



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