930 22nd Street
SF



Elaine
Forbes/CTYPLN/SFGOV
12/05/2008 02:00 PM

To
cc
bcc
Subject Fw: Letter in Support of DR Reform

December 4, 2008

PLANNING COMMISSIONERS
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Subject: Letter in Support of Discretionary Review Reform

Dear Planning Commissioners:

We reside at 30 Woodland Avenue in San Francisco and have recently gone through the discretionary review ("DR") process. While we are pleased that the Commission declined to take discretionary review and, accordingly, approved our project, we are nevertheless writing to support reform. The process as it exists now encourages meritless challenges to projects and often is responsible for poisoning relationships among neighbors.

When we began planning our addition, we asked our architect to work closely with the Planning Department's staff to get approval. Where the staff suggested revisions to the plans that reduced the size of our addition, we accepted them even though our architect told us some of them were not required. We had thought that these compromises would build good will and help ensure that, even if we could not get everything we wanted, we could at least meet our most urgent needs.

What we did not know, however, was that our neighbors could block plans that met the code and had been approved by the staff. From the beginning, one of our next-door neighbors told us that they opposed *any* construction on our house and that they wanted our plans to "just go away." In our first formal negotiation, they showed up with an architect and another person who claimed to be a DR expert. Despite acknowledging that our plans were entirely consistent with the code, they threatened to use the DR process if we intended to go forward. We responded that we were confident a DR would not succeed. We explained that even though the process is called a "*discretionary* review," we were sure the Commissioners would exercise their discretion only by following written guidelines or established precedent.

At that point, our neighbors' DR expert practically laughed at us. He said something to the effect that the Commissioners could do whatever they felt like doing and that there were no written rules. He continued, saying that if we caught the Commission on a bad night, our plans could be rejected or substantially revised for any reason or none at all. These comments were similar to comments we heard elsewhere, and, fearing an arbitrary decision, we hired our own DR expert to help us through the process. So far, our neighbors' unsuccessful attempt to block our code-compliant, staff-approved plans has cost us about \$10,000.

Making matters worse, the DR process also encouraged our neighbors to portray us as bad people to the neighborhood. An advisor apparently told our neighbors that the Commission would be more likely to grant DR if more people from the neighborhood objected to our plans. We do not know everything that our neighbors said, but they sent at least one letter around the neighborhood alleging that our project will harm the environment and ecology of the neighborhood and they told other neighbors that we are planning to convert our home to a boarding house after construction is done.

As our experience illustrates, the uncertainty of the DR process is exploited by those seeking to block plans and the professionals they hire to do that. It also provides perverse incentives for DR participants to lie about the homeowners and their plans to gain the support of other neighbors who otherwise would (and should) support (or at least be indifferent to) the homeowners' attempts to improve their home.

We are convinced that if there were written, consistently enforced guidelines regarding what constitutes an "exceptional and extraordinary circumstance," our neighbors would not have been able to threaten us with a baseless DR petition, nor would they have lied about us to convince our other neighbors to join them.

The DR system must change.

Sincerely,

/s/

Colleen M. Kavanagh
Erik R. Puknys

Erik R. Puknys

Attorney at Law

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

3300 Hillview Avenue, Palo Alto, CA 94304-1203

650.849.6644 | fax 650.849.6666 | erik.puknys@finnegan.com | www.finnegan.com

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Letter in Support of DR Reform.pdf

Attachment IV Written Comments, *received after case report was issued on 12/4/2008*

Dear Commissioner Olague:

I strongly support the Planning Department's efforts to reform the Discretionary Review process. The proposed improvements are well-designed, comprehensive, and will be a benefit to all. The proposed improvements to the Planning Department's internal review will provide a more predictable and consistent process for permitting and will minimize the arbitrary and political nature of the current DR process.

Commissioner, to the extent that you can influence the timing of agenda items on December 11th, please place the review of proposed DR reforms at around 6 pm or 7 pm rather than earlier or later in the agenda. This issue affects a lot of working families with small children; if the item is too early, working people will not be able to come; if it's too late, families with small children will have to leave before the issue is heard.

Let me put a more personal angle on the issue. As a San Francisco homeowner whose planned renovation was subjected to discretionary review, I have very strong opinions and feelings about how detrimental and destructive the current process is to families, neighborhood, and taxpayers in San Francisco.

First of all, I want to clarify that I have no objection to the general concept of discretionary review. My specific objections to the current process are as follows:

P The adverse impacts (time, cost, emotional strain) of discretionary review fall disproportionately to the homeowner who is attempting to remodel, while the DR applicant experiences minimal adverse impacts from participating in the process. The current system is skewed strongly in favor of the DR applicant, and in favor of lawyers who advise these applicants on how to exploit every delay and loophole in the system.

P The discretionary review is only the first step in what can become a much longer, protracted, and extremely costly appeals process. By letting indefensible cases in through the DR window, those cases are also being allowed to exploit the entire appeals process, which can include the Board of Appeals and the Board of Supervisors. Once a DR applicant is in the process, even if the case is completely indefensible, the applicant can launch a multi-stage appeal process, adding significant incremental time and cost burden to homeowners who are trying to remodel.

P The current process creates several negative "externalities" that impact not only the homeowner, but also the DR applicants, the affected neighborhood, and all SF taxpayers.

Here's how our case unfolded. Our neighbors paid a nominal fee to launch the DR process. To do this, they did not have to prove that our remodel potentially violated any aspect of the residential design guidelines. In fact, they probably did not think they had a winning case, but they knew that they could at least delay us. Thus began the "war of attrition" between us and our neighbors that became increasingly ugly. At every step, even without a defensible case, it was a trivial exercise for our neighbors and their lawyer to trigger the next appeal, the next round of delays. For us, however, each strategy they employed cost us dearly. My opinion of the city's review and appeals process soured

over time as I calculated how little the fight was costing them, and how much it was costing us. It felt increasingly unfair and arbitrary.

By exploiting the DR process and all of the subsequent appeal steps, our neighbors were able to delay our project by 2.5 years and impose over \$120,000 in legal fees upon my family. Yes, a family. Not developers. That \$120,000 comes directly out of our son's college education and our retirement savings. In a sense, then, by making the whole ordeal so painful and costly for us, our neighbors might be able to declare "victory," even though our project was ultimately supported by the Planning Department, Planning Commission, Board of Appeals, and Board of Supervisors (yes, we were forced to go the whole way).

But here's why the process is costly not only for the families who are trying to remodel their homes in accordance with residential design guidelines and constitutional property rights. The "externalities" imposed on our neighborhood and the city at large by our case included the following:

P Our local supervisor, Bevan Dufty, and his legislative aide spent hours and hours on our case – conservatively a total of 20-30 man hours. Even worse, those of us on both sides of this process have been left feeling very disillusioned by our local political representation. I don't want my supervisor counting votes and picking sides in a neighborhood brawl – I want him representing all of us on broader, more important issues. On this, I think my neighbors and I can agree.

P The Planning Commission and the Board of Appeals were forced to hear our case (5-2 in our favor at Planning Commission, 4-1 at Board of Appeals). Both hearings were extremely lengthy because both we and the DR applicants brought out numerous speakers; we were all advised that the outcome of the hearings would have less to do with the merits of the case than with the number of speakers we were respectively able to bring out.

P The Board of Supervisors was forced to hear our case – and it took up two hours of their meeting plus several hours of preliminary meeting time with those of us who were lobbying them on both sides.

P Our neighborhood has been through a protracted, ugly process that has damaged the tone of the neighborhood for an unforeseeable amount of time. Some of our neighbors have treated us so badly that I have actually feared for my one-year-old son's safety. And some neighbors who support us have been fearful of retribution if they dare to speak out on our behalf. Everyone has been drawn into this, and it has lasted two and a half years. No one should have to spend so much time going through such an ugly episode. There has to be an easier way than this.

Here's a final thought for you as a Commissioner – and for opponents of reform – to consider. My husband and I would have preferred an immediate "no" from the Planning Department rather than an eventual "yes," 2.5 years and \$100,000 later. A quick "no" decision would have led us to abandon our remodel and buy another house. The problematic math for us was that, as each lengthy round of the process unfolded and as we incurred the high associated legal, architectural, and consulting fees, at each step it

was more logical from a cost and risk perspective to continue the fight than to give up. Pretty early on, we realized that the only possible way to mitigate the costs of the process was by winning the right to remodel. Even though we'd never get back the \$120,000, at least we wouldn't lose even more by also abandoning the remodel and having to go buy a more expensive house. Economically, we were badly wounded by the fight, but are still better off today because we stuck it out and won instead of walking away.

And that concludes my personal perspective on the proposed reforms. I greatly appreciate the Planning Commission and Planning Department being proactive in improving the DR process. Please approve the Planning Department's proposed improvements.

Sincerely,
Kristin Hansen

Peter Cohen
<pcohen_sf@yahoo.com>

11/24/2008 12:13 PM

To Elaine Forbes <Elaine.Forbes@sfgov.org>
cc
Subject Re: DR Reform

Elaine

Here are crib notes following up on our meeting last week. I hope you found our conversation useful. Feel free to pull me in again as needed.

And perhaps you can schedule a meet with John Rahaim for us to discuss the first item on the list since that's something we are already interested in.

Regards,

Peter

Objectives = high quality development through an effective development review process

Package of reforms in addition to potential DR modifications:

- 1) tightened rear yard controls in the Planning Code and in the Residential Design Guidelines--either citywide or at neighborhood-level specifics
- 2) a "gold standard" process established and strongly enforced for required neighborhood outreach/pre-app meetings by project sponsors
- 3) improved project notification standards consistent for all types of projects
- 4) internal administrative policies for routine proactive contact with neighbors by Planning Department case planners



Neighborhoods

www.csfm.net • PO Box 320098 • San Francisco CA 94132-0098 • 415.262.0440 • Est 1972

President

Gary Noguera 469-8899

1st Vice President

Mark Sherman 225-0157

2nd Vice President

Penelope Clark 776-3876

Recording Secretary

Judith Berkowitz 824-0617

Corresponding Secretary

Dick Millet 861-0345

Treasurer

Jim Lew 771-5250

Members-at-Large

Sue Cauthen

Joan Girardot

Angelique Mahan

December 4, 2008

**Re: Proposed Discretionary Review (DR) Reform
Item 10 on December 11 Planning Commission Agenda**

President Olague, Commissioners,

Until this most recent Discretionary Review reform proposal, CSFN had a deeply involved and relatively long history of active participation in various proposed Discretionary Review reforms over the years. Please see the attached documents for an overview of our contributions to the effort, as well as to expand on the six points we list here below.

The proposed reforms which you find before you today are in many ways the same proposal which have the same drawbacks and pitfalls of the original 2003 proposal of Administrative Review; reforms which you did *not* adopt at that time. The only part you adopted in 2004 was a Pre-Application (Pre-App) process which had been weakened to the point of having been made essentially ineffectual.

In brief, our stated policies for DR reform are as follows:

1. Strengthen and enforce the Pre-Application process that CSFN originally proposed, with reporting to the Planning Department from both project sponsor and attendees. (Please see attachments for details.)
2. Design Review Committee (DRC) is a good addition especially since *Residential Design Guidelines* are mandatory.
3. Have a 2-year trial period with the strengthened *and enforced* Pre-Application process and the Design Review Committee.
4. Re-name *Residential Design Guidelines* to reflect their mandatory nature: they could be called *Rules for Residential Design* or *Residential Design Mandates* or *Design Rules for Residential Building*, etc.

5. Continue to hear DRs at public hearings before the Planning Commission.
6. The implementation of a DR administrative hearing officer presents more problems than it solves. There is an inherent conflict of interest in a DR hearing officer judging staff's approval of a permit; the greater number of DRs passed on would reflect poorly on the work of Department personnel. There would likely be an effort by the hearing officer to avoid such embarrassment.

Further, the principle concerning Cæsar's wife is absolutely vital in the case of someone in the position of an administrative hearing officer. Like Cæsar's wife, a hearing officer must be above suspicion, which will be impossible. Distrust and skepticism would remain in everyone's mind which would necessitate, as in Julius Cæsar's case, a divorce.

(Please see attachments for details.)

A complete discussion can be found in all of CSFN's documents from the original 2003 proposed DR reform, as well as accompanying letters from Community Boards, PAR, MPIC and EMIA.

We have enclosed a few representational historical documents for your review since this proposal so closely resembles the 2003 proposed DR administrative review reform. If Commissioners do not find the full set of documents pertaining to DR from December 2003–May 2004 in their files and would like to examine them we will be pleased to oblige.

- Barbary Coast Neighborhood Assn
- Bayview/Hunters Point Coordinating Council
- Buena Vista Neighborhood Assn
- Cathedral Hill Neighbors Assn
- Cayuga Improvement Assn
- Cole Valley Improvement Assn
- Cow Hollow Assn
- around Heights Community Assn
- ores Heights Improvement Club
- East Mission Improvement Assn
- Eureka Valley Promotions Assn
- Ewing Terrace Neighborhood Assn
- Excelsior District Improvement Assn
- Fair Oaks Community Coalition
- Forest Knolls Neighborhood Assn
- Francisco Heights Civic Assn
- Golden Gate Heights Nghbrd Assn
- Greater West Portal Nghbrd Assn
- Haight Ashbury Improvement Assn
- Inner Sunset Action Committee
- Jordan Park Improvement Assn
- Laurel Heights Improvement Assn
- Lincoln Park Homeowners Assn
- Marina Civic Improvement & Property Owners Assn
- Miraloma Park Improvement Club
- Mission Creek Harbor Assn
- ew Mission Terrace Improvement Assn
- North Beach Neighbors
- North Park Neighbors
- Oceanview, Merced Heights, Ingleside — Neighbors in Action
- Outer Mission Residents Assn
- Pacific Heights Residents Assn
- Panhandle Residents Organization/ Stanyan-Fulton
- Potrero Boosters Neighborhood Assn
- Richmond Community Assn
- Rincon Point Neighborhood Assn
- Russian Hill Improvement Assn
- Russian Hill Neighbors
- Sunset Heights Assn of Responsible People
- Sunset-Parkside Education & Action Committee
- Telegraph Hill Dwellers
- Twin Peaks Council & Open Space Conservancy
- Twin Peaks Improvement Assn
- West Presidio Neighborhood Assn

We urge the Planning Commissioners to refuse to abrogate their Charter-derived power; but rather to retain the powers vested in the Planning Commission as set forth in City law.

We urge the Commissioners to direct the Planning Department to revise their recommendations for DR reform to reflect the strongly-held principles of the citizens of San Francisco.

We further strongly urge the Planning Commissioners to move to sever the proposed DR reforms from the *Planning Department Action Plan 2008–2010, Item III.1.*

Sincerely,


Gary Noguera
President

GN



Hiroshi Fukuda
Chair, Land Use & Housing Committee

- Encl: 15 Jan 2004 CSFN letter to Planning Commission
- 23 Jan 2004 CSFN letter to Planning Commission
- 13 Sept 2006 CSFN letter to Planning Commission
- 30 Dec 2003 Community Boards letter to Planning Commission
- 04 Feb 2004 PAR letter to Planning Commission

Cc: Planning Commissioners Mike Antonini, Gwyneth Borden, Bill Lee, Ron Miguel, Kathrin Moore, Bill Sugaya; Commission Secretary Linda Avery, Director of City Planning John Rahaim, Elaine Forbes, Craig Nikitas

Letter from CSFN

23 January 2004

To: Planning Commissioners, Acting Director of Planning Larry Badiner, Planner Jonas Ionin, Linda Avery, Board of Supervisors, Clerk BoS

Re: DR Proposal

The 40 member organizations of the Coalition for San Francisco Neighborhoods have reached a consensus regarding the December 18, 2003 DR proposal from Planner Jonas Ionin and offer the following comments.

- We strongly support the Pre-Application process.
- We oppose delegation of Planning Commission power of Discretionary Review in the act of Administrative Review to Planning Administration.
- We request that the question of DR process change be severed from the question of establishment of a Pre-Application process, so that the Pre-App process may be immediately implemented after Public Hearing.

CSFN recommends:

- 1.) Implement the Pre-Application process at once after Public Hearing for a period of 12 months.**
- 2.) Defer the consideration of the Administrative Review protocol.**
- 3.) Evaluate the results of the Pre-Application process after the 12-month trial. If it is a success, the Administrative Review process will be unnecessary.**

Administrative Review: Reasons for Opposition

- Again, we state CSFN opposition to Administrative Review for reasons following (but not limited to):
 - 1.) These powers are vested in the Planning Commission alone, as set forth in City Law (see City Attorney's Opinions in case file prepared by Mr Ionin)
 - 2.) Planning Commissioners represent the people of San Francisco, whereas the Planning Department has a bias in weighing facts presented to them. DRs occur when interested parties contest Planning's determination, for instance the Starbucks at 45th and Judah on January 8. After listening to the neighbors, Commissioners voted not to approve, going against Planning's recommendation. That would not have happened if Administrative Review had been in place.
 - 3.) The citizens' right to DR is a very important due-process right. It must not be given away to "streamline" the process, or for any other reason.

CSFN opposes the Administrative Review process because there will not be a need for “Administrative Review” if there is a Pre-App procedure and if the inconsistencies in the Planning Code and Residential Design Guidelines are clarified. There is an inherent conflict of interest in having the Department Administrative Officer judging his own staff’s approval of the permit because the greater the number of DRs passed on would reflect poorly on the work of the department personnel. There is likely to be an effort by the Administrator to avoid such embarrassment; and that would work to the detriment of the interested parties. All in all, we feel that Administrative Review is a flawed concept.

Pre-Application Process: Support and Suggestions

- We strongly support the Pre-Application process with the following changes.

We suggest the following items be considered in the Pre-App Process:

- 1.) The Pre-Application process should be broadened from the proposed RH and RM only to include all residential alteration and permit applications that would trigger 311 and/or 312 notice consistent with General Rule 4/96 (p.855, Planning Code).
- 2.) A standard Pre-Application process should be developed, including a mechanism whereby the neighbors submit their comments directly to the Department subsequent to the Pre-Application meeting between the project sponsor and affected parties. This could be accomplished by providing a form with the Pre-App notification packet. It would eliminate the possibility of the project sponsor misinterpreting or misrepresenting neighborhood concerns to the planner. That form should become a part of the project file.
- 3.) The number of requests for DR can be further reduced if the Commission commits to clarifying contradictions between the Planning Code and the new Residential Design Guidelines. Types of concerns that come up repeatedly over time should be dealt with consistently with standards which have been set forth. Those already noted in the draft Residential Design Guidelines (page 5, paragraph 2) should be clarified so staff and the public understand how those conflicts will be resolved in all similar situations in the light of Code and established standards. Any problem that cannot be solved in light of standards already set forth is by definition extraordinary — that is, not resolved with established standards and guidelines. It is this type of problem that will potentially come before the Commission. If clear standards and guidelines are set forth, then Planning’s actions will not be seen or thought to be arbitrary.
- 4.) The Department needs to devise a method of assuring that the plan accurately reflects the details and the footprint location of the permitted project.
- 5.) A Pre-App notification process is pro-active, raising issues up front so they can be addressed early on. As, and if, plans are modified, interested parties should be kept abreast of changes.
- 6.) Before the Permit Application leaves Planning, standard issues should be resolved. A Planner who needs assistance can and should go to administration for help with issue resolution before the application leaves Planning’s jurisdiction.

The Coalition believes that the Pre-Application procedures and the above-referenced suggestions will dramatically reduce the DR caseload. We believe that if consideration of the Pre-App process is severed from the Administrative Review process and implemented immediately, a dramatic decrease in DRs will result.

Therefore, CSFN recommends:

- 1.) Implement the above Pre-Application process at once after Public Hearing for a period of 12 months.**
- 2.) Defer the consideration of the Administrative Review protocol.**
- 3.) Evaluate the results of the Pre-Application process after the 12-month trial. If it is a success, the Administrative Review process will be unnecessary.**

We feel that with implementation of a comprehensive Pre-App Process the number of DRs will undoubtedly be very few, as has proved to be the case in San Mateo. We doubt that there will be many requests for Discretionary Review if you establish a Pre-App procedure, taking into consideration our concerns expressed above.

To reiterate, CSFN requests that hearing on the matter of Pre-App be severed from hearing on proposed DR change, and that the question of DR change be given as much time for public hearing as is required to allow all affected members of the public the opportunity to weigh in on it. Preservation of a most important due-process right is at stake.

Because up to this date no duly noticed public hearing has been held on the matter, February 5th will be the first public hearing on this matter.

We look forward to participating with you as you move the Pre-Application process forward for hearing.

Thank you for your consideration.

Sincerely,

Judith Berkowitz
Chair, Land Use & Housing Committee

Letter from CSFN

15 January 2004

To: Planning Commissioners, Linda Avery, Larry Badiner, Jonas Ionin
From: Judy Berkowitz Chair, Land Use and Planning Committee, Coalition for San Francisco Neighborhoods

Re: DR Proposal

The delegates to the Coalition for San Francisco Neighborhoods have reached a consensus on the following comments regarding the December 18, 2003 proposal.

- We strongly support the Pre-Application process.
- We oppose delegation of Planning Commission power of Discretionary Review to Planning Administration.
- We request that the question of DR process change be severed from the question of establishment of a Pre-Application process

Pre-Application Process.

We suggest the following items be considered:

- 1.) The Pre-Application process should be broadened from the proposed RH and RM only to include all residential alteration and permit applications that would trigger 311 and/or 312 notice consistent with General Rule 4196 (p855, Planning Code).
- 2.) A standard Pre-Application process should be developed, including a mechanism whereby the neighbors submit their comments directly to the Department subsequent to the Pre-Application meeting between the project sponsor and affected parties. This could be accomplished by providing a form with the Pre-App notification packet. It would eliminate the possibility of the project sponsor misinterpreting or misrepresenting neighborhood concerns to the planner. That form should become a part of the project file.
- 3.) The number of requests for DR can be further reduced if the Commission commits to clarifying contradictions between the Planning Code and the new Residential Guidelines. Types of concerns that come up repeatedly over time should be dealt with consistently with standards set. Those already noted in the draft Residential Guidelines (page 5, paragraph 2) should be clarified so staff and the public understand how those conflicts are to be resolved in the light of Code and established standards.
- 4.) The Department also needs to devise a method of assuring that the plan accurately reflects details and the footprint location of the permitted project.

The Coalition believes that the Pre-Application procedures and the above referenced suggestions will dramatically reduce the DR caseload. We believe that if consideration of the Pre-App process is severed from the Administrative Review process and implemented immediately, a dramatic decrease in DRs will result.

We strongly suggest that you implement a Pre-Application process at once, with the suggested considerations listed above.

At the end of a specified amount of time, one year perhaps, the Commission can review how the Pre-App process is faring. We feel that with implementation of a comprehensive Pre-App Process the number of DRs will undoubtedly be very few, as proved to be the case in San Mateo.

- We oppose dekegation of Planning Commission power of Discretionary Review to Planning Administration for reasons

We doubt that there will be many requests for Discretionary Review if you establish a Pre-App procedure taking into consideration our concerns expressed above.

Again we state CSFN oppositon to Administrative Review: a flawed concept.

There is an inherent conflict of interest in having the department Administrative Officer judging his own staff's approval of the permit because the greater the number of DRs passed on would reflect poorly on the work of the department personnel. There is likely to be an effort by the Administrator to avoid such embarrassment and that will work to the detriment of the interested parties.

However, if the Commission chooses to proceed with Administrative Review, the following items warrant consideration and clarification:

- 1.) Are the items listed on pages 7 and 8 of Jonas Ionin's DR policy document of December 18, 2003 those that will be used, other than in very unusual circumstances, to disqualify DRs from being forwarded to the Commission for consideration?
- 2.) We would suggest that at the Administrative Review, both parties: a representative from the project as well as the DR initiator be present.
- 3.) Is it your intention that project sponsors and DR initiators be notified of the reasons behind the administrative action. Such information would be appreciated and helpful in educating the community as to the way staff is choosing to implement the revised permitting protocol. Over time, it may also bring to the attention of everyone further adjustments, necessary to improve the process still further.

In conclusion, however you choose to proceed, we believe that it is essential that there be a Commission review at the end of 12 months as to whether the results of your actions have met the expectations of the Commission, staff, applicants and neighborhood parties of interest. If not, can we be assured that modifications will be made to attempt to adjust the protocol to minimize unintended consequences?

Thank you for your consideration. We look forward to participating as you move these changes forward.

Letter from CSFN

September 13, 2006

TO: Planning Commission, Office of the Mayor, Board of Supervisors, Clerk of the Board

RE: DISCRETIONARY REVIEW POLICY

At its August meeting, the Coalition for San Francisco Neighborhoods passed the following resolution:

RESOLVED the Coalition for San Francisco Neighborhoods urges the Planning Commission uphold and continue the present Pre-Application Discretionary Review Policy and urges the Planning Commission to strengthen its present Pre-Application Discretionary Review Policy with the following proposed amendments:

Project sponsors are required to have a Pre-Application meeting with following criteria

1. The notice must include a factual description of the proposed modification, and reduced copies 11"x 17" or 11"x 8.5" of the proposed site plan and building elevations. The notice must be mailed out at least 10 calendar days before the meeting date. The notice shall include information about the time and place for viewing such full size plans and meeting with the applicant. The applicant or representative's name, return address and phone number shall be included in the information.
2. Owners and occupants of properties within 300-foot radius to be noticed. The labeled, stamped, stuffed envelopes with the notice and site plans delivered to the Planning Department by noon 20 days prior to meeting.
3. The meeting must be held at a convenient location to the neighborhood.
4. The meeting time should be held between 6 PM to 8 PM on weekdays or noon to 6 PM on weekends.
5. The proposed project architectural non-reduced drawing, including site plan, floor plans, exterior elevations and sections, along with landscaping concept plans shall be provided at the Pre-Application meeting.

All pre-Application Neighborhood Meetings are required to comply with the criteria noted in items #1-5. A Statement of Completion form must be completed, signed, and received by the Planning Department within 7 days after the meeting.

For accountability purposes, a sign-in sheet will verify who attended and an affidavit signed by the project sponsor will confirm that a Community Outreach meeting was held and the opportunity to review a preliminary proposal provided to all interested parties.

These items will be submitted with the 311 Notification Packet at the time of filing their building permit application. In addition, a list of issues raised at the Community Outreach Meeting(s) and the sponsor's response to those issues shall be included in the 311 Notification Packet as part of the Pre-Application process. Any deviations from these criteria will require the Pre-Application Neighborhood Meeting to be conducted again in accordance with the above noted criteria.

The CSFN is an umbrella organization representing more than forty groups from throughout the city. The CSFN urges your strong support and action on this resolution.

Thanking you in advance for your support and action.

Sincerely,

Judith Berkowitz,
President

Coalition for San Francisco

RECEIVED AT CFC HEARING 12/11/08
DR



Neighborhoods

www.csfjn.net • PO Box 320098 • San Francisco CA 94132-0098 • 415.262.0440 • Est 1972

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Angelique Mahan

Barbery Coast Neighborhood Assn

Bayview/Hiway Point

Coordinating Council

Buena Vista Neighborhood Assn

Cathedral Hill Neighbors Assn

Cayuga Improvement Assn

Cole Valley Improvement Assn

Cow Hollow Assn

Diamond Heights Community Assn

Dolores Heights Improvement Club

East Mission Improvement Assn

Esling Terrace Neighborhood Assn

Excelsior District Improvement Assn

Fair Oaks Community Coalition

Forest Knolls Neighborhood Assn

Francisco Heights Civic Assn

Golden Gate Heights Nighard Assn

Greater West Portal Nighard Assn

Height Ashbury Improvement Assn

Inner Sunset Action Committee

Jordan Park Improvement Assn

Lafayette Heights Improvement Assn

Lincoln Park Homeowners Assn

Marina Civic Improvement &

Property Owners Assn

Miraloma Park Improvement Club

Mission Creek Harbor Assn

New Mission Terrace Improvement Assn

North Beach Neighbors

North Park Neighbors

Oceanview, Maroon Heights,

Ingleside — Neighbors in Action

Outer Mission Residents Assn

Pacific Heights Residents Assn

Piedmont Residents Organization/
Stanyan-Fulton

Polero Boaters Neighborhood Assn

Richmond Community Assn

Rincon Point Neighborhood Assn

Russell Hill Improvement Assn

Russian Hill Neighbors

Sunset Heights Assn of

Responsible People

Sunset-Piedmont Education &

Action Committee

Telegraph Hill Dwellers

Twin Peaks Council & Open

Space Conservancy

Twin Peaks Improvement Assn

West Presidio Neighborhood Assn

December 11, 2008

San Francisco Planning Commission
1650 Mission St., S.F. Suite 400
San Francisco, CA 94103

Subject: Discretionary Review Policy

Dear Commissioners,

At its November 16, 2008 General Assembly meeting the Coalition for San Francisco Neighborhoods passed a resolution strongly opposing the hearing of Discretionary Reviews by any entity other than the Commission, and strongly recommending an effective pre-application process in order to identify issues early-on, and recommending the concept of a Design Review Committee.

Respectfully submitted,

Gary Noguera

Gary Noguera, President CSFN

Dear Planning Commission:

I strongly support the Planning Commission and Planning Department's efforts to reform the Discretionary Review process.

Under the current DR process, there are too many opportunities for abuses such as frivolous DR hearings that squander time and resources of not only homeowners wanting to improve their homes but also the Planning Commission and Planning Department. The current DR process has been abused often, including for the purpose of extracting personal benefits unrelated to the project itself, so that one has to wonder who it actually serves.

The proposed improvements are well-designed, comprehensive, and will be a benefit to all. The proposed improvements to the Planning Department's internal review will provide a more predictable and consistent process for permitting and will minimize the current arbitrary and political nature of the current DR process.

Enough of the abuse and frivolous DR's.

I urge you to please endorse the Planning Departments recommendation.

Thank you.

Sincerely,

Sarosh D. Kumana

www.sfrent.net

www.sandhillangels.com

www.sustainable-future.org

www.affordable-homeownership.info



Miraloma Park Improvement Club

February 21, 2009

Attention: Lisa Chau, re DR Reform
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Dear Director Rahaim, Planning Department Staff, and Planning Commissioners:

As the delegate from the Miraloma Park Improvement Club (MPIC) who presented our community's suggestions on the internal and discretionary review (DR) process under development by Ms. Forbes and her committee, I would like to share a few follow-up thoughts for your consideration.

In our opinion, the best course of action would be to focus primarily on the application and approval process before embarking on the Hearing Office issue. While we support the idea of a Hearing Office in theory, it may not be necessary if the application process is effectively reorganized. We believe that the process, starting with the pre-application meetings and extending through to resolution or failure to resolve a conflict, could be improved sufficiently to significantly reduce the number of DR requests. While this process is implemented and adjusted, we believe the Commission should continue to hear the DR requests in order to observe the impacts of the systemic improvements and implement modifications as the Commission deems necessary.

A number of excellent ideas have been put forward in the DR reform meetings, including the pre-application package; the Residential Design Committee; meetings attended by sponsors, planners and neighbors; and codification of the terms "extraordinary" and "exceptional" and their application to projects that merit DR requests. If all of these elements were implemented with oversight and consistency, we believe that the number of DRs would be substantially reduced even without a Hearing Office.

In our discussion and submittal we suggested a separate fee structure for DR hearings. At the hearing on February 11, 2009, a suggestion was made that there be a meeting after a DR request is filed but before the hearing, attended by the sponsor, applicant, and planner, for the purpose of discussion and negotiation of a compromise or resolution. We support this additional step.

If a Hearing Office is created, we strongly urge the Commission to staff it with more than one officer, which we feel would reduce the potential for accusations of bias. Please revisit our suggestions to staff the Hearing Office with multiple officers according to either of the methods proposed in our letter of January 22, 2009, i.e., a group of knowledgeable retired individuals or a process patterned on the AIA method of a three-person hearing panel.

Finally, let me repeat a suggestion I spoke of in the Feb. 11 meeting, which my Board supports. Institute a plan to educate the public about, and require the Building and Planning Departments to use in all communications, the plan revision dating system employed by architects, engineers, and builders. Use of this system will create a paper trail in which revisions are clearly differentiated, making it easier to identify and approve only the version of the plans that is based on the negotiated agreement, and thus ensuring that the Building Department approves, and the sponsor builds, the amended project as approved.

Sincerely,

Jed Lane, Board Member, Miraloma Park Improvement Club



March 6, 2009

Honorable Commissioners
San Francisco Planning Commission
1650 Mission Street
San Francisco, CA 94102

Re: Discretionary Review Reforms

Dear Commissioners:

After careful review of Planning Director John Rahaim's recommendations regarding reforming the current discretionary review process, our organization of commercial and residential real estate property owners, managers and related industry professionals welcomes his proposals for reform, and supports them.

Specifically, BOMA is concerned with the amount of staff time that is spent on relatively minor issues, usually related to complaints from residents about a neighbor's remodel project. Especially in tough economic times such as we are experiencing, now is the time to review and change our policies that, while still providing residents with an appeal process through the design review committee/hearing officer format, will reduce the number of cases that may not have sufficient merit to warrant full Departmental review. Our organization is also sensitive to the amount of time Planning Commissioners have been spending hearing Discretionary Review cases and supports efforts to reduce that problem thus allowing you to devote yourself to larger policy issues that have greater long-term impacts on our City.

Lastly, the recommendations for reform actually will enhance the internal review process for Discretionary Reviews and more aptly standardize the way in which they are handled. The public will gain greater transparency regarding planned projects and how the Planning Department evaluates them.

Therefore, BOMA supports the Director's proposed recommended reforms of the Discretionary Review Process, and request they be adopted.

Respectfully,

Ken Cleaveland
Director, Govt. and Public Affairs

Advancing the Commercial Real Estate Industry Through Advocacy, Professional Development and Information Exchange
BUILDING OWNERS AND MANAGERS ASSOCIATION OF SAN FRANCISCO
233 Sansome Street, 8th Fl., San Francisco, CA 94104-2314 Telephone 415.362.8567 Fax 415.362.8634
Federated with BOMA International, member of BOMA California

Lisa,

I heartedly applaud the Planning Department's current efforts at DR reform. Your goals as stated in your reports are right on target and the process refinements being suggested are well considered. I would like to stress that the following points should be maintained or included, regardless of what else is compromised:

1. Establish specific criteria for a DR – re what is deemed “exceptional or extraordinary circumstances” so that DR requesters and project sponsors know what DR requests will immediately be thrown out as not meeting DR criteria vs. what is in a legitimate gray zone (meets code but “possibly” not design guidelines).
2. The Department declines DR requests not meeting the criteria. It goes no further than an internal Planning Dept (RDC) decision that the DR criteria are not met.
3. Legitimate DRs get passed along to EITHER the Hearing Officer OR the Commission... but not to one with a potential appeal to the other. If it a project involving “policy” matters, it should go to the Commission. If it does not involve “policy” issues, it goes to the hearing officer, and from there to the Appeals Board if appealed. The RDC decides which is which.

I think this would be a tremendous improvement and would reduce costs, improve predictability, increase consistency, and reduce bad behaviors all around.

Thanks so much.

David Ehrlich
290 Beacon Street
SF, CA

In our experience, we felt that our clients' neighbors abused the D.R. system. We worked with the neighbors throughout the Sec 311 and Variance processes, made major changes to the project, and they went and filed the D.R. anyway. This cost our client a lot of money in our fees and time.

I talked to some people in my office and these are the suggestions we were thinking:

1. Find ways to minimize the abuses of the D.R.
2. For people who file D.R.'s with ulterior motives, based on greed, envy, bad relations, etc, possibly force them to pay for the subject's property owner's architect fees. Just like a court case where people who abuse the system pay the opponee's attorney's fees.
3. We disagree that D.R.s can be filed for projects that comply with the Planning Code. The City's Planners have extensive knowledge and training to better judge what shape the city should take.
4. Better define exactly who can file a D.R. in terms of how much they are affected by the project.
5. Better define what is the appropriate use of the D.R.

Thank you very much for considering our ideas.

Sincerely,
Heidi Liebes
Winder Liebes Architects

Thank you for the opportunity to provide the Planning Department with suggestions for the Discretionary Review Process. I am thrilled to be able to comment, since I have long believed that the DR process is out of control.

Discretionary Review filings have become a simple way for neighbors or groups to delay projects and increase the project sponsor's costs. They waste time and are a huge drain to the Planning Department operating budget, which has caused the department to raise fees. Just as frivolous law suits are thrown out of court, frivolous DR filings should be denied. The DR filer should have to provide far greater justification that the issue meets the DR filing requirements and the filing requirements should be made stricter.

The following are specific suggestions:

1. If the project complies with the Planning Code, a DR should not be allowed. DR's should only be allowed when there is a "grey area" or interpretation made by the Planning Department.
2. If the DR filing is in any way related to a decision already made at a variance hearing, a DR scope should be limited and not allow the DR requestor to argue the same points made at the variance hearing.
3. If the DR filing is related to the blocking of views for a project that otherwise meets the Planning Code, a DR should not be allowed.
4. The mandatory DR requirement for demolitions should be abolished.
5. The DR filer should be responsible for paying the Planning Department staff costs if the Planning Commission approves the project. This will help reduce the number of frivolous DR requests.
6. Discretionary reviews should not be a political exercise. The increase in the number of attorneys representing project sponsors and DR filers should be a clear message that the system is broken.

Thanks again for allowing the public to provide suggestions. I look forward to attending the upcoming meeting.

Sincerely,

Kevin Dill
Architect

Planning Department

1650 Mission Street, Suite 400

San Francisco, CA 94103

Attn: Lisa Chau

RE: Discretionary Review Reform

Dear Lisa,

I have a few suggestions for the DR process:

- 1) Limit the number of DR requestors per application to 6 households/addresses. Person named representing an address should be a neighbor of 150'-0" radius. (Neighborhood Association/representatives can file.) Any more DR requestors will need to file a separate DR application with the associated fees. It is not fair when for example, 12 people chips in to pay for one DR, and it becomes impossible to compromise with all of them and it becomes a moving target (real case scenario.)
- 2) DR should not be able to dictate size and location of windows and doors on the Project Sponsors addition stating privacy for a reason. Windows are sized, shaped and located minimally by life/safety codes and T24 Energy Calculations anyway. Any larger are for personal and aesthetic reasons by the PS. Curtains/window treatment can preserve privacy for all parties. If not enough for the DR, then he should move.
- 3) Speakers for or against a project must speak with relevance to the project. Ideally they should be within the notification (150'-0") radius of the neighborhood.
- 4) Enhancing property values should not be used as a reason for a project. Not everyone wants property values to go up.

That is all for now.

Thank you,


Lisa Wong

Lisa Wong Architect

Lisa O. Wong,
1213 Folsom Street
San Francisco, CA 94103
(415) 621.1280
Fax (415) 255.6031

Memorandum

1 of 2

to **San Francisco Planning Department**
Att: Lisa Chau

from **Michael Pierry**

date **28 JAN 2009**

re: **Discretionary Review Reform**

As an architect recently involved in the Discretionary Review process I feel compelled to respond to your request for recommendations for its reform. The following is a short list of perceived Discretionary Review issues and proposed solutions. Unfortunately I was unable to attend any of the earlier outreach meetings and apologize for any repetition or overlap these suggestions may have with earlier discussed ideas.

1. Issue: Discretionary Review automatically goes to the Planning Commission for review regardless of scale, scope or merit.

Solution: Empower Planning Department Staff to evaluate issues and determine if they require Planning Commission review. This decision of Planning Staff could be appealed by the appellant at the appellant's cost.

Further: Not-for-profit groups might be allowed to waive the appeal fee retro-actively only if their claims are found to be valid by the Commission. This would provide a financial incentive not to create spurious claims.

2. Issue: Planning Commission is currently in charge of reviewing appropriate architectural design responses. Many of the Commissioners do not have architectural training that would allow them to make informed decisions.

Solution 'A': Require Planning Commission members to have some sort of Architectural or Urban Planning Background.

Solution 'B': Require that Planning Commission responses cite specific parts of the Planning Code or Residential Guidelines in providing direction for a project. Design aesthetics, preferences for historic architecture and the Commissioners personal taste should not be a factor in decisions for new construction. Where an issue is determined to require an architectural response allow the Planning Department to work out appropriate responses with the project Architect.

3. Issue: A number of Discretionary Reviews appear to be over issues of disgruntled neighbors having reduced 'views'.

Solution: A clear zoning memorandum stating that while light and air issues are code protected rights, a properties subjective 'view' is not.

Memorandum

2 of 2

4. Issue: Individuals currently can inhibit construction by requesting Discretionary Review without merit. The application clearly indicates that 'Exceptional Circumstances' must be in place to require the Commissions review. Additionally a handful of individuals have taken upon themselves the task of halting all construction with the presumption that existing structures are always preferable to new construction.

Solution: Allow Planning Staff to determine if 'Exceptional Circumstances' exist. (See solutions for Issue 1 above) Further: Individuals filing a DR request (whether as an individual or as part of a group) should be inversely weighted by the number of requests made in any given year. For example: if someone files sixteen DR requests in a year their assumed validity as a requester should automatically be reduced / challenged.

5. The concept of a 'Potential Historic District' needs to be abolished. The use of the ambiguous term 'Potential' pushes projects toward Discretionary Review where the Planning Commission is then required to make a judgment call on something that does not exist. This is an unreasonable position for all involved. I understand that this may go beyond the scope of Discretionary Review reform but this issue appears to be critical in establishing a pattern of non-substantiated claims that slow down the entire process of approval. An area is either a historic district or not, until deemed otherwise by the accepted professionally vetted process.

My comment is simple but the effect is complicated:

Planning Staff must be given some latitude in determining if a DR has merit and if it is found to lack merit, the request for DR should not be accepted.

There is an educated population here that realizes that by simply filing or threatening to file a DR, they wield great power. The fact that a single DR filer can derail a project for months or years, makes building in San Francisco a risky proposition. This means that new projects come on line slowly or not at all. While maintaining the historic fabric of our city is important, we must also recognize that we live in a vibrant metropolitan setting and that the evolution of the built environment is important to the continued health of The City.

Sincerely,

Ross Levy

Levy Art & Architecture

1286 Sanchez Street

San Francisco, CA 94114

Thank you and the director for extending the invitation to attend the community outreach meeting on Tuesday Feb. 10. I will attend the meeting.

It is clear that Planning Department staff has worked very hard to develop the proposed modifications and I am delighted that they include features to reduce frivolous DR Requests that do not substantiate the extraordinary circumstances require to justify a DR, establish a more consistent method of interpreting and applying the Residential Design Guidelines to proposed projects and reducing the valuable time of the Planning Commission currently wasted on frivolous DR requests so they can focus more on policy issues. Thanks to the Planning Department staff for the tremendous effort developing the proposed modifications and for devising modifications that will vastly improve the process in a fair and just fashion.

I have one additional comment regarding the DR process that was not included in the proposed modifications. The fee for requesting Discretionary Review is too low and facilitates frivolous DR requestors ability to delay a project and cause economic hardship to project sponsors by protracting the process, adding costs to the sponsor for the professional services from architects and land use attorneys to provide the services necessary to support a project thru the DR process. The cost to the Planning Department to administer the DR process is in excess of \$3,200.00. DR requestors with the means to pay the full cost should be charged the full cost just as a project sponsor who's project requires a mandatory DR like for a dwelling unit merger. Community groups and DR requestors whose income is under an amount where the full fee would be a hardship as determined by the Planning Department should be allowed a reduced fee to make the process available to everyone in San Francisco. I have seen too many projects unfairly disrupted or completely derailed by the nimbys,(not in my back yard), who pursue personal agendas inconsistent with the Planning Code and Zoning regulations and know the current system well enough to use Block Book Notations to be noticed on all projects, the DR process to slow project approval or extort cash from project sponsors to withdraw DR request, Board of Permit Appeals to add further delays and cost to project sponsors and finally the Board of Supervisors to challenge exemptions from environmental review and continue delays and costs to project sponsors. I truly believe that if the fee was raised to the full cost it would deter some of this type of outrageous abuse of the system.

I applaud the efforts to finally reform the DR process and hope that you will consider the fee issue that I have raised and approve the proposed modifications.

Sincerely:

Louis Felthouse
Louis H. Felthouse Architects Inc.
1663 Mission Street, Suite 520
San Francisco, CA 94103-2484

To John Rahaim
Director of Planning.

I am a former victim of the planning process. I use the word VICTIM because as a property owner in SFO my neighbors appear to have been empowered by the city to bring claims against my rights than I must defend at my cost before a panel of planners who's ideas are to seek a compromise at my expense so that each party feels that they won

In actuality, nobody wins. The system no longer works as neighbors now have learned that the city has empowered them at very little cost. This misuse of power will eventually result in some sort of compromise at the owners and government expense.

I would like to see the following changes

Settle all cases within the planning department for residential building permits that meet code.
Local neighborhood association must be present for any case heard by the planning commission.
Place more demands on the local neighborhoods association to create their own guidelines.
Make neighbors accountable for their actions.

All testimony should be under oath to prevent the lies and misrepresentation of the information issued to the planning department or commission.

Place a dollar limit on how much the planning department or commission can ask from a homeowner to provide to defend his case when his request meets city code.

Chet Matuszak
Logistic Links
1911 Funston Ave
San Francisco, CA 94116

San Francisco Planning Commission;
1650 Mission St. Suite 400
SF, CA, 94103-2414

Subject: Discretionary Review Reform

Dear Commissioners;

The Parkmerced Residents Organization represents 3,500 units and about 10,000 tenants living within the area of Parkmerced bordered by Brotherhood Way, 19th Avenue, Lake Merced Boulevard and Holloway and Font Ave's. The mission of the PRO organization is to maintain the quality of life and the residential character within these boundaries.

Discretionary Review is an essential tool that helps our organization review and maintain the quality of space that has vaulted Parkmerced into the national spotlight www.tclf.org Marvels of Modernism, "Landscapes @ Risk" 2008 by the Cultural Landscape Foundation. Charles Birnbaum has noted the "integrity" of the landscape design and the possibility of being a "National Landmark" as a masterplanned community.

The noted changes suggested by the planning commission of replacing the DR hearings with a single hearing officer seems to ignore the issues involved and complexity of projects and review by planning of changes that occur in our district consistently without adequate review. The fact that over 30 units were at one point being worked on with definitive character and scale changes, with only permits for 3 units noted on the DBI website at the time of the work shows that the department of interior standards for landmark properties, or ones that have the possibility and have not been adequately reviewed, suggests improprieties and lack of proper oversight in regards to permits issued.

We are convinced that the planning commission hearing process adds value to the discussion, and the newly founded Historic Preservation Commission will provide additional balance to the overall review of changes to the possible large scale landmarks and districts in the city.

Expecting a single hearing officer to review projects seems that a lack of view-points, and clear un-blemished morality of the single hearing officer, would make a very unrealistic situation.

To reduce the overall DR workload is commendable, but there should be proper public and noticed review (TO ALL TENANTS and BUSINESSES) in the areas surrounding such large scaled properties. Even for more minor work should be required due to the larger visual impact such work creates.

Neighborhood Feedback and communication to neighborhood organizations, and tenants groups including PRO www.parkmercedresidents.org should be required of such permitting so that input and comment is given prior to wholesale changes on site with little discussion of the impacts and possible cost pass-throughs to tenants.

With a solid focus on neighborhood specific criteria to such changes, in addition to institutional growth and proposals that affect prior outlined districts, and impact our areas when they are neglected should be incorporated so that DBI, and Planning Dept, and the Historical Preservation Commission can input the DR process to mandate adequate upkeep, and care so that parcels do not fall into neglect and need DR review for the changes in upkeep proposed.

The Parkmerced Residents Organization urges the Planning Commission to direct planning staff to work with neighborhood groups and tenant organizations to best refine and incorporate neighborhood and existing tenant input into the overall planning process so that disrepair and

negligence, defferred maintenance and subsequent sell-off of land does not become the norm, which perpetuates further DR processes.

Sincerely

Aaron Goodman VP @ PRO

www.parkmercedresidents.org

www.parkmercedlandscape.blogspot.com

www.tclf.org (Marvels of Modernism) Landscapes @ Risk, Parkmerced 2008

7 February 2009

Henry Karnilowicz
Occidental Express
1019 Howard Street
San Francisco, CA. 94103-2806

Dear Henry:

I work out of town during the week and therefore will be unable to attend the outreach meeting on Discretionary Review on Tuesday, 10 February 2009 at 1650 Mission Street. Please read this letter on my behalf for the public record.

My wife and I own a small single-family home near Duboce Park on 14th Street, and previously lived on the same block for many years prior to purchase of our current home. Our neighborhood is beautiful in every respect, except that one or two obnoxious owners have made life miserable for dozens of friendly owners on our block. One couple became so frustrated with frivolous DR objections a few years ago that they abandoned renovation plans, sold their condo, and moved away. The “successful” (read: frivolous) DR obstructionist was encouraged by stymieing this legitimate renovation project and has subsequently threatened and intimidated remaining neighbors who are now reluctant to proceed with legitimate improvement projects. A cooperative neighborhood is essentially held hostage by one “bad apple.” Although no doubt created with the best of intentions, the current DR framework permits a few mean-spirited people to erect roadblocks against valid home improvements. Indeed, my wife and I have postponed a permit application pending the outcome of the DR reform proposal currently under discussion. We cannot afford to waste tens of thousands of dollars (not to mention time and frustration) fighting frivolous objections by a solitary, irrational obstructionist who has no support from other neighbors.

San Francisco is already feeling the sting of national economic contraction. Aside from fairness issues, DR reform would significantly reduce nuisance delays and discouragement of lawful improvements of importance for the esthetic and economic vitality of San Francisco. With the home restoration industry in recession already, this is a particularly appropriate moment to streamline the DR process and thereby encourage citizens to improve properties in a proper and legal manner. This proposal will increase employment and business income and enhance local tax receipts in the process. Please support the DR reform process as proposed.

Sincerely yours,

Dennis O. Flynn
945 – 14th Street
San Francisco, CA. 94114
doflynn@pacific.edu
Cell: (209) 943-6408

COW HOLLOW NEIGHBORHOOD PRE-APPLICATION

DATE:

PRE-APP CHECKLIST (To be submitted with Project Application)

(Additionally, for use by Planning and CHA)

QUESTION	REFERENCE	YES	NO	N/A
A. NEIGHBORHOOD ON-SITE PRE-APP MEETING				
Pre-App Meeting Notice received by neighbors in Project Area?	DR Reform 2009			
Notice of Meeting mailed on _____ (Minimum 10 days in advance).	DR Reform 2009			
City Planner in attendance?	DR Reform 2009			
List attached of those in attendance with email/phone?	DR Reform 2009			
Were Design Phase plans available for viewing at meeting?				
Were any material samples or colors available to view or comment on?				
Did Project Sponsor or Architect ask for comments or suggestions from neighbors?				
Did Project Sponsor or Architect offer ways to possibly mitigate concerns? (i.e. "Good Neighbor" gestures)				
Did project sponsor or architect list the neighbor's comments or suggestions? Is list attached to Checklist?				
Prior to this meeting, did the Project Architect review the CHNDG (Neighborhood Guidelines) to determine how the proposed project may be affected, limited or restricted by the Guidelines? Specifically, Sections: 1 & 3	CHNDG Section 1, Section 3			
Was CHA notified of Pre-App Meeting?				
Has the Project Sponsor met with the CHA Zoning Committee to discuss the project?				
Has the Project Architect attempted to mitigate any concerns identified by the CHA Zoning Committee?				
Do the plans submitted to Planning reflect the Sponsor's attempt to deal with those significant concerns of the CHA and comments of neighbors made during the Pre-Application meeting?				
Would an additional Pre-App meeting be helpful in resolving significant issues of concern?				
B. NEIGHBORHOOD CHARACTER & SITING				
Block-face character: Clearly Defined ___ Complex ___ or Mixed				
Does the building respect the topography of the site?				
Does the position of the building on the block relate to other buildings and other significant urban features?	Location (pgs. 21-25)			
Does the building design respect the pattern of building setbacks?	Setback (pgs. 25-28)			
Does the building design respect rear yard patterns and mid-block open space?	Rear Yards (pgs. 28-29)			
Does the building design respect the pattern of side spacing between buildings?	Side Spacing (pgs. 30-31)			
Does the building design adequately incorporate "good neighbor" gestures?				
Do the "good neighbor" gestures significantly address the concerns of the neighbors?				

COW HOLLOW NEIGHBORHOOD PRE-APPLICATION

DATE:

PRE-APP CHECKLIST (To be submitted with Project Application)

(Additionally, for use by Planning and CHA)

QUESTION	REFERENCE	YES	NO	N/A
C. BUILDING ENVELOPE				
Is the building roofline compatible with the pattern of the rooflines on the block-face?	Roofline (pgs. 32-33)			
Is the buildings volume and mass compatible with that of the surrounding buildings?	Volume & Mass (pgs. 34-36)			
D. SCALE				
Are the building's dimensions (length, width and height) compatible with neighboring buildings?	Dimensions (pgs.37-39)			
Are the buildings overall vertical and horizontal proportions compatible with the patterns along the block-face?				
E. NEIGHBOR'S LIGHT AND VIEW				
Does the building scale preserve the natural light and views for nearby residents?	Light and View (pgs.35, 42)			
F. TEXTURE AND DETAILING				
Do the building's materials compliment those used in the surrounding area?	Exterior Materials (pgs.40-41)			
Are finished materials used on all exposed facades of the building?				
Does the building respect the amount and level of of detail and ornamentation on surrounding buildings?				
G. OPENINGS				
Does the building respect the pattern of entryways along the block-face?				
Is the building's entry compatible in size, placement and details with surrounding buildings?				
Are the buildings windows compatible with the proportion size and detailing of windows of surrounding buildings?				
Is the width of the garage door compatible with adjacent garage doors on the block-face?				
Does the proposed garage door compliment the building's style and the design of the rest of the project?				
H. LANDSCAPING				
Is the area designated for landscaping in the front setback area of appropriate size and shape?	Landscaping (pg. 48)			

Mrs. E McMillan
647 28th Ave
San Francisco, CA 94121

MR. JOHN RANNIM, DIRECTOR
PLANNING DEPT 1650 MISSION ST
SAN FRANCISCO, CA 94103 -

RECEIVED

6 FEB 2009

JAN 12 2009

CITY & COUNTY OF S.F.
DEPT OF CITY PLANNING
ADMINISTRATOR

TO ALL CONCERNED RE V.R. : DISCRETIONARY REVIEW
THE VOICE OF THE PEOPLE NEED TO BE HEARD
AND EVALUATED IN AS BIG AN AREA AS POSSIBLE WITH
A CONGLOMERATION OF PEOPLE WITH DIVERSIFIED BACKGROUNDS
AND PERSONAL INTERESTS.

S.F.
(PREVIOUSLY
ALSO IN 1932)

THE U.S. CONSTITUTION PROVIDES FOR PETITION
REDESS AND SO DOES THE SAN FRANCISCO CITY CHARTER (1996)
AS APPEALABLE TO THE CITY PLANNING COMMISSION OF SEVEN (7)
MEMBERS CURRENTLY APPOINTED BY THE MAYOR & THE BOARD OF SUPERVISORS
A BROAD SPECTRUM OF THE CITY'S POPULATION. A SINGLE (ONE)
PLANNING CZAR VOTE IS UNFAIR, DISINGENUOUS, UNRELIABLE
AND - MOST - PROBABLY ILLEGAL.

ANY ONE PERSON OR ENTITY CANNOT UNILATERALLY
MAKE SUCH DRASTIC CHANGES - SO CEASE & DESIST.

SHOULD MEMBERS OR POTENTIAL MEMBERS OF THE
CITY'S PLANNING COMMISSION NOT WANT TO FACE DISCRETIONARY
REVIEWS THEN LET THEM REFUSE THE APPOINTMENT TO SERVE.

FOR MORE HISTORICAL INFORMATION (E.G. THE ELIMINATION
OR REPRESENTATIVES OF THE CAD & PUC) FEEL FREE TO CONTACT ME.

cc: Ron Miguel
Planning Commission

Sincerely
Mrs. Edith McMillan
647-28th Ave.
San Francisco, CA 94121

Mrs. E McMillan
647 28th Ave
San Francisco, CA 94121

Mr. John Rahaim, Director
Planning Dept, 1650 Mission St
San Francisco, CA 94103

RICHMOND REVIEW February 2009

Gail Dekreon. Fong is suspected of having psychiatric issues.

Yoshioka was the owner of the Sushi Man restaurant. His was the first homicide of the year in the City.

Hearing on future of Discretionary Review

Neighborhood activists and organizations, including the Coalition for San Francisco Neighborhoods, are alarmed at a proposal to change the way construction projects in the City are approved.

Discretionary Review is the process by which projects are brought before the SF Planning Commission for resolution. The members weigh the arguments of the competing parties and reach a solution. That decision can be appealed to the SF Board of

Permit Appeals or the SF Board of Supervisors.

The power of the people to have their grievances heard at the Planning Commission would have to go through one person at the Planning Department, activists complain, giving too much power to one individual, who can be unduly influenced.

John Rahaim, director of the Planning Department, wants feedback from the public.

"As a result of public comment, the Planning Commission requested proposals from the public on how to reform the current Discretionary Review process," Rahaim said.

To comment, e-mail information to lisa.chau@sfgov.org.

There will be a hearing on Discretionary Review reform at 1650 Mission St., Room 431, on Tuesday, Feb. 10, from 6 - 8 p.m.

A Saturday walk, Feb. 14, goes from 11 a.m. to 1:30 p.m. and includes lunch at the Clement Street Bar and Grill. Cost for lunch is \$20. To reserve a space, e-mail rsvp@sfhistory.org or call (415) 537-1105, ext. 100.

A second walking tour will be held on Sunday, Feb. 15, from 1:30 - 3:30 p.m. It does not include lunch and there is no charge.

New chef takes helm at Cliff House Restaurant



What keeps you

February 16, 2009

Planning Commissioners
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Letter in Support of Discretionary Review Reform

Dear Planning Commissioners:

I would like to register my support of the Commission's and Planning Department's efforts to implement reform of the Discretionary Review process. Currently, a frivolous DR request can exhaust a homeowner's time, financial resources, and emotional capital. These requests increase the backlog, and burden the over-extended resources of the Commission and Planning Department staff as well. The proposed reforms are integral to achieving a true balance between the rights of homeowners and the interests of the greater community.

In all fairness, most DR filings are probably made in good faith by the requestor. However, there seems to be an ungainly misunderstanding of the phrase "exceptional and extraordinary circumstances associated with a proposed project". Prior to the DR process, the projects are reviewed and massaged by Department staff until they are found to comply with Planning Code requirements, the General Plan, and Residential Design Guidelines. DR requests on such projects become, in effect, attempts to *legislate* new Planning code and precedent.

Frivolous DR requests, on the other hand, are often a mean-spirited effort to achieve a personal agenda or personal gain. A modest expansion of the ground floor in a single family home (to accommodate the needs of elderly parents) was opposed by a neighbor who had recently completed an identical expansion; the stated dispute was the style of baluster chosen. Extortion is the only way to describe a DR request heard last year where the requestor offered to withdraw the (time consuming) DR request for a payment of \$80,000. Such requests as these make a mockery of the "public interest" argument, and insult the professionalism of Commission and staff alike.

Please consider the risks and expense to the public, the Planning process, and the individual homeowner as you discuss the proposed reforms. No action or a negative action would be detrimental to all parties concerned.

Thank you very much.

Sincerely,

Fred T. Horsfield

Fred T. Horsfield
www.sfowners.com



February 18, 2009

Mr. John Rahaim, Director
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Re: Discretionary Review Reform

Dear Director Rahaim:

I wish to compliment the Department on its efforts to reform the entirely dysfunctional Discretionary Review process. The proposals as outlined during Public Outreach should go far in eliminating the arbitrariness, uncertainty, and costs to the Commission, Staff and public of the current process.

I have been following the discussion of the proposed changes over the web and wish to endorse a few comments made by others:

- Design professionals should be permitted to meet with the RDC during the review of the project. In a short period of time, the designer can explain to staff background issues and design challenges and their response, saving considerable staff and proponent time.
- The hearing office should not refer DR cases to the Commission due to “neighborhood opposition” or “public interest in the project”. This would completely undermine your attempt to build some certainty into the process, and relieve the Commission of hearing unnecessary cases. Limit referral to the Commission to policy issues.
- Multiple Hearing Officers would be desirable to avoid backlogs and delays.
- Clarify to the public the internal DCP review process so it is evident what cases will be referred to the Hearing Officer(s).
- The RDC should be able to approve projects that are not considered to be “exceptional or extraordinary”. The recourse for the DR applicant would then be to go to the Appeals Board.
- There should be a clear process for dealing with revisions to projects that can avoid another Hearing. Staff should be able to review and sign-off on revisions.

Thank you for the opportunity to express these comments.

Sincerely,

David S. Gast, AIA, LEED AP
Principal

February 11, 2009

San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

RE: Discretionary Review Reform

Hello Planners:

First of all I would like to thank you all for your thorough time and effort regarding this issue.

I have been practicing architecture in this city for 30 years, and was one of the founding members of the AIA advisory review board.

I would like to make a few comments;

General:

- I am sympathetic to long term neighbors concerns, with seeing change when a new project is proposed next to them. However, DR requestors and project sponsors should be considered with equal rights on a level playing field. Project sponsors should have a right to build a project that complies with the basic Planning Code and residential design guidelines, without any appeal, except the Board of permit Appeals. So, a DR requestor, in effect, is asking for something exceptional and extraordinary to even make a DR request.
- I am opposed to story poles. The project sponsor is already required to draw full plans and elevations of both neighboring buildings, along with thorough photographs. If the DR requestor has trouble reading drawings, then it is incumbent on them to either educate themselves or get some help to interpret the drawings.

Pre-Application:

- I am in support of the revised Building Permit Notification Pre-Application Procedures. I also agree with requiring the project sponsor to hand out reduced (8.5 x 11) drawings to neighbors as a record. I also think that the form that goes out to the neighbors should have some language to warn the neighbors that this is only the beginning, and that these drawings have not been reviewed for compliance to the Planning Codes, and may become revised over the processing of the permit application.

Processing:

- It is dangerous to mandate the Residential Design Guidelines, as they are written to be very interpretative. I have had planners be very rigid about the interpretations of this in the past, only to go to their supervisor, and have the interpretation reversed. There should be flexibility with the interpretations of the Residential Design Guidelines.
- There should be a three member "Discretionary Review Board" (similar to the AIA's past advisory review board) set up by the Planning Department with final decision power. One member shall be

chosen from the no-growth community, one from the pro-growth community and one by the Planning Department, hopefully to be neutral. The processing and these board members shall be paid by the DR fee (see below). the decision of this board would be final and the only other appeal would be the Board of Permit Appeals.

- I do agree that the initial application fee shall be small. However , there should be a set fee (+/- \$3,000.) for a discretionary review, if it is determined to go forward, that shall be paid by either the project sponsor or DR requester. The percentage of payment of the fee shall be decided by the board when they hear the case. If such a process were set up, then both the DR requestor and the project sponsor would be far more motivated to work things out on their own, if they may have to pay +/- \$3,000. if they loose.

- It is very important that there be three people making these DR decisions. One person may miss something. If the above "Discretionary Review Board" is infeasible and the Planning Department decides to go with the one DR Hearing Officer, then there should be two additional volunteer (or paid) positions as advisors. One member shall be chosen from the no-growth community, one from the pro-growth community.

- There should be paperwork generated by the Planning Department that would be a standard information sheet for DR requestor's warning them of the risk of having to pay this higher fee if they loose, and the standards for building in San Francisco.

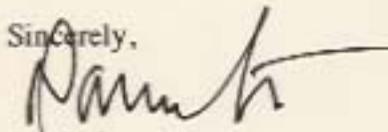
- The "exceptional and extraordinary circumstances" shall be well defined and indicated on the DR requestor intake information sheet.

- I also agree with the DR requestor intake initial meeting as outlined in your proposal, with a decision on "exceptional and extraordinary circumstances" being made within a very short time period.

I hope that you find these comments helpful.

Thank you.

Sincerely,



David S.

David Sternberg
Sternberg Benjamin Architects
1331 Harrison Street
San Francisco, CA 94103
Web Site: www.sternbergbenjamin.com
Phone: 415 882 9783, ext. 11
FAX: 415 882 9786
email: dsternberg@sternbergbenjamin.com

Elaine and team

Our appreciation for you meeting with us earlier in the week to discuss the evolution of your DR Reform proposal and for the candid and constructive conversation. I personally don't think we are very far apart on the objectives. The details of the reform measures are of course where the tricky work is in finding a mutual comfort zone.

I gave a lot of thought to our discussion after the meeting, and particularly the hesitation that you may have sensed from us in our neighborhood vantage point. There are a lot of Pauls and Judys and Peters in the neighborhoods, I believe we represent a fairly rational perspective that is broadly shared. But that is not to say rational folks like us are not cautious based on long experiences with the wounding hard-knocks of development in our neighborhoods. Discretionary Review is a big issue to "reform," as it is embedded in the overall system of Planning's project review process which many of us out here in the neighborhoods believe needs a variety of reforms. Untangling "the problem" is critical to the scope of reforms related to DR. Planning staff--your team--has been thoughtful, deliberative and well intentioned through the course of the last three months engaging with us to shape your ideas about DR reform. And we realize that your scope has already enlarged per this problem-identification input from us. As this DR Reform effort moves forward, I think it is important that the department aim at modest incremental constraints on DR (as that's what the bottom line is) that are balanced against performance-tested systemic reforms in the project review process and project review tools. Put another way, as the system shows an improved track record (that said from our neighborhoods vantage point), the comfort with more scrutiny and limitations on DR will increase. At least that's my opinion. There are others out there, as you know, who will be even much more cautionary. It is for that reason that we have put much emphasis on details of the complementary reforms--ie, pre-app process, notification standards, design standards and design review process, plans/document control, etc--that we believe can balance changes to DR. I hope understanding the vantage point we come from will continue to help shape the fine points of your proposal package as this process proceeds.

We anxiously await seeing the proposal you plan to take to Commission, please relay it to us as soon as possible so we can review. Thank you.

Best regards,
Peter



SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Pre-Application Information Packet

(Revisions adopted by the San Francisco Planning Commission, for implementation on **April 2, 2009**)

DRAFT

What is the Pre-Application Process?

The Pre-Application Process shall be required to occur for certain alterations and new construction projects located in RH, RM, RTO, and NC Districts that include:

- New Construction (subsequent to a demolition or on an undeveloped portion of the lot);
- Vertical additions that add 7' or more feet to the existing building height;
- Horizontal additions that add 10' feet or more to the existing building depth at any level.

The intent of the process is to:

- Initiate neighbor communication to identify issues and concerns early on;
- Provide the project sponsor the opportunity to address neighbor concerns about the potential impacts of the project prior to submitting an application; and,
- Reduce the number of Discretionary Reviews (DRs) that are filed.

This process is *not* intended to be a forum in which to discuss:

- Personal choices of Property Owner(s);
- Programmatic issues;
- Aesthetic preferences; or,
- Rational for development.

The benefits to project sponsors include:

- Early identification of neighbor concerns;
- Ability to mitigate neighbor concerns before project submittal;
- A more streamlined, predictable review from the Planning Department; and,
- Elimination of delays associated with Discretionary Reviews.

The benefits to the neighbors include:

- The opportunity to express concerns about a project before it is submitted;
- Eliminating the need to file a DR; and,
- Eliminating the time and stress associated with DRs.

The Pre-Application Process

Step 1:

- Prior to filing a Building Permit, Variance, or Conditional Use Application (whichever is submitted first), the project sponsor must conduct a minimum of one pre-application meeting if the project triggers such a meeting, as referenced on the previous page.

This meeting must be in accordance with the following rules:

- Invite all Neighborhood Associations for the relevant neighborhood(s) (available at www.sfgov.org/planning > *Publications and Reports* > *Map of San Francisco Neighborhoods*). If the property is located on the border of two or more neighborhoods, you must invite *all* bordering neighborhood organizations. Click on the relevant neighborhood on the map to find the neighborhood organization list in pdf format.
- Invite all abutting property owners and occupants, including owners of properties directly across the street from the project site to the meeting. One copy of the invitation letter should be mailed to the project sponsor as proof of mailing.
- Invitations should be sent at least 14 calendar days before the meeting. The postal date stamp will serve as record of timely mailing.
- The meeting must be conducted at either:
 - The project site;
 - An alternate location within a one-mile radius of the project site (i.e. community center, coffee shop, etc.); or,
 - The project sponsor can pay \$XXX fee for a Department Facilitated Pre-Application Meeting that will be held at the Planning Department (see the *Department Facilitated Pre-Application Meeting* form at www.sfgov.org/planning under the Applications link for more information).
- Meetings are to be conducted from 6:00 am -9:00 pm, Mon.-Fri.; and 10:00 am -9:00 pm, Sat-Sun., unless the Project Sponsor has selected a Facilitated Pre-Application Meeting. Facilitated Pre-Application Meetings will be conducted during regular business hours.
- A sign-in sheet must be used in order to verify attendance.
- Preliminary plans must be reviewed that include the height and depth of the subject building and its adjacent properties, and dimensions must be provided to help facilitate discussion. Neighbors may request reduced copies of the plans from the project sponsor by checking the “please send me plans” box on the sign-in sheet, and the Project Sponsor shall provide reduced copies upon such request.

Step 2:

For accountability purposes, please submit the following information with your Application:

- A copy of the sign-in sheet (use attached template);
- The affidavit, signed and dated (use attached template);
- A list of those persons and neighborhood groups invited to the meeting;
- A copy of the letter mailed to neighbors and neighborhood groups (use attached invitation);
- A summary of the meeting and a list of any changes made to the project as a result of the neighborhood comments (use attached template).
- One reduced copy of the plans presented to the neighbors at pre-application meeting.

Notice of Pre-Application Meeting

_____ (date)

Dear Neighbor:

You are invited to a neighborhood pre-application meeting to review and discuss the development proposal at _____ (Block/Lot#: _____), in accordance with the San Francisco Planning Department's Pre-Application procedures. The Pre-Application meeting is intended as a way for the Project Sponsor(s) to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an Application to the City. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is submitted for the Planning Department's review. Once this project has been submitted as a Building Permit Application to the City, you may track its status on-line at www.sfgov.org/dbi.

The pre-application meeting is required because this project includes (check all that apply):

- New construction (subsequent to a demolition or on an undeveloped portion of the lot)
- Vertical additions that add seven or more feet (7') to the existing building height
- Horizontal additions that add more than ten feet (10') to the existing building depth at any level

The development proposal is to: _____

Existing # of dwelling units:	_____	Proposed:	_____	Permitted:	_____
Existing bldg square footage:	_____	Proposed:	_____	Permitted:	_____
Existing # of stories:	_____	Proposed:	_____	Permitted:	_____
Existing bldg height:	_____	Proposed:	_____	Permitted:	_____
Existing bldg depth:	_____	Proposed:	_____	Permitted:	_____

MEETING INFORMATION:

Property Owner(s) name(s): _____
Project Sponsor(s): _____
Contact information (email/phone): _____
Meeting Address*: _____
Date of meeting: _____
Time of meeting**: _____

*The meeting should be conducted at the project site or within a one-mile radius, unless the Project Sponsor has requested a Department Facilitated Pre-Application Meeting, in which case the meeting will be held at the Planning Department offices, at 1650 Mission Street, Suite 400.

**Weeknight meetings shall occur between 6:00 p.m. - 9:00 p.m. Weekend meetings shall be between 10:00 a.m. - 9:00 p.m, unless the Project Sponsor has selected a Department Facilitated Pre-Application Meeting.

If you have any questions about the San Francisco Planning Code, Residential Design Guidelines, or general development process in the City, please call the Public Information Center at 415-558-6378, or

contact the Planning Department via email at jim.mccormick@sfgov.org. You may also find information about the San Francisco Planning Department and on-going planning efforts at www.sfplanning.org.

DRAFT

Affidavit of Conducting a Pre-Application Meeting, Sign-in Sheet and Issues/Responses submittal

I, _____, do hereby declare as follows:
(print name)

1. I have conducted a **Pre-Application Meeting** for the proposed new construction or alteration prior to submitting my building permit, variance, or conditional use application (whichever is submitted first) in accordance with Planning Commission Pre-Application Policy.
2. The meeting was conducted at _____ (location/address)
on _____ (date) from _____ (time).
3. I have included the **mailing list, meeting initiation, sign-in sheet, issue/response summary, and reduced plans** with the Application. I understand that I am responsible for the accuracy of this information and that erroneous information may lead to suspension or revocation of the permit.
4. I have prepared these materials in good faith and to the best of my ability.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED ON THIS DAY, _____, 20____ IN SAN FRANCISCO

Signature

Name (type or print)

Relationship to Project, e.g., Owner, Agent
(if Agent, give business name and profession)

Project Address

Pre-Application Meeting Sign-in Sheet

Meeting Date: _____
Meeting Time: _____
Meeting Address: _____
Project Address: _____
Property Owner Name: _____
Project Sponsor/Representative: _____

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only.

NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS
1. _____				<input type="checkbox"/>
2. _____				<input type="checkbox"/>
3. _____				<input type="checkbox"/>
4. _____				<input type="checkbox"/>
5. _____				<input type="checkbox"/>
6. _____				<input type="checkbox"/>
7. _____				<input type="checkbox"/>
8. _____				<input type="checkbox"/>
9. _____				<input type="checkbox"/>
10. _____				<input type="checkbox"/>
11. _____				<input type="checkbox"/>
12. _____				<input type="checkbox"/>
13. _____				<input type="checkbox"/>
14. _____				<input type="checkbox"/>

Summary of discussion from the Pre-Application Meeting

Meeting Date: _____

Meeting Time: _____

Meeting Address: _____

Project Address: _____

Property Owner Name: _____

Project Sponsor/Representative: _____

Please summarize the questions/comments and your response from the Pre-Application meeting in the space below. Please state if/how the project has been modified in response to any concerns.

Question/Concern #1 by (name of concerned neighbor/neighborhood group): _____

Project Sponsor Response: _____

Question/Concern #2: _____

Project Sponsor Response: _____

Question/Concern #3: _____

Project Sponsor Response: _____

Question/Concern #4: _____

Project Sponsor Response: _____

Question/Concern #5: _____

Project Sponsor Response: _____

Question/Concern #6: _____

Project Sponsor Response: _____

Question/Concern #7: _____

Project Sponsor Response: _____

Question/Concern #8: _____

Project Sponsor Response: _____



SAN FRANCISCO PLANNING DEPARTMENT

Residential Design Checklist

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Note: This checklist is provided as a tool to aid planners when plan checking residential buildings against the Residential Design Guidelines. For the purposes of Discretionary Review reports, refer to the checklist that is included as part of the DR Analysis template(s).

NEIGHBORHOOD CHARACTER (PAGES 7-10)

QUESTION	
The visual character is: (check one)	
Defined	
Mixed	

SITE DESIGN (PAGES 11 - 21)

QUESTION	YES	NO	N/A
Topography (page 11)			
Does the building respect the topography of the site and the surrounding area?			
Lateral Slopes along block-face			
1. If 50-percent of the buildings along the block-face create a pattern that steps down with the lateral slope AND the project is between buildings that make up the stepped pattern, does the project maintain the stepped pattern along the block-face for at least the first 15' of the subject building? <i>(If yes, meets threshold. If no, consult RDT.)</i>			
Is the building placed on its site so it responds to its position on the block and to the placement of surrounding buildings?			
Front Setback (pages 12 - 15)			
Does the front setback provide a pedestrian scale and enhance the street?			
In areas with varied front setbacks, is the building designed to act as transition between adjacent buildings and to unify the overall streetscape?			
Side Setback at Front			
1. If an adjacent building has a side setback, does the project provide a side setback of at least 3 feet wide and of a matching depth or 10 feet, whichever is less? <i>(If yes, meets threshold. If no, consult RDT.)</i>			
Does the building provide landscaping in the front setback?			
Side Spacing (page 15)			
Does the building respect the existing pattern of side spacing?			
Note: this guideline is for side spacing not side setbacks.			
1. (Quantify "pattern".) Does the project exist within a grouping of four structures that have similar side spacing? At minimum, two adjacent structures to one side of the project and one adjacent structure to the			

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<p>opposite side with similar side spacing must exist. <i>(If no, no pattern. If yes, see #2 below.)</i></p> <p>2. (Quantify side setback measurements.) Does the project provide a side space at the same width as the pattern? <i>(If yes, meets threshold. If no, continue to #3.)</i></p> <p>3. If the side spacing pattern is not uniform, is the side setback at least 3 feet wide or of an average width of the two adjacent side spacings, whichever is greater? <i>(If yes, meets threshold. If no, consult RDT.)</i></p>			
<p>Rear Yard (pages 16 - 17)</p>			
<p>Is the building articulated to minimize impacts on light to adjacent properties?</p>			
<p>Lightwells</p>			
<p>1. When providing a matching lightwell, does the proposed lightwell have a width of 3 feet from the side property line AND a length equivalent to the matched lightwell (if the adjacent light well is 10 feet or greater in length, the proposed lightwell must be at least 10 feet long or 75-percent of the adjacent lightwell's length whichever is greater.) AND begin at the floor above the basement/ground floor? <i>(If yes, meets threshold. If no, consult RDT. NOTE: If project is a vertical addition, the lightwell shall be matched per #1 above only at the level(s) of the addition.)</i></p>			
<p>Depth of Addition</p>			
<p>1. Is the rear addition the average of the two adjacent buildings? <i>(If yes, meets minimum standard. If no, see next question.)</i></p> <p>2. If the rear addition is greater than the average of the adjacent buildings AND does not exceed the depth of the longer building, is a minimum 5-foot side setback provided at the second floor and above for the entire length for the rear addition that faces the open area of the adjacent lot which contains the shorter building? <i>(If yes, meets threshold. If no, consult RDT.)</i></p> <p>3. For adjacent buildings of uniform depth and height at the rear wall: if the rear addition is greater than the average of the two adjacent buildings is the addition equal to or less than 12 feet deep and 1-story tall OR equal to or less than 12 feet deep, 2-stories tall with 5 foot setbacks on either side? <i>(If yes, meets threshold. If no, consult RDT.)</i></p>			
<p>Height of Addition</p>			
<p>1. If the depth of the rear addition projects beyond one adjacent building, is the addition more than two stories tall? <i>(If no, meets threshold. If yes, consult RDT.)</i></p>			
<p>Side Setback at Rear</p>			
<p>1. If the project abuts a side setback of an adjacent building, is a side setback provided at a minimum depth of 5 feet at the second level or higher (as measured from the level of the rear yard)? <i>(If yes, meets threshold. If no, consult RDT.)</i></p> <p>2. If the project abuts an adjacent rear yard area that is fully open from</p>			

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<p>both side property lines, is a side setback provided at a minimum depth of 5 feet at the second level or higher (as measured from the level of the rear yard)? <i>(If yes, meets threshold. If no, consult RDT.)</i></p>			
<p>Is the building articulated to minimize impacts on privacy to adjacent properties?</p> <ol style="list-style-type: none"> Do all of the windows of the proposal face onto an adjacent deck or an adjacent rear yard? <i>(If yes, meets threshold. If no, see #2 below.)</i> (Quantify "privacy.") If a window faces a building along the side property line or is located within a lightwell, is the proposed window at least 3 feet from the shared side property line AND not directly aligned with the transparent glazing of an adjacent window that is also 3 feet from the shared property line? <i>(If yes, meets threshold, if no, consult RDT.)</i> 			
Views (page 18)			
<p>Does the project protect major public views from public spaces?</p> <ol style="list-style-type: none"> Reference the maps in the General Plan for "Street Areas Important to Urban Design and Views", "Quality of Street Views". 			
Special Building Locations (pages 19 - 21)			
<p>Is greater visual emphasis provided for corner buildings?</p> <ol style="list-style-type: none"> Does the proposed corner building exceed the height of either adjacent building by more than one story? <i>(If yes, consult RDT. If no, project meets threshold but may need setbacks depending on immediate context. The thought is encourage appropriate development of anchor buildings at corner lots, particularly if multi-unit housing.)</i> 			
<p>Is the building facade designed to enhance and complement adjacent public spaces?</p> <ol style="list-style-type: none"> Does the front façade finish material wrap around to the side façade for at least 15 feet or to the first change in plane at the side façade? <i>(If yes, meets threshold. If no, consult RDT.)</i> Are finished exterior materials proposed along the exposed side façade? <i>(If yes, meets threshold. If no, consult RDT.)</i> 			
<p>Is the building articulated to minimize impacts on light to adjacent cottages?</p> <ol style="list-style-type: none"> Is a 3-foot wide minimum setback provided from all facades of the adjacent cottage? <i>(If yes, meets threshold. If no, consult RDT.)</i> 			

BUILDING SCALE AND FORM (PAGES 23 - 30)

QUESTION	YES	NO	N/A
Building Scale (pages 23 - 27)			
Is the building's height and depth compatible with the existing building scale at			

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the street? 1. If the vertical addition is at least one story greater than both adjacent buildings, is the addition setback at least 15 feet from the front façade? (If yes, meets threshold. If no, consult RDT.) 2. If the vertical addition is at the same height as 50% of the block-face without a front setback, is the vertical addition at least two stories taller than the adjacent buildings on either side? If yes, does the vertical addition provide a front setback of a least 15 feet beginning at the second level of the vertical addition? (If yes, meets threshold. If no, consult RDT.)			
Is the building's height and depth compatible with the existing building scale at the mid-block open space? (Same as directly above but with a setback of 5 feet (instead of 15 feet).)			
Building Form (pages 28 - 30)			
Is the building's form compatible with that of surrounding buildings?			
Is the building's facade width compatible with those found on surrounding buildings?			
Are the building's proportions compatible with those found on surrounding buildings?			
Is the building's roofline compatible with those found on surrounding buildings?			

ARCHITECTURAL FEATURES (PAGES 31 - 41)

QUESTION	YES	NO	N/A
Building Entrances (pages 31 - 33)			
Does the building entrance enhance the connection between the public realm of the street and sidewalk and the private realm of the building?			
Does the location of the building entrance respect the existing pattern (see below) of building entrances? (If yes, meets threshold. If no, consult RDT.) 1. Pattern defined as 50% of the block-face AND the pattern existing at the adjacent buildings on either side of the project.			
Is the building's front porch compatible with existing porches of surrounding buildings?			
Are utility panels located so they are not visible on the front building wall or on the sidewalk?			
Bay Windows (page 34)			
Are the length, height and type of bay windows compatible with those found on surrounding buildings?			
Garages (pages 34 - 37)			
Is the garage structure detailed to create a visually interesting street frontage?			
Are the design and placement of the garage entrance and door compatible with the building and the surrounding area?			
Is the width of the garage entrance minimized?			

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<p>1. Is the garage door greater than 10 feet wide? <i>(If yes, require the width of the garage door to be reduced to 10 feet per the Residential Design Guidelines or consult RDT if a unique situation exists.)</i></p>			
<p>Is the placement of the curb cut coordinated to maximize on-street parking?</p> <p>1. Is the curb cut greater than 10 feet wide including curb returns? <i>(If yes, require the width of the curb cut be reduced to 10 feet per the Zoning Administrator's Guidelines or consult RDT if a unique situation exists.)</i></p>			
Rooftop Architectural Features (pages 38 - 41)			
<p>Is the stair penthouse designed to minimize its visibility from the street?</p> <p>1. Is the stair penthouse required by Building Code?</p> <p>2. If yes, is the stair penthouse of minimum size and setback 15 feet from any exposed façade or lightwell and only one story above the main roof of the residence? <i>(If yes, meets threshold. If no, consult RDT.)</i></p>			
Are the parapets compatible with the overall building proportions and other building elements?			
Are the dormers compatible with the architectural character of surrounding buildings?			
<p>Are the windscreens designed to minimize impacts on the building's design and on light to adjacent buildings?</p> <p>1. Are open railings or transparent material proposed at the windscreens? <i>(If yes, meets threshold. If no, consult RDT.)</i></p>			

BUILDING DETAILS (PAGES 43 - 48)

QUESTION	YES	NO	N/A
Architectural Details (pages 43 - 44)			
Are the placement and scale of architectural details compatible with the building and the surrounding area?			
Windows (pages 44 - 46)			
<p>Do the windows contribute to the architectural character of the building and the neighborhood?</p> <p>(Refer to pending Window Standards. In the interim, below shall be applicable.)</p> <p>1. Is a window detail provided that illustrates the glazing of the window to be setback 2 inches from the face of façade exclusive of trim?</p> <p>2. If an alteration, are the proposed windows compatible with the presumed original windows of existing building and each adjacent structure?</p> <p>3. If new construction, are the proposed windows of high quality and compatible with the character of the block-face?</p>			
Are the proportion and size of the windows related to that of existing buildings in			

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the neighborhood?			
Are the window features designed to be compatible with the building's architectural character, as well as other buildings in the neighborhood?			
Are the window materials compatible with those found on surrounding buildings, especially on facades visible from the street?			
Exterior Materials (pages 47 - 48)			
Are the type, finish and quality of the building's materials compatible with those used in the surrounding area?			
Are the building's exposed walls covered and finished with quality materials that are compatible with the front facade and adjacent buildings?			
Are the building's materials properly detailed and appropriately applied?			

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DR Policy list

Small scale issues:

- Privacy impacts of decks - What is our direction regarding: privacy impacts caused by constructing decks against a side property line?
- Building extension - What is an appropriate amount for a building to extend – without a side setback – beyond a neighbor’s rear building wall, and for how many stories above grade?
- Regulation of interior space - do we want regulate how interior spaces function? Example at RDT was that the installation of a garage would cut into the living room space, resulting in substandard floor-to-ceiling heights for a portion of the living room.
- Treatment of “key” lots - If you are adjacent to a key lot, does that mean you need to make more adjustments to accommodate your neighbor's key lot than if you were located near the middle of the block? If so, is that fair?
- Landscaping in the front setback - The code requires a minimum of 20%, but what does that mean? Should we explore current trends regarding landscape treatment and materials, recognizing green lawns are not always appropriate in most parts of the city (Sunset/Parkside neighborhoods come to mind)? Why is it always so vague on the plans? The design guidelines are weak on this topic. Perhaps, we can start thinking about how we can change this?
- Garage doors - In a mixed neighborhood, is it better to have two side-by-side 8-foot wide garage doors or one oversize 12-foot wide garage door? Garage door widths, curb cuts and off-street parking spaces (voluntary vs. required parking).
- Permitted Obstructions - are their size limitations too restrictive for bay windows?
- Windows - is vinyl appropriate anywhere? Should there just be a blanket policy that no vinyl replacements for buildings constructed prior 1970 unless originally constructed with vinyl windows.

Larger scale issues:

- Revisit the rear yard Code language for the residential districts.
- Context for modern buildings - When is a well-design modern building appropriate? If there is an established neighborhood character but the

character is not of quality, when do we say a modern building that deviates from the existing context is appropriate?

- Appropriateness of development: exploring whether better to go up or out depending on Zoning District. In defined neighborhoods where there is a strong pattern of two-story, single family dwellings with a defined mid-block open space, is it more appropriate to do a vertical versus a horizontal addition? If it is a vertical addition, is a 15-foot front setback really enough? Does the width of the street play a factor in deciding? If rear, what is the appropriate extension amount? Does it matter if the house has a small building footprint to start with?
- NCD update (there has already been a lengthy report drafted), with recommended changes to the districts lifting restrictions that no longer apply, creating new definitions of restaurants that align more closely with current restaurant business programs, a review of density limitations along certain transit rich streets, etc...;
- Height limits in the western quadrants, lower? or higher?;
- Updating the Residential Design Guidelines and including Commission polices as part of the Residential Design Guidelines.
- Parking policies for larger multi-unit buildings with units containing 3 or more bedrooms.