

Memorandum

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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.

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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.