



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Discretionary Review Reform Package

HEARING DATE: MARCH 4, 2010

Name: **Review of Potential Amendments to Sections 311 and 312 and Recommendations for Changes to the Planning Commission's Discretionary Review Reform Policy**

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BACKGROUND

On June 18, 2009, the Planning Commission adopted the Discretionary Review Reform Policy and recommended that the Board of Supervisor's approve the Discretionary Review Reform legislation; together the policy and legislation comprise the DR reform package. This package is intended to maintain the benefits of the existing process, while advancing the key goals of the reform effort. 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, and 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 Discretionary Review Reform package should provide improvements for all interested parties, which is the goal of the Department's Action Plan. The Land Use Committee of the Board of Supervisors as reviewed this proposal at four separate public hearings: October 19, 2009, November 2, 2009, November 23, 2009, and February 22, 2010. At the last hearing, the Committee discussed an Amendment of the Whole and continued the legislation for two week to March 8, 2010.

This report describes the Amendment of the Whole, and presents questions for the Commission regarding how to implement the Amendment of the Whole, should it be adopted. The report also presents recommendations for modifications to the Commission Discretionary Review policy which staff prepared based on review and analysis of information that the public submitted. Finally, the report provides additional data at the request of the Land Use Committee.

DISCRETIONARY REVIEW LEGISLATION – PROPOSED AMENDMENTS AND ANALYSIS

Supervisor Mar's Office convened a group of stakeholders to develop amendments to the proposed legislation that are intended to better retain public access to the Commission, while still allowing for a viable trial period for DR reform. The proposed amendments (Attachment 1) are summarized below.

Proposed Amendments

- Clarification that Discretionary Review requests that demonstrates exceptional and extraordinary circumstances or a policy or emerging planning issue that the Planning Code and design standards do not address, will be provide a Commission hearing.
- Explanation that the Department's Residential Design Team will evaluate a Discretionary Review request to determine if it demonstrates exceptional and extraordinary circumstances or a policy or emerging planning issue. The Residential Design Team will administratively reject any application that does not meet these criteria, documenting the reasons for any such rejection.
- Specific rules for the Commission to hear a Discretionary Review request if the Residential Design Team has rejected an application, such that the Commission could hear the matter only if at least two Commissioners have requested that it be scheduled for a public hearing. This amendment would require new Commission procedures which are discussed below.
- Retains the status quo for neighborhood organizations that file Discretionary Review, meaning a Commission hearing is provided automatically. The following criteria for neighborhood organizations must be met:
 - (1) The organization must be neighborhood-based, serving a specific neighborhood or geographic area and membership must include residents or merchants of that area;
 - (2) The organization must hold regular open meetings with notice to residents or merchants;
 - (3) The organization must submit evidence prior to the Commission hearing that the application for discretionary review is on behalf of the organization; and
 - (4) An elected officeholder of the organization must present the discretionary review request at the public hearing.

The language above that is underlined represents amendments which staff has suggested to Supervisor Mar's Office. These recommendations are intended to capture that merchant serving organizations, such as Outer Mission Merchants' and Residents' Association, file discretionary review requests and to make clear that an officeholder of the organization must present the DR to the Commission. This amendment would also require new Commission procedures which are discussed below.

- Codifies that the trial period is for 24 months and includes a sunset provision which means that the ordinance will automatically expire by operation of law 24 months after its initial effective date unless the Board of Supervisors extends or re-enacts it on or before that date.
- Sets the policy goal that the Department will work with the community to improve the Residential Design Standards and will support the adoption of neighborhood-specific design standards where the Citywide standards are not adequate and/or can be augmented in order to enhance or conserve neighborhood character.
- Sets the policy goal that the Discretionary Review trial period should not be used to exclude area-based neighborhood organizations from access to the Commission. This goal encourages the Commission to adopt rules to promote community activism related to land use and planning, and support active and full participation in the development review process.
- Strikes the words, or *its designee* throughout the legislation which staff included early on to give the Commission flexibility should the Commission choose to hire a hearing officer.

Procedures for Implementation

Commission process following Residential Design Team determination that the application does not demonstrate exceptional or extraordinary circumstances, a policy or emerging planning issues

The proposed amendment provides specific rules for the Commission to hear a Discretionary Review request if the Residential Design Team has rejected an application, such that the Commission could hear the matter only if at least two Commissioners have requested that it be scheduled for a public hearing.

Staff recommends the following procedure for implementation:

- Once the Residential Design Team completes review and documentation that a Commission hearing is not necessary, the staff planner will review the decision with the DR requestor.
- Following the conversation with the DR requestor, posting of the decision letter to the Department's Parcel Information database, and mailing of the decision letter to the DR requestor and Project Sponsor, Planning staff will include the address of the associated property under the Director's report at the next available Planning Commission hearing. In the Commission's packet, staff will provide the plans and the Residential Design Team's documentation.
- Following General Public Comment, Commissioner may remand the rejection letter and instead schedule a Discretionary Review hearing if at least two Commissioners agree.
- Staff will prepare a Discretionary Review case report, prepare required notification, and schedule the hearing within 30 days of this decision.

Status quo for neighborhood organizations that meet four criteria

Staff recommends confirming that the four criteria – (1) the organization must be neighborhood-based, serving a specific neighborhood or geographic area and membership must include residents or merchants of that area (2) the organization must hold regular open meetings with notice to residents or merchants, (3) the organization must submit evidence prior to the Commission hearing that the application for discretionary review is on behalf of the organization; and (4) a representative of the organization must present the discretionary review request at the public hearing – are met using an affidavit method since any other method of confirmation would be require diverting staff hours from core functions. A sample of this affidavit is included in Attachment C.

Other Potential Amendments

Additional Time for Neighborhood Organizations. At the Land Use hearing, the Committee discussed providing neighborhood organizations up to 60 days from the filing to sign-on to the discretionary review request. The stated reason was that some neighborhood organizations do not meet frequently enough to have the membership vote on matters within 30 days. Staff recommends against designing a policy that extends time for Neighborhood Organizations or encourages “shopping around” individual complaints for neighborhood organization support because demonstrating exceptional and extraordinary circumstances is not possible. We have come to this conclusion because among the goals of the reform package are (1) to reduce the conflict in neighborhoods, and (2) to make the process faster with a target of 90 days from filing to Commission hearing and resolution.

Conversely, staff supports the recommendation that DRs neighborhood organizations file should receive a Commission hearing during the trial period. Our basis is that a neighborhood organization opposition to a project may signal larger policy issues. Further, prior DR filings do show that neighborhood organizations file DR on projects that are exceptional and extraordinary, and have historically brought to the Commission’s attention emerging planning issues. In our experience, no neighborhood organization has asked for an extension of the 30 day window to file DR because the organization is typically well aware of the project due to pre-application and the public notification period. If a neighborhood organization misses the pre-application and notification but wishes to support an individual’s DR request, the organization could send a letter to the Commissioners and speak during public comment.

Project Sponsors Ability to File DR. At the Land Use hearing, public comment included concern about the wording of the legislation “*to repeal the ability of a project sponsor to request discretionary review*”. The intension of this section is to require public notice and a full cost recovery fee from project sponsors that require a Commission hearing because they are unwilling to modify the project to meet the Design Standards as staff requires. The proposal would not deny the project sponsor the opportunity to present the project to the Commission, but instead is designed to have these types of DRs use the staff initiated DR process – public notice as a project that the Department does not support and full cost recovery fee. Indeed, the Commission may determine staff is being overly restrictive in its application of the Standards. To clarify, staff recommends that the wording “to repeal the ability of a project sponsor to request discretionary review” be changes to “require public notification and a mandatory DR fee for project sponsors that request discretionary review.”

The Department believes the above amendments are intended to ensure public access to the Commission, and that amendments do allow for a viable trial period. If the Commission supports and the Board of Supervisors adopt all of these amendments, the Department and Commission will need to adopt rules for implementation.

PROPOSED AMENDMENTS TO PLANNING COMMISSION POLICY

Based on the additional community outreach conducted by Department Staff following the Commission's adoption of the DR Reform Policy on June 18, 2009, the Department is proposing some amendments to the Commission's DR Reform Policy. These amendments include:

- A requirement that all applications for Formula Retail that are subject to Conditional Use Authorization shall undergo the adopted Pre-Application meeting procedures outlined in the Pre-Application Packet, adopted June 18, 2009; and,
- That new construction projects and expansions to noncomplying rear yard dwellings shall require a hearing before the Planning Commission if a DR request is received.

RESPONSES TO LAND USE COMMITTEE REQUESTS

Discretionary Review Reform was heard at four Board of Supervisor's Land Use Committee hearings. At the November 23, 2009 hearing, the Land Use Committee requested that the Department provide the Committee with more detailed statistics on the disposition of Discretionary Review cases since April 9, 2009.

Examples of Recent Building Permits or Discretionary Review Cases

Following the November 23, 2009, Land Use hearing, the Department sought examples of recent projects – noticed in calendar year 2009 – where the public felt that the new design review procedures did not adequately balance the right to develop one's property with impacts on the neighborhood character. The Department's goal of this request was to determine whether the recent internal design review controls were improving the quality of projects leaving our Department, or whether there were any clear "holes" in the new review process. Staff sought these examples in preparation of the outreach meetings so that the findings could be discussed as possible modifications to the Commission's proposal.

Staff received 9 examples in response to this request, which can be placed into four general categories:

- Discretionary Reviews that pre-date the 2009 internal design review controls;
- Use-related Discretionary Reviews;
- Discretionary Reviews where the Commission and Department are in complete alignment; and
- Discretionary Reviews that highlight an important land use decision.

This exercise provided the Department with two important categories on which to focus our attention since the last Land Use hearing: (1) Discretionary Reviews filed on new construction projects; and (2) Discretionary Reviews filed on expansions to structures located at the rear of the lot. The first four projects in the table above represent one of these two categories. The Department thinks that these two project types warrant Planning Commission input if a Discretionary Review is filed.

Currently, most projects that include demolition and new construction are subject to either a mandatory Discretionary Review or a Conditional Use. However, if new construction is proposed on a vacant lot or on the vacant portion of a lot, the project is not subject to a mandatory Discretionary Review since there is no loss of existing housing. Nonetheless, the new construction can often be a substantial change to the neighborhood fabric. In the Department's opinion, if a Discretionary Review is filed, this type of project should always be forwarded to the Commission, even if the Department finds the new building to be appropriate.

Similarly, when there is an existing noncomplying building at the rear of a lot that is the subject of an expansion, there is the potential for impacts on the midblock open space and on the rear yards of adjacent properties. The Residential Design Guidelines do not speak to alterations of existing noncomplying buildings in required yards. Since there is not an adequate reference to support review of such projects, the Department does not feel that they should use administrative review if a Discretionary Review is filed; rather, the Department proposes to continue referring all such projects to the Commission until the Residential Design Guidelines adequately address modifications to noncomplying buildings.

Discretionary Review Data Requests

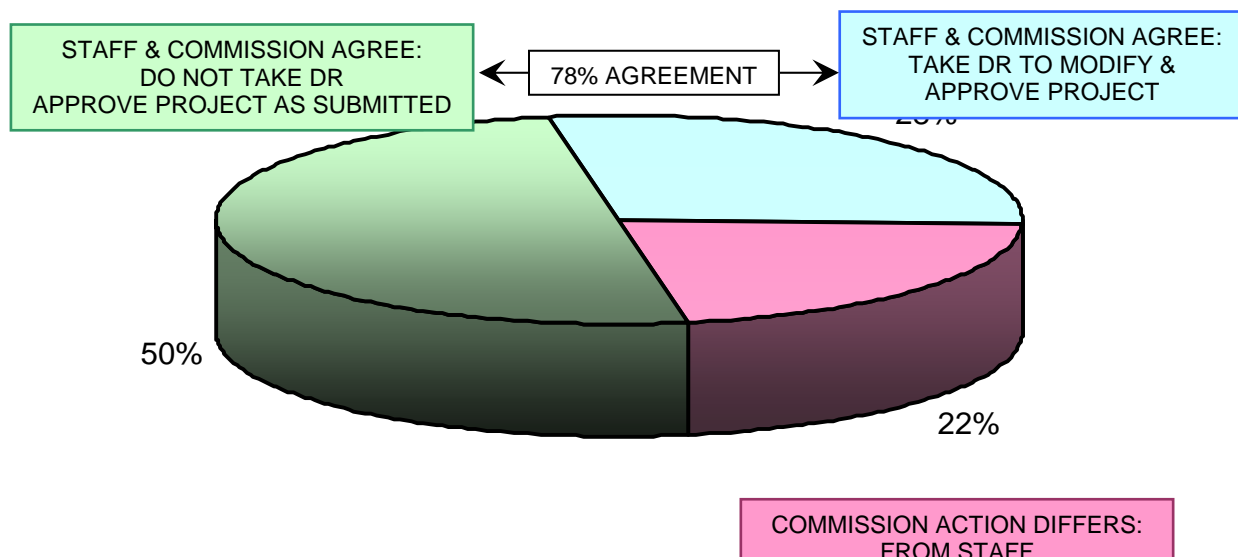
On November 23, 2009, the Land Use Committee requested more detailed statistics on the disposition of Discretionary Reviews both prior to and after the Department implemented its improved internal design review procedures.

Data have been collected on all publicly filed and staff-initiated Discretionary Reviews that deal with physical building alterations (excluding all mandatory DRs, and those filed because of objections to a proposed *use*) from 2007. There were 74 such cases. Twenty-eight (38%) of those cases were closed without a public hearing, either because the DR Requestor withdrew the DR request, or the project sponsor withdrew the permit application, or staff cancelled the application due to unresponsiveness of the applicant.

The remaining 62% of the 2007 DRs, comprising 46 cases, were brought to public hearing at the Planning Commission. Regarding project outcomes of those cases heard, staff's recommendations and the Commission's actions were in accord 78% of the time, either 1) in not taking DR, where the project is approved as submitted indicating that staff and the Commission found the DR unnecessary, (50% of cases heard), or 2) in taking DR and modifying the project, indicating that while project modifications were appropriate, staff was recommending those modifications without the need for a hearing (28% of cases heard). In the remaining ten cases (22%), the project outcome determined by the Commission differed from staff recommendations. These results are summarized in the chart below.

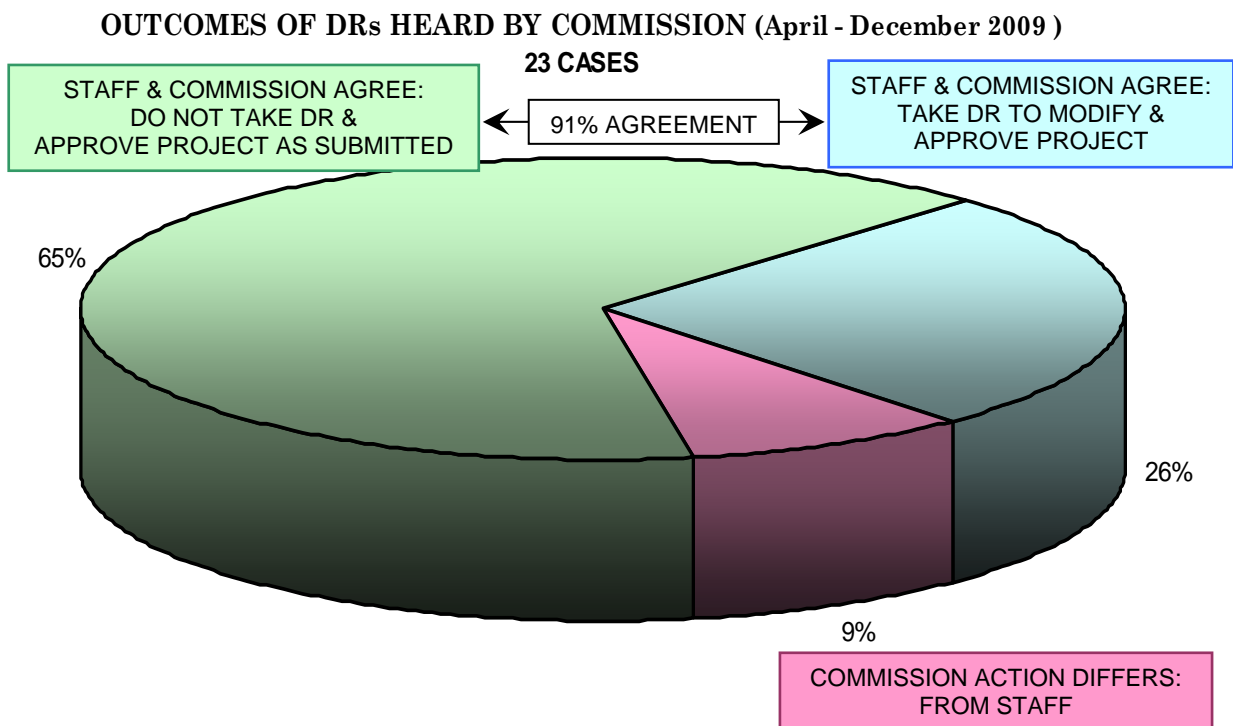
OUTCOMES OF DRs HEARD BY COMMISSION (2007)

46 CASES



The Department has also tracked its alignment with the Commission’s hearing actions on all publicly filed and staff-initiated Discretionary Reviews that deal with physical building alterations (excluding mandatory DRs and those filed because of objections to a proposed *use*) from April 9, 2009, through December 17, 2009. The data shows concurrence and disagreement between staff and the Commission on two issues relating to DR Reform: 1) *hearing delegation* (did the Commission and staff agree whether the case should be referred to a public hearing?) and 2) *project outcome* (did the Commission implement staff’s recommendation on the physical aspects of the project?). The statistics for both of those categories are described below for those 23 cases out of 26 filed that went to a public hearing (three, or about 12% of filed cases, were withdrawn prior to hearing).

- **Hearing delegation.** There were 19 of 23 cases presented to the Commission that enable a clear comparison of staff and Commission determinations of whether the DR request should have a hearing, or be delegated to staff. The Department was in agreement with Commission on 18 out of 19 of those cases, or **95%** of the time.
- **Project outcome.** All 23 cases presented to the Commission enabled a clear comparison between staff recommendation and Commission decision on Project outcomes. The Department was in agreement with the Commission on 21 out of 23 of those cases on substantive issues, or **91%** of the time. (The Commission did take DR in two of those cases, making minor changes such as moving a window and altering a facade detail. If those minor changes are considered, then the Department-Commission agreement was 83%, with the Department in absolute concert with the Commission on 19 out of 23 cases.)



These analyses demonstrate that in those cases where DR reform would have an impact, i.e., on permit applications that physically alter a structure, the Department’s strengthened internal design review has improved concurrence between staff’s recommendations and the Commission’s determinations on project outcomes. The second data set also shows an extremely strong concurrence (95%) on those DR

requests that raise a policy issue or for which the Design Standards do not adequately prescribe a solution, where hearings should be held, and those requests that do not rise to that level.

PUBLIC COMMENT

The Department conducted extensive public outreach prior to the Planning Commission's adoption of the Discretionary Review Reform package. At the request of the Board of Supervisor's Land Use Committee, the Department further engaged the community about the Commission's Discretionary Review Reform Package. The Department undertook four additional community outreach meetings: two outreach meetings were conducted at the Planning Department and staff attended two neighborhood organizations' meetings (Upper Noe Neighbors and District 11 Council). At all of these meetings the Department presented the Commission's Policy and proposed legislation, and sought recommendations from the public about ways to improve or modify the reform package such that it would be more widely supported.

As a result of these community outreach efforts, the Commission gained the support and endorsement for a DR Reform trial period from the District 11 Council, the Upper Noe Neighbors, the St. Francis Homes Association, and the Outer Mission Merchants' and Residents' Association. At the two meetings held at the Department, Commissioners and Department staff heard concerns from the architectural community about the Department's Residential Design Team's more stringent application of the Residential Design Guidelines, noting that they had seen a clear shift in the rigor and consistency of the Department's review, but expressed concern that architects' stylistic freedom was being hampered. The Coalition of San Francisco Neighborhoods reiterated their formal position that they are in support of pre-application and improved internal design controls, but are not – and likely would never be – in support of the Commission delegating administrative review discretion to the Department.

The Department's additional community outreach efforts resulted in the three proposed amendments to the Commission's Discretionary Review Reform Policy, as indicated above.

CONCLUSION

Based on the community feedback and the amendments proposed by Supervisor Mar's office, the Department recommends that the Planning Commission adopt the proposed Policy Amendments, and provide staff with feedback regarding the proposed Amendments of the Whole.

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| RECOMMENDATION: Adopt Policy Resolution Modifications. |
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Attachments:

Attachment A: Amendment of the Whole, sponsored by Supervisor Mar

Attachment B: Resolution amending the Commission's DR Policy

Attachment C: Affidavit for Neighborhood Organizations

[Discretionary Review Reform for a Two-Year Trial Period; Fees.]

Ordinance amending the San Francisco Planning Code by amending Section 311 and 312 to provide that for a two-year trial period a request for discretionary review will be heard by the Planning Commission ~~or its designee~~ only if the application demonstrates exceptional and extraordinary circumstances, ~~as defined,~~ or a policy or emerging planning issue that the Planning Code and design standards do not address; to replace the term Residential Design Guidelines with the term Residential Design Standards; and to repeal the ability of a project sponsor to request discretionary review; amending Sections 352 and 355 to allow for collection and refund of fees associated with Planning Department Reconsideration; adopting environmental and Section 302 findings.

NOTE: Additions are *single-underline italics Times New Roman*;
 deletions are ~~*strike-through italics Times New Roman*~~.
 Board amendment additions are double-underlined;
 Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) Environmental Finding. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

(b) Section 302 Findings. This ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. _____, and said reasons are incorporated herein by reference. A copy of

1 Planning Commission Resolution No. _____ is on file with the Clerk of the Board of
2 Supervisors in File No. _____.

3 Section 2. The San Francisco Planning Code is hereby amended by amending Section
4 311, to read as follows:

5 SEC. 311. RESIDENTIAL PERMIT REVIEW PROCEDURES FOR RH, RM, AND RTO
6 DISTRICTS.

7 (a) Purpose. The purpose of this Section is to establish procedures for reviewing
8 building permit applications for lots in R Districts in order to determine compatibility of the
9 proposal with the neighborhood and for providing notice to property owners and residents
10 neighboring the site of the proposed project and to interested neighborhood organizations, so
11 that concerns about a project may be identified and resolved during the review of the permit.

12 (b) Applicability. Except as indicated herein, all building permit applications for
13 demolition and/or new construction, and/or alteration of residential buildings in RH, RM, and
14 RTO Districts shall be subject to the notification and review procedures required by this
15 Section. Subsection 311(e) regarding demolition permits and approval of replacement
16 structures shall apply to all R Districts. For the purposes of this Section, an alteration shall be
17 defined as any change in use or change in the number of dwelling units of a residential
18 building, removal of more than 75 percent of a residential building's existing interior wall
19 framing or the removal of more than 75 percent of the area of the existing framing, or an
20 increase to the exterior dimensions of a residential building except those features listed in
21 Section 136(c)(1) through 136(c)(24) and 136(c)(26).

22 (c) Building Permit Application Review for Compliance and Notification. Upon
23 acceptance of any application subject to this Section, the Planning Department shall review
24 the proposed project for compliance with the Planning Code and any applicable design
25 *guidelines standards* approved by the Planning Commission. Applications determined not to be

1 in compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code,
2 Residential Design Standards Guidelines, including design standards guidelines for specific areas
3 adopted by the Planning Commission, or with any applicable conditions of previous approvals
4 regarding the project, shall be held until either the application is determined to be in
5 compliance, is disapproved or a recommendation for cancellation is sent to the Department of
6 Building Inspection.

7 (1) Residential Design Standards Guidelines. The construction of new residential
8 buildings and alteration of existing residential buildings in R Districts shall be consistent with
9 the design policies and guidelines of the General Plan and with the "Residential Design
10 Standards Guidelines" as adopted and periodically amended for specific areas or conditions by
11 the City Planning Commission. The Director of Planning may require modifications to the
12 exterior of a proposed new residential building or proposed alteration of an existing residential
13 building in order to bring it into conformity with the "Residential Design Standards Guidelines"
14 and with the General Plan. These modifications may include, but are not limited to, changes in
15 siting, building envelope, scale texture and detailing, openings, and landscaping.

16 All references in this Code to the "Residential Design Guidelines" shall be deemed to mean the
17 "Residential Design Standards" set forth herein.

18 (2) Notification. Upon determination that an application is in compliance with the
19 development standards of the Planning Code, the Planning Department shall cause a notice
20 to be posted on the site pursuant to rules established by the Zoning Administrator and shall
21 cause a written notice describing the proposed project to be sent in the manner described
22 below. This notice shall be in addition to any notices required by the Building Code and shall
23 have a format and content determined by the Zoning Administrator. It shall include a
24 description of the proposal compared to any existing improvements on the site with
25 dimensions of the basic features, elevations and site plan of the proposed project including

1 the position of any adjacent buildings, exterior dimensions and finishes, and a graphic
2 reference scale. The notice shall describe the project review process and shall set forth the
3 mailing date of the notice and the expiration date of the notification period.

4 Written notice shall be mailed to the notification group which shall include the project
5 sponsor, relevant neighborhood organizations as described in Subparagraph 311(c)(2)(C)
6 below, all individuals having made a written request for notification for a specific parcel or
7 parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical,
8 occupants, of properties in the notification area.

9 (A) The notification area shall be all properties within 150 feet of the subject lot in
10 the same Assessor's Block and on the block face across from the subject lot. When the
11 subject lot is a corner lot, the notification area shall further include all property on both block
12 faces across from the subject lot, and the corner property diagonally across the street.

13 (B) The latest City-wide Assessor's roll for names and addresses of owners shall be
14 used for said notice.

15 (C) The Planning Department shall maintain a list, available for public review, of
16 neighborhood organizations which have indicated an interest in specific properties or areas.
17 The organizations having indicated an interest in the subject lot or its area shall be included in
18 the notification group for the proposed project.

19 (3) Notification Period. All building permit applications shall be held for a period of
20 30 calendar days from the date of the mailed notice to allow review by residents and owners
21 of neighboring properties and by neighborhood groups.

22 (4) Elimination of Duplicate Notice. The notice provisions of this Section may be
23 waived by the Zoning Administrator for building permit applications for projects that have
24 been, or before approval will be, the subject of a duly noticed public hearing before the
25 Planning Commission or Zoning Administrator, provided that the nature of work for which the

1 building permit application is required is both substantially included in the hearing notice and
2 is the subject of the hearing.

3 (5) Notification Package. The notification package for a project subject to notice
4 under this Section 311 shall include:

5 (A) A description of the proposal compared to any existing improvements on the site
6 with dimensions of the basic features, elevations and site plan of the proposed project
7 including exterior dimensions and finishes, and a graphic reference scale.

8 (B) Information stating whether the proposed project includes horizontal, vertical, or
9 both horizontal and vertical additions.

10 (C) Information showing the relationship of the project to adjacent properties,
11 including the position and height of any adjacent building and location of windows facing the
12 subject property.

13 (D) 11 by 17 drawings at a measurable scale with all dimensions legible that shows
14 (i) both existing and proposed floor plans, (ii) specific dimensional changes to the building,
15 including parapets, penthouses, and other proposed building extensions and (iii) the location
16 and amount of removal of exterior walls.

17 (E) Floor plans where there is a new building, building expansion, or change in the
18 floor plans of an existing building.

19 (F) The name and telephone number of the project planner at the Planning
20 Department assigned to review the application.

21 (G) A description of the project review process, information on how to obtain
22 additional information about the project, and information about the recipient's rights to request
23 additional information, to request discretionary review by the Planning Commission, and to
24 appeal to other boards or commissions.
25

1 (d) Requests for Planning Commission Review. ~~A request for~~ The Planning
2 Commission ~~or its designee~~ shall consider a public request to exercise ~~its~~ discretionary review
3 powers over a specific building permit application if the application requesting discretionary
4 review demonstrates exceptional and extraordinary circumstances or a policy or emerging planning
5 issue that the Planning Code and design standards do not address. Exceptional and
6 extraordinary circumstances occur where the standard application of adopted design standards to a
7 project does not enhance or conserve neighborhood character, or balance the right to develop the
8 property with impacts on nearby properties or occupants. These circumstances may arise due to
9 complex topography, irregular lot configuration, unusual context, or other conditions not addressed in
10 the design standards. shall be considered by the Planning Commission if

11 An application for discretionary review must be received by the Planning Department no
12 later than 5:00 p.m. of the last day of the notification period as described under Subsection
13 (c)(3) above, subject to guidelines adopted by the Planning Commission. The Department's
14 Residential Design Team will evaluate an application for discretionary review to determine if it
15 demonstrates exceptional and extraordinary circumstances, as defined above, or a policy or
16 emerging planning issue. The Residential Design Team will administratively reject any
17 application that does not meet these criteria, documenting the reasons for any such rejection.
18 If the Residential Design Team has rejected an application for Discretionary Review, the
19 Planning Commission may hear the matter only if at least two members of the Commission
20 have requested that it be scheduled for a public hearing.

21 Notwithstanding anything to the contrary in this Section (d), the Planning Commission
22 shall consider at a public hearing an application for discretionary review that a neighborhood
23 organization files within the filing deadline, if the neighborhood organization meets the
24 following criteria:

1 (1) The organization must serve a specific neighborhood or geographic area and
2 membership must include residents of that area.

3 (2) The organization must hold regular open meetings with notice to neighbors.

4 (3) The organization must submit evidence prior to the Commission hearing that the
5 organization decided to file an application for discretionary review on behalf of the
6 organization; and

7 (4) A representative of the organization must present the discretionary review
8 request at the public hearing.

9 *The project sponsor of a building permit application may request discretionary review by the*
10 *Planning Commission to resolve conflicts between the Director of Planning and the project sponsor*
11 *concerning requested modifications to comply with the Residential Design Guidelines.*

12 (1) Scheduling of Hearing. The Zoning Administrator shall set a time for hearing
13 requests for discretionary review by the Planning Commission ~~or its designee~~ within a
14 reasonable period.

15 (2) Notice. Mailed notice of the discretionary review hearing ~~by the Planning~~
16 ~~Commission~~ shall be given not less than 10 days prior to the date of the hearing to the
17 notification group as described in Paragraph 311(c)(2) above. Posted notice of the hearing
18 shall be made as provided under Planning Code Section 306.8.

19 (e) Demolition of Dwellings, Approval of Replacement Structure Required. Unless
20 the building is determined to pose a serious and imminent hazard as defined in the Building
21 Code an application authorizing demolition in any R District of an historic or architecturally
22 important building or of a dwelling shall not be approved and issued until the City has granted
23 final approval of a building permit for construction of the replacement building. A building
24 permit is finally approved if the Board of Appeals has taken final action for approval on an
25

1 appeal of the issuance or denial of the permit or if the permit has been issued and the time for
2 filing an appeal with the Board has lapsed with no appeal filed.

3 (1) The demolition of any building whether or not historically and architecturally
4 important may be approved administratively where the Director of the Department of Building
5 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after
6 consultation with the Zoning Administrator, that an imminent safety hazard exists, and the
7 Director of the Department of Building Inspection determines that demolition or extensive
8 alteration of the structure is the only feasible means to secure the public safety.

9 (f) Wireless Telecommunications Services Facility as Accessory Use, Notification
10 and Review Required. Building permit applications for new construction of a wireless
11 telecommunications services facility as an accessory use under Article 2 of the Planning Code
12 in RH and RM Districts shall be subject to the notification and review procedures required by
13 this Section.

14 Section 3. The San Francisco Planning Code is hereby amended by amending Section
15 312, to read as follows:

16 SEC. 312. NEIGHBORHOOD COMMERCIAL PERMIT REVIEW PROCEDURES FOR ALL
17 NC DISTRICTS.

18 (a) Purpose. The purpose of this Section is to establish procedures for reviewing
19 building permit applications for lots in NC Districts in order to determine compatibility of the
20 proposal with the neighborhood and for providing notice to property owners, occupants and
21 residents neighboring the site of the proposed project and to interested neighborhood
22 organizations, so that concerns about a project may be identified and resolved during the
23 review of the permit.

24 (b) Applicability. Except as indicated herein, all building permit applications for
25 demolition, new construction, changes in use to a formula retail use as defined in Section

1 703.3 of this Code or alterations which expand the exterior dimensions of a building shall be
2 subject to the notification and review procedures required by Subsection 312(d). Subsection
3 312(f) regarding demolition permits and approval of replacement structures shall apply to all
4 NC Districts. For the purposes of this Section, addition to a building of the features listed in
5 Section 136(c)(1) through 136(c)(24) and 136(c)(26) shall not be subject to notification under
6 this Section.

7 (c) Changes of Use. All building permit applications for a change of use to a bar, as
8 defined in Section 790.22, a liquor store, as defined in Section 790.55, a walkup facility, as
9 defined in Section 790.140, other large institutions, as defined in Section 790.50, other small
10 institutions, as defined in Section 790.51, a full-service restaurant, as defined in Section
11 790.92, a large fast food restaurant, as defined in Section 790.90, a small self-service
12 restaurant, as defined in Section 790.91, a self-service specialty food use, as defined in
13 Section 790.93, a massage establishment, as defined in Section 790.60, an outdoor activity,
14 as defined in Section 790.70, an adult or other entertainment use, as defined in Sections
15 790.36 and 790.38, or a fringe financial service use, as defined in Section 790.111, shall be
16 subject to the provisions of Subsection 312(d).

17 (d) Building Permit Application Review for Compliance and Notification. Upon
18 acceptance of any application subject to this Section, the Planning Department shall review
19 the proposed project for compliance with the Planning Code and any applicable design
20 *standards guidelines* approved by the Planning Commission. Applications determined not to be
21 in compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code, including
22 design *standards guidelines* for specific areas adopted by the Planning Commission, or with any
23 applicable conditions of previous approvals regarding the project, shall be held until either the
24 application is determined to be in compliance, is disapproved or a recommendation for
25 cancellation is sent to the Department of Building Inspection.

1 (1) Neighborhood Commercial Design Standards ~~Guidelines~~. The construction of new
2 buildings and alteration of existing buildings in NC Districts shall be consistent with the design
3 policies and guidelines of the General Plan as adopted and periodically amended for specific
4 areas or conditions by the Planning Commission. The Director of Planning may require
5 modifications to the exterior of a proposed new building or proposed alteration of an existing
6 building in order to bring it into conformity with the General Plan. These modifications may
7 include, but are not limited to, changes in siting, building envelope, scale texture and detailing,
8 openings, and landscaping.

9 (2) Notification. Upon determination that an application is in compliance with the
10 development standards of the Planning Code, the Planning Department shall cause a notice
11 to be posted on the site pursuant to rules established by the Zoning Administrator and shall
12 cause a written notice describing the proposed project to be sent in the manner described
13 below. This notice shall be in addition to any notices required by the Building Code and shall
14 have a format and content determined by the Zoning Administrator. It shall include a
15 description of the proposal compared to any existing improvements on the site with
16 dimensions of the basic features, elevations and site plan of the proposed project including
17 the position of any adjacent buildings, exterior dimensions and finishes, a graphic reference
18 scale, existing and proposed uses and commercial or institutional business name, if known.
19 The notice shall describe the project review process and shall set forth the mailing date of the
20 notice and the expiration date of the notification period.

21 Written notice shall be mailed to the notification group which shall include the project
22 sponsor, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C)
23 below, all individuals having made a written request for notification for a specific parcel or
24 parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical,
25 occupants, of properties in the notification area.

1 (A) The notification area shall be all properties within 150 feet of the subject lot in
2 the same Assessor's Block and on the block face across from the subject lot. When the
3 subject lot is a corner lot, the notification area shall further include all property on both block
4 faces across from the subject lot, and the corner property diagonally across the street.

5 (B) The latest City-wide Assessor's roll for names and addresses of owners shall be
6 used for said notice.

7 (C) The Planning Department shall maintain a list, updated every six months with
8 current contact information, available for public review, and kept at the Planning Department's
9 Planning Information Counter, and reception desk, as well as the Department of Building
10 Inspection's Building Permit Counter, of neighborhood organizations which have indicated an
11 interest in specific properties or areas. The organizations having indicated an interest in the
12 subject lot or its area shall be included in the notification group for the proposed project.
13 Notice to these groups shall be verified by a declaration of mailing signed under penalty of
14 perjury. In the event that such an organization is not included in the notification group for a
15 proposed project as required under this subsection, the proposed project must be re-noticed.

16 (3) Notification Period. All building permit applications shall be held for a period of
17 30 calendar days from the date of the mailed notice to allow review by residents, occupants,
18 owners of neighboring properties and by neighborhood groups.

19 (4) Elimination of Duplicate Notice. The notice provisions of this Section may be
20 waived by the Zoning Administrator for building permit applications for projects that have
21 been, or before approval will be, the subject of a duly noticed public hearing before the
22 Planning Commission or Zoning Administrator, provided that the nature of work for which the
23 building permit application is required is both substantially included in the hearing notice and
24 is the subject of the hearing.
25

1 (e) Requests for Planning Commission Review. ~~A request for~~ The Planning
2 Commission ~~or its designee~~ shall consider a public request to exercise ~~its~~ discretionary review
3 powers over a specific building permit application if the application requesting discretionary
4 review demonstrates exceptional and extraordinary circumstances or a policy or emerging planning
5 issue that the Planning Code and design standards do not address. Exceptional and
6 extraordinary circumstances occur where the standard application of adopted design standards to a
7 project does not enhance or conserve neighborhood character, or balance the right to develop the
8 property with impacts on nearby properties or occupants. These circumstances may arise due to
9 complex topography, irregular lot configuration, unusual context, or other conditions not addressed in
10 the design standards. shall be considered by the Planning Commission if

11 An application for discretionary review must be received by the Planning Department no
12 later than 5:00 p.m. of the last day of the notification period as described under Subsection
13 (c)(3) above, subject to guidelines adopted by the Planning Commission. The Department's
14 Residential Design Team will evaluate an application for discretionary review to determine if it
15 demonstrates exceptional and extraordinary circumstances, as defined above, or a policy or
16 emerging planning issue. The Residential Design Team will administratively reject any
17 application that does not meet these criteria, documenting the reasons for any such rejection.
18 If the Residential Design Team has rejected an application for Discretionary Review, the
19 Planning Commission may hear the matter only if at least two members of the Commission
20 have requested that it be scheduled for a public hearing.

21 Notwithstanding anything to the contrary in this Section (d), the Planning Commission
22 shall consider at a public hearing an application for discretionary review that a neighborhood
23 organization files within the filing deadline, if the neighborhood organization meets the
24 following criteria:

1 (1) The organization must serve a specific neighborhood or geographic area and
2 membership must include residents of that area.

3 (2) The organization must hold regular open meetings with notice to neighbors.

4 (3) The organization must submit evidence prior to the Commission hearing that the
5 organization decided to file an application for discretionary review on behalf of the
6 organization; and

7 (4) A representative of the organization must present the discretionary review
8 request at the public hearing.

9 *The project sponsor of a building permit application may request discretionary review by the*
10 *Planning Commission to resolve conflicts between the Director of Planning and the project sponsor*
11 *concerning requested modifications to comply with relevant design guidelines of the General Plan.*

12 (1) Scheduling of Hearing. The Zoning Administrator shall set a time for hearing
13 requests for discretionary review by the Planning Commission ~~or its designee~~ within a
14 reasonable period.

15 (2) Notice. Mailed notice of the discretionary review hearing ~~by the Planning~~
16 ~~Commission~~ ~~or its designee~~ shall be given not less than 10 days prior to the date of the hearing
17 to the notification group as described in Paragraph 312(d)(2) above. Posted notice of the
18 hearing shall be made as provided under Planning Code Section 306.8.

19 (f) Demolition of Dwellings, Approval of Replacement Structure Required. Unless
20 the building is determined to pose a serious and imminent hazard as defined in the Building
21 Code an application authorizing demolition in any NC District of an historic or architecturally
22 important building or of a dwelling shall not be approved and issued until the City has granted
23 final approval of a building permit for construction of the replacement building. A building
24 permit is finally approved if the Board of Appeals has taken final action for approval on an
25

1 appeal of the issuance or denial of the permit or if the permit has been issued and the time for
2 filing an appeal with the Board has lapsed with no appeal filed.

3 (1) The demolition of any building whether or not historically and architecturally
4 important may be approved administratively where the Director of the Department of Building
5 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after
6 consultation with the Zoning Administrator, that an imminent safety hazard exists, and the
7 Director of the Department of Building Inspection determines that demolition or extensive
8 alteration of the structure is the only feasible means to secure the public safety.

9 (g) Wireless Telecommunications Services Facility as Accessory Use, Notification
10 and Review Required. Building permit applications for new construction of a wireless
11 telecommunications services facility as an accessory use under Article 7 of the Planning Code
12 in all NC Districts shall be subject to the notification and review procedures required by this
13 Section.

14 Section 4. The San Francisco Planning Code is hereby amended by amending Section
15 352, to read as follows:

16 SEC. 352. COMMISSION AND ZONING ADMINISTRATOR HEARING APPLICATIONS.

17 (a) Conditional Use (Section 303), Planned Unit Development (Section 304),

| | | |
|----|--|-------------------------------------|
| 18 | Estimated Construction Cost | Initial Fee |
| 19 | No construction cost, excluding | \$785.00 |
| 20 | extension of hours | |
| 21 | No construction cost, extension of hours | \$1,206.00 |
| 22 | Estimated Construction Cost | Initial Fee |
| 23 | \$1.00 to \$9,999.00 | \$1,206.00 |
| 24 | \$10,000.00 to \$999,999.00 | \$1,206.00 plus 0.557% of cost over |
| 25 | | |

| | |
|------------------------------------|--|
| | \$10,000.00 |
| \$1,000,000.00 to \$4,999,999.00 | \$6,722.00 plus 0.664% of cost over \$1,000,000.00 |
| \$5,000,000.00 to \$9,999,999.00 | \$33,315.00 plus 0.557% of cost over \$5,000,000.00 |
| \$10,000,000.00 to \$19,999,999.00 | \$61,176.00 plus 0.290% of cost over \$10,000,000.00 |
| \$20,000,000.00 or more | \$90,213.00 |

(b) Variance (Section 305)

| Estimated Construction Cost | Initial Fee |
|-----------------------------|-------------|
| \$0.00---\$9,999.00 | \$782.00 |
| \$10,000.00--\$19,999.00 | \$1,741.00 |
| \$20,000.00 and greater | \$3,476.00 |

Variance fees are subject to additional time and material charges, as set forth in Section 350c.

(c) Downtown (C-3) District Review (Section 309) and Coastal Zone Permit (Section 330) Applications Commission Hearing Fee Schedule:

| Estimated Construction Cost | Initial Fee |
|----------------------------------|--|
| \$0.00 to \$9,999.00 | \$244.00 |
| \$10,000.00 to \$999,999.00 | \$244.00 plus 0.112% of cost over \$10,000.00 |
| \$1,000,000.00 to \$4,999,999.00 | \$1,352.00 plus 0.133% of cost over \$1,000,000.00 |
| \$5,000,000.00 to \$9,999,999.00 | \$6,684.00 plus 0.111% of cost over |

| | |
|---------------------------------------|---|
| | \$5,000,000.00 |
| \$10,000,000.00 to \$19,999,999.00 | \$12,234.00 plus 0.058% of cost over \$10,000,000.00 |
| \$20,000,000.00 or more | \$18,063.00 |

(1) Applications with Verified Violations of this Code: The Planning Department shall charge \$191.00 as an initial fee, plus time and materials as set forth in Section 350(c).

(2) Where an applicant requests two or more approvals involving a conditional use, planned unit development, variance, Downtown (C-3) District Section 309 review, certificate of appropriateness, permit to alter a significant or contributory building both within and outside of Conservation Districts, or a coastal zone permit review, the amount of the second and each subsequent initial fees of lesser value shall be reduced to 50 percent.

(3) Minor project modifications requiring a public hearing to amend conditions of approval of a previously authorized project, not requiring a substantial reevaluation of the prior authorization: \$896.00

(4) The applicant shall be charged for any time and materials beyond the initial fee in Section 352(a), as set forth in Section 350(c).

(5) An applicant proposing significant revisions to a project for which an application is on file with the Planning Department shall be charged time and materials to cover the full costs in excess of the initial fee.

(6) For agencies or departments of the City and County of San Francisco, the initial fee for applications shall be based upon the construction cost as set forth above.

(d) Discretionary Review Request: \$300.00; provided, however, that the fee shall be waived if the discretionary review request is filed by a neighborhood organization that: (1) has been in existence for 24 months prior to the filing date of the request, (2) is on the

1 Planning Department's neighborhood organization notification list, and (3) can demonstrate to
2 the Planning Director or his/her designee that the organization is affected by the proposed
3 project. Such fee shall be refunded to the individual or entity that requested discretionary
4 review in the event the Planning Commission denies the Planning Department's approval or
5 authorization upon which the discretionary review was requested.

6 (1) Mandatory ~~Discretionary~~ ~~Reviews~~ (Planning Commission or Planning Department
7 initiated): \$3,223.00.

8 (e) Institutional Master Plan (Section 304.5).

9 (1) Full Institutional Master Plan or Substantial Revision: \$11,492.00 plus time and
10 materials if the cost exceeds the initial fee as set forth in Section 350(c).

11 (2) Abbreviated Institutional Master Plan: \$2,103.00 plus time and materials if the
12 cost exceeds the initial fee as set forth in Section 350(c).

13 (f) Land Use Amendments and Related Plans and Diagrams of the San Francisco
14 General Plan: Fee based on the Department's estimated actual costs for time and materials
15 required to review and implement the requested amendment, according to a budget prepared
16 by the Director of Planning, in consultation with the sponsor of the request.

17 (g) General Plan Referrals: \$3,103.00 plus time and materials if the cost exceeds
18 the initial fee as set forth in Section 350(c).

19 (h) Redevelopment Plan Review: The Director of Planning shall prepare a budget to
20 cover actual time and materials expected to be incurred, in consultation with the
21 Redevelopment Agency. A sum equal to 1/2 the expected cost will be submitted to the
22 Department, prior to the commencement of the review. The remainder of the costs will be due
23 at the time the initial payment is depleted.

24 (i) Reclassify Property or Impose Interim Zoning Controls: \$6,611.00.
25

1 (1) The applicant shall be charged for any time and materials as set forth in Section
2 350(c).

3 (2) Applications with Verified Violations of this Code: The Planning Department shall
4 charge time and materials as set forth in Section 350(c).

5 (j) Setback Line, Establish, Modify or Abolish: \$2,672.00.

6 (k) Temporary Use Fees \$391.00 as an initial fee, plus time and materials if the cost
7 exceeds the initial fee, as set forth in Section 350(c).

8 (l) Amendments to Text of the Planning Code: \$13,209.00 as an initial fee, plus
9 time and materials if the cost exceeds the initial fee as set forth in Section 350(c).

10 (m) Zoning Administrator Conversion Determinations Related to Service Station
11 Conversions: \$2,609.00 as an initial fee, plus time and materials if the cost exceeds the initial
12 fee. (Section 228.4):

13 (n) Conditional Use Appeals to the Board of Supervisors:

14 (1) \$500.00 for the appellant of a conditional use authorization decision to the Board
15 of Supervisors; provided, however, that the fee shall be waived if the appeal is filed by a
16 neighborhood organization that: (1) has been in existence for 24 months prior to the appeal
17 filing date, (2) is on the Planning Department's neighborhood organization notification list, and
18 (3) can demonstrate to the Planning Director or his/her designee that the organization is
19 substantially affected by the proposed project.

20 (2) Such fees shall be used to defray the cost of an appeal to the Planning
21 Department. At the time of filing an appeal, the Clerk of the Board of Supervisors shall collect
22 such fee and forward the fee amount to the Planning Department.

23 Section 5. The San Francisco Planning Code is hereby amended by amending Section 355,
24 to read as follows:

1 Section 5. The San Francisco Planning Code is hereby amended by amending Section
2 355, to read as follows:

3 SEC. 355. PERMIT APPLICATIONS.

4 (a) Building permit applications for a change in use or alteration of an existing
5 building, to be collected by Central Permit Bureau; provided, however, that the fees charged
6 for Planning Department approval over-the-counter for the replacement of windows, roofs,
7 siding, and doors shall be reduced to 1/2 the fee set forth below.

| 8 Estimated 9 Construction 10 Cost | Initial Fee |
|---|--|
| 11 \$0.00 to \$9,999.00 | \$305.00 |
| 12 \$10,000.00 to 13 \$49,999.00 | \$306.00 plus 3.196% of cost over \$10,000.00 |
| 14 \$50,000.00 to 15 \$99,999.00 | \$1,585.00 plus 2.136% of cost over \$50,000.00 plus \$81.00 16 Discretionary Review Surcharge and \$267.00 Categorical 17 Exemption Stamp Fee |
| 18 \$100,000.00 to 19 \$499,999.00 | \$2,654.00 plus 2.337% of cost over \$100,000.00 plus 20 \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |
| 21 \$500,000.00 to 22 \$999,999.00 | \$12,003.00 plus 0.591% of cost over \$500,000.00 plus 23 \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |
| 24 \$1,000,000.00 to 25 \$4,999,999.00 | \$14,959.00 plus 0.232% of cost over \$1,000,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 |

| | |
|--------------------------------------|--|
| | Categorical Exemption Stamp Fee |
| \$5,000,000.00 to \$99,999,999.00 | \$24,240.00 plus 0.004% of cost over \$5,000,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |
| \$100,000,000.00 or more | \$28,041.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |

(1) Applications with Verified Violations of this Code: The Planning Department shall charge time and materials as set forth in Section 350(c).

(2) Back-Check Fee for Permit Revisions: \$191.00 for the initial fee, plus time and materials as set forth in Section 350(c), to be collected at time of permit issuance.

(3) Shadow Impact Fee for New Construction or Alteration Exceeding 40 Feet in Height (Section 295): Additional \$438.00 plus time and materials as set forth in Section 350(c).

(4) Public Notification Fee for Projects Requiring Public Notice Pursuant to Section 311: \$45.00, plus \$3.03 per envelope (subject to increase based on envelope and postage costs). The City's reprographics department will print and mail public notices.

(5) Public Notification Fee for Projects Requiring Public Notice Pursuant to Section 312: \$45.00, plus \$0.89 per envelope (subject to increase based on envelope and postage costs). The City's reprographics department will print and mail public notices.

(6) For projects with a construction cost of \$100,000,000.00 or more, the applicant shall be charged the permit fee for a project with a \$100,000,000.00 construction cost.

(7) Permits for solar panels and over-the-counter permits for solar equipment installation shall be \$129.00 per permit.

(b) Building Permit Applications for a New Building:

| Estimated Construction Cost | Initial Fee |
|-----------------------------------|--|
| \$0.00 to \$99,999.00 | \$1,734.00, plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |
| \$100,000.00 to \$499,999.00 | \$1,735.00 plus 2.337% of cost over \$100,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |
| \$500,000.00 to \$9,999,999.00 | \$11,084.00 plus 0.746% of cost over \$500,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |
| \$1,000,000.00 to \$4,999,999.00 | \$14,815.00 plus 0.287% of cost over \$1,000,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |
| \$5,000,000.00 to \$99,999,999.00 | \$26,296.00 plus 0.005% of cost of \$5,000,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Stamp Fee |
| \$100,000,000.00 or more | \$31,047.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee |

(c) Demolition Applications, to be collected by Central Permit Bureau: \$1,351.00.

(d) Fire, Police, Entertainment Commission, State Alcohol and Beverage Control and Health Department Permit Applications Referral Review: \$114.00 initial fee collected by the other Departments in conjunction with current fee collections, plus time and materials as set forth in Section 350(c).

1 (e) Sign Permit Applications, to be collected by Central Permit Bureau: \$119.00.

2 (f) Requests for Planning Department Reconsideration: \$300.00; provided, however, that
3 the fee shall be waived if the reconsideration request is filed by a neighborhood organization that: (1)
4 has been in existence for 24 months prior to the filing date of the request, (2) is on the Planning
5 Department's neighborhood organization notification list, and (3) can demonstrate to the Planning
6 Director or his/her designee that the organization is affected by the proposed project. Such fee shall be
7 refunded to the individual or entity that requested reconsideration in the event the Planning
8 Department determines that the Planning Code and/or adopted design standards were not
9 appropriately applied to the subject building permit application under reconsideration.

10 Section 6. Discretionary Review Reform Trial Period; Report to the Board of
11 Supervisors; Sunset Provision.

12 (a) Discretionary Review Reform Trial Period. The modified discretionary review
13 process set forth in this ordinance shall be in place for a trial period of 24 months. Throughout
14 this trial period, the Commission and the Department shall work with the community to
15 improve the Residential Design Standards and will support the adoption of neighborhood-
16 specific design standards where the Citywide standards are not adequate and/or can be
17 augmented in order to enhance or conserve neighborhood character. The Discretionary
18 Review trial period should not be used to exclude area-based neighborhood organizations
19 from access to the Commission. The Commission should adopt rules to encourage
20 community activism related to land use and planning, and encourage active and full
21 participation in the development review process.

22 (b) Report to the Board of Supervisors. Within 24 months after the operative date of
23 this ordinance, the Planning Department shall present a report to the Board of Supervisors
24 about the results of the Discretionary Review reform trial period. At that time, the Board may
25 choose to introduce legislation to repeal or change the Discretionary Review reform

1 ~~legislation, or take no action should it feel that the reform has been successful during the 24~~
2 ~~month trial period.~~ This R~~e~~port shall be given subsequent to and shall include a summary of
3 a hearing before the Planning Commission on the same topic.

4 (c) Sunset Provision. This ordinance shall automatically expire by operation of law
5 24 months after its initial effective date unless the Board of Supervisors extends or re-enacts it
6 on or before that date.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 JUDITH A. BOYAJIAN
12 Deputy City Attorney



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution

HEARING DATE: MARCH 4, 2010

Date: February 25, 2010
Case No. 2009.0227TU
Project Sponsor: Planning Commission
Staff Contact: Elaine Forbes, (415) 558-6417
Elaine.forbes@sfgov.org
Elizabeth Watty, (415) 558-6620
Elizabeth.Watty@sfgov.org
Re: **Discretionary Review Policy**
Recommendation: **Adopt the Amendments to the DR Policy which was adopted June 18, 2009, as proposed**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

AMENDING THE PLANNING COMMISSION POLICIES AND PROCEDURES ON DISCRETIONARY REVIEW, INCLUDING A REQUIREMENT THAT ALL APPLICATIONS FOR FORMULA RETAIL SHALL UNDERGO THE ADOPTED PRE-APPLICATION PROCEDURES OUTLINED IN THE PRE-APPLICATION PACKET, ADOPTED JUNE 18, 2009, AND THAT NEW CONSTRUCTION PROJECTS AND EXPANSIONS TO NONCOMPLYING REAR YARD DWELLINGS SHALL BE EXEMPT FROM ADMINISTRATIVE REVIEW.

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, the Discretionary Review process is not needed when a project already warrants entitlements from the Planning Commission, as the burden of proof already falls with the Project Sponsor during the public hearing for their entitlement request; 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

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 resources, 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, **including pre-application for new Formula-Retail uses that require a Conditional Use hearing ; 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” to make clear that they are required; 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 recognizes that errors may occur from time-to-time, necessitating the need for a Reconsideration request, which can be filed during the Section 311 or 312 notification period, to seek a secondary review of a project to determine whether the Planning Code and/or adopted design standards were appropriately applied to the subject building permit application; and

WHEREAS, the Planning Department recognizes that not all residential development projects are adequately addressed in the Residential Design Guidelines; 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, 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 will implement a phased implementation, with Phase One addressing a standardized and improved pre-application process, improved public information, a well-defined design review process, a Reconsideration Application in addition to a Discretionary Review Application, a definition of “exceptional and extraordinary circumstances” that must be met in order for a DR Application to be heard by the Planning Commission – with the exception of new construction and rear yard dwelling expansions, establishment of Commission rules for calling-up a DR Application for a hearing, and a 90-day timeline for the processing of Discretionary Review Applications, all as described in the attached Report and Attachments, dated May 7, 2009, with modifications outlined in the attached Report and Attachments dated February 25, 2010, and adopted hereby; and

WHEREAS, the Planning Department will provide the Planning Commission with copies of all Discretionary Review decisions during the first eighteen (18) months after adoption of the Discretionary Review reform Planning Code Text Changes (2009.0227TU); and

WHEREAS, the Planning Director or his designee will provide briefings under the Director’s Report during the weekly Planning Commission hearings regarding that week’s Discretionary Review decisions; and

WHEREAS, the Planning Commission can request that a hearing be held on any DR Application within 30 days of the aforementioned briefing with the concurrence and role call vote of two Commissioners; and,

WHEREAS, the Planning Department will present quarterly reports to the Planning Commission during the first eighteen (18) months after adoption of the Discretionary Review Reform Planning Code Text Changes, during which emerging policy issues, recommendations for clarifications and modification to design standards, and the effectiveness of Discretionary Review reform will be discussed;

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 it is the policy of the Planning Commission that this program be implemented on a trial basis, not to exceed 24 months, without the Commission’s evaluation of the program and decision to continue, modify or discontinue the program; and

FURTHER BE IT RESOLVED, the Planning Commission will evaluate the effectiveness of these Policy improvements beginning eighteen (18) months of the Planning Code Text Amendments effective date pursuant to Case No. 2009.0227TU, and the Commission will continue, modify, or discontinue the above policy following this evaluation.

I hereby certify that the foregoing Resolution was ADOPTED by the Commission at its meeting on March 4, 2010.

Linda D. Avery

Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: March 4, 2010



SAN FRANCISCO
PLANNING
DEPARTMENT

AFFIDAVIT FOR Discretionary Review Application Neighborhood Organization

Date: **March 4, 2010**

To: **Applicants seeking to file for a Discretionary Review Application as a Representative for a Neighborhood Organization**

From: **San Francisco Planning Department**

Re: **Affidavit for Representative of a Neighborhood Organization**

Planning Department
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An application for Discretionary Review filed within the filing deadline by a neighborhood organization meeting certain criteria will be heard by the Planning Commission, if the neighborhood organization meets the following criteria:

- The organization must be neighborhood-based, serving a specific neighborhood or geographic area and membership must include residents or merchants of that area.
- The organization must hold regular open meetings with residents or merchants.
- The organization must submit evidence prior to the Commission hearing that the application for discretionary review is on behalf of the organization.
- An elected officer of the organization must present the discretionary review request at the public hearing.

In order to have a Commission hearing, a request by the public for DR must demonstrate “exceptional and extraordinary circumstances,” which is defined as occurring “where the standard 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 nearby 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.” Discretionary review by the Planning Commission may also be warranted if there is a policy or emerging planning issue involved. Discretionary Review applications filed by Neighborhood Organizations must make these findings, but will be automatically referred to the Planning Commission.

Affidavit for Representative of a Neighborhood Organization

I, _____, do hereby declare as follows (Please check the appropriate box below):

I am a member of the following Neighborhood Organization:

Name of Organization

Address of Organization

Email Address and/or Phone Number of Neighborhood Organization President

- a. The organization must be neighborhood-based, serving a specific neighborhood or geographic area and membership must include residents or merchants of that area.
- b. The organization must hold regular open meetings with notice to residents or merchants.
- c. The organization must submit evidence prior to the Commission hearing that the application for discretionary review is on behalf of the organization.
- d. An elected official of the organization must present the discretionary review request at the public hearing.

I am a duly authorized officer of subject Neighborhood Organization.

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

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, in _____
Location

Signature

Name (Print), Title

Contact Phone Number