



# SAN FRANCISCO PLANNING DEPARTMENT

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## Memo to the Planning Commission

HEARING DATE: JUNE 18, 2009

*Date:* June 11, 2009  
*Case No.:* 2009.0227TU  
*Project Sponsor:* Planning Commission  
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*Re:* Discretionary Review Reform

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### BACKGROUND

Following public outreach described in detail in the April 2, 2009 Case Report, the Planning Department presented a Motion seeking adoption of the Intent to Initiate Planning Code Text Changes and a Resolution seeking adoption of a Planning Commission Policy for Discretionary Review Reform. On April 2, 2009, the Planning Commission adopted the Intent to Initiate the Planning Code Text Changes, and moved the Policy Resolution to the call of the chair.

### CURRENT PROPOSAL

The Planning Department recommends phased implementation to reform the Discretionary Review process, with Phase One being the subject of this hearing, and Phase Two being initiated by the Commission no sooner than twenty four months (2 years) after the implementation of Phase One.

Phase One will:

- Strengthen pre-application meeting requirements, broaden the project types that require Pre-application, and make consistent the scope and type of information exchanged at those meetings to improve communication between project sponsors and their neighbors;
- Improve the Department's internal design review process to provide balanced, transparent, and consistent application of the Code and Design Standards;
- Improve public information about the Discretionary Review process in general, and provide access to project-specific information on-line;
- Define "exceptional and extraordinary circumstances" in the context of Discretionary Review;

- Use the definition to allow only those projects that could meet exceptional and extraordinary standards to proceed to a Commission hearing (applications where the standard was not met could be appealed to the Board of Appeals);
- Ensure that cases heard by the Commission are identified either as one-of-a-kind, or a representative of a policy issue that should be incorporated into Design Standards;
- Offer interested parties the option of “Reconsideration” whereby they can request that the Department re-examine the project without having to find exceptional and extraordinary circumstances, because they believe the Department made an error. If the Department misapplied the Code or Design Standards, the project would be modified and the fee of \$300 would be refunded to the requestor;
- Adopt timelines for review, response and hearing of Discretionary Review applications; and
- Specify a 24-month (2-year) trial period, and at the 18-month point initiate a public evaluation of the efficacy and effectiveness of Phase One reforms, and at the two year mark, the Commission would continue, modify, or discontinue the policy.

Phase One would become effective in its entirety upon adoption of the Planning Code Text Amendments by the Board of Supervisors, with an approximate effective date in September of 2009. Following Commission adoption of the proposed policy resolution (see Attachment I), staff will formalize and initiate Phase One changes that do not require legislative change, which are to implement the improved pre-application process, internal design review process, provide better DR information, adhere to the timeline policy for DR requests, identify policy issues for the Commission’s consideration, and use Commission decisions intended as precedent-setting as policy guidance for review of future projects.

During this interim period between Commission policy endorsement and legislative change (approximately 4 to 5 months), all Discretionary Review Requests will be brought to the Planning Commission with a section in each report outlining whether the request could meet the exceptional and extraordinary standard to proceed to a DR hearing. This allows the Residential Design Team (RDT) and the Commission to ensure that staff’s application of the proposed definition of “exceptional and extraordinary circumstances” reflects the desire of the Commission.

**Phase Two.** The Planning Commission may or may not choose to proceed with Phase Two options after reviewing and weighing the results of Phase One through a public process.

Phase Two may include the following:

- Story Pole policy;
- Hearing Officer or other delegation of Discretionary Review requests;
- Codification of the DR process; and
- Changes to the cost burden between the DR requestor, the project sponsor and the building permit surcharge.

## CHANGES FROM THE APRIL 2, 2009 PROPOSAL

Attachment IV to this report includes Commission and public recommendations staff received on or after the April 2, 2009 Commission hearing, and staff responses to these recommendations. The resulting changes do not significantly modify Phase One recommendations (see April 2, 2009 Case Report). However, staff has clarified several issues as a result of Commission and public feedback as shown in Attachment IV. The most notable clarifications relate to (1) the trial period timeline for Phase One Implementation (evaluation to begin 18-months after the effective date of the Text Changes, with a 24-month trial period), (2) mechanisms for communication with the Commission to keep the Commission apprised throughout the trial period and identify and resolve policy issues related to Design Standards, (3) the pre-application requirements, and (4) recommendations for a sunset provision.

## PROCEDURES DURING THE "INTERIM PERIOD" (APPROXIMATELY 4 TO 5 MONTHS)

*During the Interim Period (following adoption of the DR Reform Policy, but prior to the effective date of the legislation) staff will implement the following procedures:*

### Formalizing Communication with the Commission for Oversight and to Resolve Policy Issues and Improve Design Standards

- All Discretionary Review requests will be brought to the Planning Commission with a section in each report outlining whether the request could meet the "exceptional and extraordinary circumstances" standard to proceed to a DR hearing. This allows the Residential Design Team (RDT) and the Commission to ensure that staff's application of the proposed definition of "exceptional and extraordinary circumstances" reflects the desire of the Commission.

Staff has already begun to track the decisions of the RDT and those of the Commission to ensure that staff is applying standards supported by the Commission. The Chart on the following page is an excerpt of the tracking spreadsheet, and shows that of nine recent public DR cases heard by the Commission, there has been strong agreement between the RDT and the Planning Commission both whether to approve or modify a project, and whether the case exhibits exceptional and extraordinary circumstances. (Two of the cases were withdrawn, and two were old enough to predate the requirement for RDT review with respect to DR reform.)

In addition to analyzing publically-requested DR outcomes, the Department will track the disposition of staff-initiated DRs. Both will provide guidance for application of the Design Standards, and can identify either emerging issues, or point to elements of the Standards that are lacking or that need updating.

**DISPOSITION OF PUBLIC DR CASES APRIL – JUNE 2009**

CASE #		ADDRESS	DEPT. RECOMMENDATIONS			COMMISSION				ACTION	POLICY
			STAFF	ROD	DR POLICY	ACTION	VOTE	DATE	DR POLICY	ACCORD?	ACCORD?
										Commission & ROD agree?	Commission & ROD agree?
1	2009.0158D	66 ELLSWORTH ST	no DR & approve	no DR & approve	no hearing	no DR & approve	" +6-0	04/09/09	no hearing	TRUE	TRUE
2	2008.1383D	3944 21ST ST	no DR & approve	no DR & approve	no hearing	no DR & approve	" +6-0	04/23/09	no hearing	TRUE	TRUE
3	2008.0388D	2608 POST ST	no DR & approve			WITHDRAWN		05/07/09		no decision	no decision
4	2006.1065Dx4	145 BUENA VISTA TR	no DR & approve			WITHDRAWN		05/14/09		no decision	no decision
5	2008.0327D	2012 14TH AV	no DR & approve	no DR & approve	no hearing	no DR & approve	" +6-0	05/14/09	no hearing	TRUE	TRUE
6	2006.0401D	395 ATHENS ST	no DR & approve	no DR & approve	no hearing	no DR & approve	" +6-0	05/21/09	no hearing	TRUE	TRUE
7	2009.0256D	1760-70 FILBERT ST	DR & modify	n/a	n/a	DR & modify	" +6-0	05/28/09	n/a	TRUE	no decision
8	2007.0129Dx3	100 32ND AV	no DR & approve	n/a	n/a	DR & modify	" +4-2	06/04/09		no decision	no decision
9	2008.0285D	109 ALPINE TE	no DR & approve	no DR & approve	no hearing	no DR & approve	" +4-0	06/04/09	no hearing	TRUE	TRUE
P E N D I N G											
10	2009.0230D	138-25th AV	no DR & approve					06/18/09			
11	2009.0337D	574 NATOMA ST	no DR & approve								
12											

**PROCEDURES DURING THE "TRIAL PERIOD" (24 MONTHS AFTER EFFECTIVE DATE, WITH PUBLIC HEARINGS BEGINNING ABOUT 18 MONTHS AFTER EFFECTIVE DATE)**

Specific reporting procedures and oversight during trial period are as follows:

- DR Decisions included in Commission packets
- Weekly updates about DR under the Director's Report
- Quarterly hearings on policy-related topics
  - ZA bulletins
  - Brown bag discussions
- Commission review of Phase One results to be initiated 18-months after the effective date of the Ordinance. The Commission would continue, modify, or discontinue the policy following the evaluation.

The reporting procedures and oversight listed above will provide the Commission and staff the opportunity to engage and improve the Design Standards. Specifically, staff will:

- Use Commission's decisions on DR, including staff initiated DRs, that the Commission designates as precedent setting, as policy guidance for review of future projects.
- Recommend amendments to Design Standards in ZA bulletins as applicable to reflect the Commission's policy guidance which will be reviewed during quarterly hearings. Staff also will prepare global amendments to the Design Standards every two years to incorporate bulletins.

- Identify emerging planning issues and/or areas in the Design Standards that require clarification and work with the Commission for appropriate responses during quarterly hearings.
- Track outcomes of cases appealed to the Board of Appeals and Board of Supervisors for relevant policy and procedural feedback.

The Planning Department has also included language in the Policy Resolution to clarify that when a project already requires an entitlement that will be heard by the Planning Commission, one may not file a Discretionary Review Application. If a project is already before the Commission, the Project Sponsor already has a greater burden of proof. By clarifying this in the Policy, it reduces the burden of proof for these cases from the DR Requestor to the Project Sponsor who is already requesting an entitlement.

#### **CLARIFICATION OF PRE-APPLICATION REQUIREMENTS**

The Department received a recommendation to include all residential, NC and mixed-residential zoning districts in requirements for pre-application since there are many different types of zoning designations as a result of Eastern Neighborhoods Area Plan. The Department agrees and has modified the Draft Pre-Application Packet (Attachment VIII) to indicate that pre-application is required for all projects that meet the pre-application triggers (10-foot horizontal addition, 7-foot vertical addition, or new construction) and require Section 311 or 312 Notification. A pre-application meeting is required to be conducted in advance of submitting a building permit, conditional use, variance, or other entitlement applications. This change to the pre-application requirement ensures that neighbors are provided the opportunity to discuss their concerns about the physical implications of projects located in residential, neighborhood commercial, or mixed-used districts prior to public notification.

The Department also received a recommendation to change the triggers for pre-application requirement and believes further discussion required. The rationale for the re-application triggers are as follows: the 7' ht. increase was intended to capture vertical additions that would add a floor of occupancy to an existing building; and the 10' horizontal addition was intended to capture all additions that may have a significant negative impact to adjacent properties. This was extrapolated from the Code standard for permitted obstructions Section 136(c)25 which principally permits a 12' horizontal addition into the required rear yard for districts that require a 45% rear yard. More analysis is required before a proposal for change is made. There was general consensus on these triggers from the 2004 DR Reform effort. The DR Reform group will continue discussions and review if any DRs are filed on projects that did not trigger the pre-application requirement, and will report back to the Commission at the first quarterly report.

#### **OPTIONS FOR SUNSET OF THE 2-YEAR TRIAL PERIOD**

Staff strongly supports the concept of a 24 month (2 years) trial period for DR reforms so that the Commission can evaluate with the public whether the reforms are successful. Department

staff has amended the Commission Resolution adopting the DR Reform policy with suggested language from the Neighborhood Network as follows:

*"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"*

The Department has received suggestions to include a legislative sunset in the proposed amendments to Planning Code Sections 311 and 312. The Department suggests that the DR Reform legislation should not be subject to a legislated sunset provision since the Commission and the public (neighborhood organizations, design professionals, and project sponsors) should decide the success of the program and a legislative sunset requires the Board of Supervisors to make that determination. DR Reform will be brought before the Commission for formal evaluation 18 months from the effective date of the proposed legislation. At that time, the Commission may introduce policy or legislative changes to modify or discontinue the program. We feel that the decision to retain or delegate the Planning Commission's authority to hear Discretionary Review Applications should remain with the Planning Commission, not with the Board of Supervisors.

However, as an option to the request for a legislative sunset in Sections 311 and 312, the Department recommends the following amendment:

*Within 24 months after the effective date of the DR Reform legislation, the Planning Department shall present a report to the Board of Supervisors about the results of the DR Reform trial period. At that time, the Board may choose to introduce legislation to repeal or change the DR Reform legislation, or take no action should they feel that the Reform has been successful during the 24 month trial period. This Report shall be subsequent to and shall include a summary of a hearing before the Planning Commission on the same topic.*

This amendment would provide the Board of Supervisors the information needed to decide if Sections 311 and 312 require amendments to modify or discontinue the program. However, if the program is working, the suggested amendment allows the Board of Supervisors to take no action, whereas a legislative sunset would require Board of Supervisor action to continue the program.

#### **ENVIRONMENTAL REVIEW**

The proposal to amend Planning Code Sections 311, 312, 352, and 355 would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

**REQUIRED COMMISSION ACTION**

In order for Discretionary Review Reform to proceed as proposed, the Commission must adopt the Policy Resolution and recommend adoption of the Planning Code Text Changes to the Board of Supervisors.

**BASIS FOR RECOMMENDATION**

The Department feels that the proposal, as outlined in the Policy Resolution and Planning Code Text Changes, (Attachment I & II, respectively) maintains the benefits of the existing process while advancing the key goals to improve the Discretionary Review process. 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 throughout the residential neighborhoods will be improved by the heightened level of scrutiny applied to projects and by the renaming of the "Residential Design Guidelines" to the "Residential Design Standards". Overall, the Department's Discretionary Review Reform proposal should provide improvements for all interested parties, which is the goal of the Department's Action Plan.

<p><b>RECOMMENDATIONS:</b>    <b>Adopt the Commission's Policy on Discretionary Review</b></p> <p><b>Recommend Adoption of the Planning Code Text Changes related to Discretionary Review to the Board of Supervisors.</b></p>
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**Attachments:**

Attachment I – Resolution to Establish Commission Policy for Discretionary Review Reform

Attachment II – Resolution to Recommend Adoption of Planning Code Amendments to Sections 311, 312, 352 and 355 to Implement Phase One Discretionary Review Reform

Attachment III – Proposed Amendments to Sections 311, 312, 352 and 355

Attachment IV – Commission and Public Comments Received on or after April 2, 2009, and Department Responses

Attachment V – Quantitative Metrics for the Residential Design Standards to Trigger Residential Design Team Review

Attachment VI – Policy topics for the Commission’s Consideration

Attachment VII – Executive Summary from April 2, 2009 Case Report

Attachment VIII – Draft Pre-application Packet





# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution

HEARING DATE JUNE 18, 2009

*Date:* June 11, 2009  
*Case No.* 2009.0227TU  
*Project Sponsor:* Planning Commission  
*Staff Contact:* Elaine Forbes, (415) 558-6417  
[Elaine.forbes@sfgov.org](mailto:Elaine.forbes@sfgov.org)  
*Re:* Discretionary Review Policy  
*Recommendation:* Adopt the DR Policy as proposed

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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 NEW OPTION TO REQUEST RECONSIDERATION, A DEFINITION OF "EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES" THAT MUST BE FOUND TO PROCEED WITH A PUBLIC-INITIATED DISCRETIONARY REVIEW HEARING, 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, 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; 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 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, 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, 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 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 June 18, 2009.

Linda D. Avery

Commission Secretary

AYES:

NOES:

ABSENT:

**Resolution XXXXXX  
June 18, 2009**

**Case No. 2009.0227TU  
Planning Commission Policy on Discretionary Review Reform**

ADOPTED: June 18, 2009



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. \_\_\_\_\_

HEARING DATE: JUNE 18, 2009

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**Recommendation:** Recommend Adoption of the Planning Code Amendments to Sections 311, 312, 353, and 355 to implement a two-year trial of Phase One Discretionary Review Reform to the Board of Supervisors.

ADOPTING 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, TO CHANGE ALL REFERENCES IN THE PLANNING CODE TO THE "RESIDENTIAL DESIGN GUIDELINES" TO MEAN THE "RESIDENTIAL DESIGN STANDARDS", AND TO MAKE CHANGES TO THE FEE SCHEDULE IN PLANNING CODE SECTIONS 352 AND 355 TO CLARIFY THAT THE MANDATORY DISCRETIONARY REVIEW FEE SCHEDULE APPLIES TO PLANNING DEPARTMENT INITIATED DISCRETIONARY REVIEW AND TO ALLOW FOR THE COLLECTION AND REFUND OF FEES ASSOCIATED WITH PLANNING DEPARTMENT RECONSIDERATION.

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 4, 1986, the voters of San Francisco passed Proposition M, which requires the City to find that all proposed projects and demolitions are consistent with the eight priority policies set forth in Planning Code Section 101.1; and

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 project's 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 process and shall pay the full cost-recovery fee.

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 may wish to delegate its review authority of Discretionary Review applications that demonstrate “exceptional and extraordinary circumstances” to a designee of its choice in Phase Two implementation; 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 hold a public hearing only for those projects that could meet the exceptional and extraordinary standards, and to delegate review of applications for this determination to staff, Planning Code Sections 311 and 312 will need to be amended; and

WHEREAS, Section 352(d) of the Planning Code does not currently clarify that the fee for Planning Department-Initiated Discretionary Reviews is the Mandatory Discretionary Review fee; and

WHEREAS, Section 355 of the Planning Code does not include a clause for reimbursement if a request for Reconsideration shows that the Planning Department applied the Planning Code or Design Standards inappropriately; and

MOVED, that the Planning Commission hereby adopts this Resolution to amend the Planning Code Sections 311, 312, 352, and 355, in accordance with the requirements of Planning Code Section 302, to

Attachment II - Resolution to Recommend Adoption of Planning Code Amendments to Sections 311, 312, 352, and 355 to Implement Phase One Discretionary Review Reform

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 allow the Planning Commission the flexibility to delegate their authority to review Discretionary Review applications that show "exceptional and extraordinary circumstances" – as defined under the Commission's Policy as potential Phase Two implementation– to a designee of its choice, to change all Planning Code references of the "Residential Design Guidelines" to "Residential Design Standards", and to make changes to the fee schedule, as submitted and attached hereto as Attachment III and approved as to form by the City Attorney.

I hereby certify that the foregoing Motion was ADOPTED by the Commission at its meeting on June 18, 2009.

Linda D. Avery

Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: June 18, 2009



[Discretionary Review; Fees.]

**Ordinance amending the San Francisco Planning Code by amending Section 311 and 312 to provide that a request for discretionary review will be heard by the Planning Commission or its designee if the application demonstrates exceptional and ordinary circumstances as defined, 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 Planning Commission Resolution No. \_\_\_\_\_ is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

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

3 SEC. 311. RESIDENTIAL PERMIT REVIEW PROCEDURES FOR RH, RM, AND RTO  
4 DISTRICTS.

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

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

20 (c) Building Permit Application Review for Compliance and Notification. Upon  
21 acceptance of any application subject to this Section, the Planning Department shall review  
22 the proposed project for compliance with the Planning Code and any applicable design  
23 ~~guidelines~~ standards approved by the Planning Commission. Applications determined not to be  
24 in compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code,  
25 Residential Design Standards ~~Guidelines~~, including design standards ~~guidelines~~ for specific areas

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1 adopted by the Planning Commission, or with any applicable conditions of previous approvals  
2 regarding the project, shall be held until either the application is determined to be in  
3 compliance, is disapproved or a recommendation for cancellation is sent to the Department of  
4 Building Inspection.

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

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

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

1 reference scale. The notice shall describe the project review process and shall set forth the  
2 mailing date of the notice and the expiration date of the notification period.

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

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

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

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

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

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

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.

5 Exceptional and extraordinary circumstances occur where the standard application of adopted  
6 design standards to a project does not enhance or conserve neighborhood character, or balance the  
7 right to develop the property with impacts on nearby properties or occupants. These circumstances  
8 may arise due to complex topography, irregular lot configuration, unusual context, or other conditions  
9 not addressed in the design standards. shall be considered by the Planning Commission if An  
10 application for discretionary review must be received by the Planning Department no later than  
11 5:00 p.m. of the last day of the notification period as described under Subsection (c)(3) above,  
12 subject to guidelines adopted by the Planning Commission.

13 ~~The project sponsor of a building permit application may request discretionary review by the~~  
14 ~~Planning Commission to resolve conflicts between the Director of Planning and the project sponsor~~  
15 ~~concerning requested modifications to comply with the Residential Design Guidelines.~~

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

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

23 (e) Demolition of Dwellings, Approval of Replacement Structure Required. Unless  
24 the building is determined to pose a serious and imminent hazard as defined in the Building  
25 Code an application authorizing demolition in any R District of an historic or architecturally

1 important building or of a dwelling shall not be approved and issued until the City has granted  
2 final approval of a building permit for construction of the replacement building. A building  
3 permit is finally approved if the Board of Appeals has taken final action for approval on an  
4 appeal of the issuance or denial of the permit or if the permit has been issued and the time for  
5 filing an appeal with the Board has lapsed with no appeal filed.

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

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

17 Section 3. The San Francisco Planning Code is hereby amended by amending Section  
18 312, to read as follows:

19 SEC. 312. NEIGHBORHOOD COMMERCIAL PERMIT REVIEW PROCEDURES FOR ALL  
20 NC DISTRICTS.

21 (a) Purpose. The purpose of this Section is to establish procedures for reviewing  
22 building permit applications for lots in NC Districts in order to determine compatibility of the  
23 proposal with the neighborhood and for providing notice to property owners, occupants and  
24 residents neighboring the site of the proposed project and to interested neighborhood  
25

1 organizations, so that concerns about a project may be identified and resolved during the  
2 review of the permit.

3 (b) Applicability. Except as indicated herein, all building permit applications for  
4 demolition, new construction, changes in use to a formula retail use as defined in Section  
5 703.3 of this Code or alterations which expand the exterior dimensions of a building shall be  
6 subject to the notification and review procedures required by Subsection 312(d). Subsection  
7 312(f) regarding demolition permits and approval of replacement structures shall apply to all  
8 NC Districts. For the purposes of this Section, addition to a building of the features listed in  
9 Section 136(c)(1) through 136(c)(24) and 136(c)(26) shall not be subject to notification under  
10 this Section.

11 (c) Changes of Use. All building permit applications for a change of use to a bar, as  
12 defined in Section 790.22, a liquor store, as defined in Section 790.55, a walkup facility, as  
13 defined in Section 790.140, other large institutions, as defined in Section 790.50, other small  
14 institutions, as defined in Section 790.51, a full-service restaurant, as defined in Section  
15 790.92, a large fast food restaurant, as defined in Section 790.90, a small self-service  
16 restaurant, as defined in Section 790.91, a self-service specialty food use, as defined in  
17 Section 790.93, a massage establishment, as defined in Section 790.60, an outdoor activity,  
18 as defined in Section 790.70, an adult or other entertainment use, as defined in Sections  
19 790.36 and 790.38, or a fringe financial service use, as defined in Section 790.111, shall be  
20 subject to the provisions of Subsection 312(d).

21 (d) Building Permit Application Review for Compliance and Notification. Upon  
22 acceptance of any application subject to this Section, the Planning Department shall review  
23 the proposed project for compliance with the Planning Code and any applicable design  
24 standards guidelines approved by the Planning Commission. Applications determined not to be  
25 in compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code, including

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1 design standards ~~guidelines~~ for specific areas adopted by the Planning Commission, or with any  
2 applicable conditions of previous approvals regarding the project, shall be held until either the  
3 application is determined to be in compliance, is disapproved or a recommendation for  
4 cancellation is sent to the Department of Building Inspection.

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

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

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

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

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

12 (C) The Planning Department shall maintain a list, updated every six months with  
13 current contact information, available for public review, and kept at the Planning Department's  
14 Planning Information Counter, and reception desk, as well as the Department of Building  
15 Inspection's Building Permit Counter, of neighborhood organizations which have indicated an  
16 interest in specific properties or areas. The organizations having indicated an interest in the  
17 subject lot or its area shall be included in the notification group for the proposed project.

18 Notice to these groups shall be verified by a declaration of mailing signed under penalty of  
19 perjury. In the event that such an organization is not included in the notification group for a  
20 proposed project as required under this subsection, the proposed project must be re-noticed.

21 (3) Notification Period. All building permit applications shall be held for a period of  
22 30 calendar days from the date of the mailed notice to allow review by residents, occupants,  
23 owners of neighboring properties and by neighborhood groups.

24 (4) Elimination of Duplicate Notice. The notice provisions of this Section may be  
25 waived by the Zoning Administrator for building permit applications for projects that have

1 been, or before approval will be, the subject of a duly noticed public hearing before the  
2 Planning Commission or Zoning Administrator, provided that the nature of work for which the  
3 building permit application is required is both substantially included in the hearing notice and  
4 is the subject of the hearing.

5 (e) Requests for Planning Commission Review. ~~A request for~~ The Planning  
6 Commission or its designee shall consider a public request to exercise ~~its~~ discretionary review  
7 powers over a specific building permit application if the application requesting discretionary  
8 review demonstrates exceptional and extraordinary circumstances.

9 Exceptional and extraordinary occur where the standard application of adopted design  
10 standards to a project does not enhance or conserve neighborhood character, or balance the right to  
11 develop the property with impacts on nearby properties or occupants. These circumstances may arise  
12 due to complex topography, irregular lot configuration, unusual context, or other conditions not  
13 addressed in the design standards. ~~shall be considered by the Planning Commission if~~ An application  
14 for discretionary review must be ~~shall be considered by the Planning Commission if~~ received by the  
15 Planning Department no later than 5:00 p.m. of the last day of the notification period as  
16 described under Subsection (d)(3) above, subject to guidelines adopted by the Planning  
17 Commission.

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

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

24 (2) Notice. Mailed notice of the discretionary review hearing ~~by the Planning~~  
25 ~~Commission~~ shall be given not less than 10 days prior to the date of the hearing to the

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1 notification group as described in Paragraph 312(d)(2) above. Posted notice of the hearing  
2 shall be made as provided under Planning Code Section 306.8.

3 (f) Demolition of Dwellings, Approval of Replacement Structure Required. Unless  
4 the building is determined to pose a serious and imminent hazard as defined in the Building  
5 Code an application authorizing demolition in any NC District of an historic or architecturally  
6 important building or of a dwelling shall not be approved and issued until the City has granted  
7 final approval of a building permit for construction of the replacement building. A building  
8 permit is finally approved if the Board of Appeals has taken final action for approval on an  
9 appeal of the issuance or denial of the permit or if the permit has been issued and the time for  
10 filing an appeal with the Board has lapsed with no appeal filed.

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

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

22 Section 4. The San Francisco Planning Code is hereby amended by amending Section  
23 352, to read as follows:

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

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

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1	Estimated Construction Cost	Initial Fee
2	No construction cost, excluding	
3	extension of hours	\$785.00
4	No construction cost, extension of	
5	hours	\$1,206.00
6	Estimated Construction Cost	Initial Fee
7		
8	\$1.00 to \$9,999.00	\$1,206.00
9	\$10,000.00 to \$999,999.00	\$1,206.00 plus 0.557% of cost over
10		\$10,000.00
11	\$1,000,000.00 to \$4,999,999.00	\$6,722.00 plus 0.664% of cost over
12		\$1,000,000.00
13	\$5,000,000.00 to \$9,999,999.00	\$33,315.00 plus 0.557% of cost over
14		\$5,000,000.00
15	\$10,000,000.00 to \$19,999,999.00	\$61,176.00 plus 0.290% of cost over
16		\$10,000,000.00
17	\$20,000,000.00 or more	\$90,213.00

(b) Variance (Section 305)

20	Estimated Construction Cost	Initial Fee
21	\$0.00---\$9,999.00	\$782.00
22	\$10,000.00--\$19,999.00	\$1,741.00
23	\$20,000.00 and greater	\$3,476.00

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

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(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).

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

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

6 (d) Discretionary Review Requests: \$300.00; provided, however, that the fee shall be  
7 waived if the discretionary review request is filed by a neighborhood organization that: (1) has  
8 been in existence for 24 months prior to the filing date of the request, (2) is on the Planning  
9 Department's neighborhood organization notification list, and (3) can demonstrate to the  
10 Planning Director or his/her designee that the organization is affected by the proposed project.  
11 Such fee shall be refunded to the individual or entity that requested discretionary review in the  
12 event the Planning Commission denies the Planning Department's approval or authorization  
13 upon which the discretionary review was requested.

14 (2) Mandatory ~~d~~Discretionary ~~r~~Reviews (Planning Commission or Planning Department  
15 initiated): \$3,223.00.

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

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

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

21 (f) Land Use Amendments and Related Plans and Diagrams of the San Francisco  
22 General Plan: Fee based on the Department's estimated actual costs for time and materials  
23 required to review and implement the requested amendment, according to a budget prepared  
24 by the Director of Planning, in consultation with the sponsor of the request.  
25

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

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

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

9 (1) The applicant shall be charged for any time and materials as set forth in Section  
10 350(c).

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

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

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

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

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

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

22 (1) \$500.00 for the appellant of a conditional use authorization decision to the Board  
23 of Supervisors; provided, however, that the fee shall be waived if the appeal is filed by a  
24 neighborhood organization that: (1) has been in existence for 24 months prior to the appeal  
25 filing date, (2) is on the Planning Department's neighborhood organization notification list, and

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(3) can demonstrate to the Planning Director or his/her designee that the organization is substantially affected by the proposed project.

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

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

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

**SEC. 355. PERMIT APPLICATIONS.**

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

Estimated Construction Cost	Initial Fee
\$0.00 to \$9,999.00	\$305.00
\$10,000.00 to \$49,999.00	\$306.00 plus 3.196% of cost over \$10,000.00
\$50,000.00 to \$99,999.00	\$1,585.00 plus 2.136% of cost over \$50,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee
\$100,000.00 to	\$2,654.00 plus 2.337% of cost over \$100,000.00 plus

\$499,999.00	\$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee
\$500,000.00 to \$999,999.00	\$12,003.00 plus 0.591% 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	\$14,959.00 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:

TABLE INSET:

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

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	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).

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

(f) Requests for Planning Department Reconsideration: \$300.00; provided, however, that the fee shall be waived if the reconsideration 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 Planning Department's neighborhood organization notification list, and (3) can demonstrate to the Planning Director or his/her designee that the organization is affected by the proposed project. Such fee shall be refunded to the individual or entity that requested reconsideration in the event the Planning Department determines that the Planning Code and/or adopted design standards were not appropriately applied to the subject building permit application under reconsideration.

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

By:

  
JUDITH A. BOYAJIAN  
Deputy City Attorney

Planning Commission  
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Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
1	"Phase 1" approved as 18-month trial program with date-specific expiration, at which point Commission will have prerogative to re-authorize the program/policies. At 12-month mark, a robust review will begin of the trial program results, with at last one Commission informational hearing prior to the 18-month expiration date.	Neighborhood Network	Agree. Modified with 18 month starting point for evaluation, and 24 month (2 year) end of trial period. The Commission would have the ability to re-authorize (or not) in 2 years. This provides sufficient time to see results.
2	Commission resolution directing staff to bring "Universal Planning Notification" proposal to Commission within 60 days, as complementary reform related to DR Reform. Commission directive to staff to bring "Universal Planning Notification" draft proposal to Commission within 60 days, and upon Commission direction proceed to initiate corresponding Planning Code amendments ordinance for introduction within subsequent 90 days. (Planning notification reforms are critically complementary to DR Reform).	Neighborhood Network	Agree, in progress. Expected to be presented to the Planning Commission by Fall '09 and notice is now provided on the advanced calendar. For specific timeline, contact Scott Sanchez (558.6326).
3	Commission directive to staff to pursue an aggressive schedule for preparing "Neighborhood Commercial District Standards" proposal to bring to Commission, as another complementary improvement related to DR Reform.	Neighborhood Network	Agree, in progress. Department is supportive of this work program effort. The cost would be approximately \$124K, or 1 FTE Planner III. The Mayor has included \$50K in the budget which is under Board of Supervisor review. The Department has also requested a grant from the Friends of City Planning as a matching source.
4	Pre-application requirement extended to Conditional Uses for use-allowances whether or not related to a building permit.	Neighborhood Network	Disagree. In the context of DR reform, the Department is not in support of this since pre-application is intended as an opportunity to discuss physical implications of development, not use. However, the Department recommends the Commission reconsider formula retail noticing requirements, perhaps as part of the Universal Planning Notification effort, if public outreach for CU applications continues to be a problem.

Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
5	Commission directive that Planning staff provide pre-calendared quarterly reports to the Commission during the 18-month trial period on policy issues that are identified through application of the Residential Design Standards. Commission directive that Planning staff provide pre-calendared quarterly reports to the Commission on policy issues that are identified through application of the Residential Design Standards on all project reviews (not just for DR cases)	Neighborhood Network	Agree. The Department will hold quarterly policy hearings on policy issues which the RDT identifies. Approximately 6 quarterly hearings will take place before the evaluation begins (18-month evaluation initiated, 2-year trial period).
6	Clarify that the DR "intake meeting" will be offered as a first step upon filing a DR case, and that both the DR applicant and the project sponsor will be encouraged to attend, providing a dispute resolution opportunity.	Neighborhood Network	Agree. The DR "intake meeting" will be offered to the DR Requestor and the sponsor will be encouraged to attend at the invitation of the requestor. As a point of clarification, the Department cannot act as mediators on issues that are not related to the Code and relevant design standards.
7	Planning Department require a current site survey to be included when project plans are submitted for review (to ensure accurate dimensions on project plans).	Neighborhood Network	Further discussion required. A site survey is required with all new construction and requested by the Dept. on a case-by-case basis if there is disputed information. Staff will consider with design professionals and the public changes to submission requirements and make recommendations to the Planning Commission at a quarterly update report if changes are desired (see items 7 & 8). Requiring a current site survey for all projects many unnecessarily increase the cost of development since only a small number of projects are disputed for accuracy.
8	Planning Department to require 3-D renderings be included with project plans when submitted for review (exact specifications TBD through department consultation)	Neighborhood Network	Agree - recommended for Phase 2 implementation. However, staff will consider with design professionals and the public changes to submission requirements and make recommendations to the Planning Commission at a quarterly update report if changes are desired (see items 7 & 8).
9	Planning Department establish standards <b>to project sponsors</b> for tracking plans for project changes through project review process (e.g., date indications, plan text notations, drawing labels, etc).	Neighborhood Network	Further discussion required. Department recommends a discussion with design professionals and community members to discuss the problems resulting from not having formal standards for tracking plans for project changes so that standards can be developed to remedy problems.

Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
10	<p>Planning Code ordinance for delegation of DR authority to staff will be approved as 24-month trial program, with date-specific expiration in the ordinance. At 18-month mark, a robust review will begin of the trial program results, with at least one Commission informational hearing prior to the 24-month expiration date. Continuation of the delegation of DR authority to staff will require re-authorization by the Board of Supervisors Proposed language for code revision acknowledging the evaluation period: A) Add to either the Commission Resolution recommending the Planning Code Amendments, or in Section 1, Findings for the proposed amendment, add : "It is the policy of the Planning Commission that this program be implemented on a trial basis, not to exceed 24 months" or words to that effect B) Insert a prefix to Section 311 (d) and Sec 312 (e): "From (date amendment is passed) until (24 months after amendment is passed)", the planning Commission or its designee ..." Add a new sentence after "...and extraordinary circumstances." Reading " After (date 24 months after passage),</p> <p>the Planning Commission may not delegate this authority unless the authority to delegate is reauthorized by the Board of Supervisors following public hearings on the 18 month trial of this policy" (or other words that enforce a sunset in the absence of affirmative action by the Planning Commission and the Board)</p>	Neighborhood Network	<p>Agree. Staff strongly supports the concept of a trial period for DR reforms so that the Commission can evaluate with the public whether the reforms are successful. Department staff has amended the Commission Resolution adopting the DR Reform policy with the suggested language, "It is the policy of the Planning Commission that this program be implemented on a trial basis, not to exceed 24 months, (add) without the Commission's evaluation of the program and decision to continue, modify or discontinue to the program." The Commission and Board of Supervisors could consider adding uncodified language to the ordinance that requires a Commission report to the Board of Supervisors the relative success of the program and recommends continuation, amendments or discontinuation with initiation of the necessary legislation.</p>

	Recommendation	Source	Response
11	Specific “metrics” to be used for the trial program evaluation should include sufficient detail for the Commission and the public to clearly understand how decisions are being made. Possible items to include are: <b>For each item:</b> a) Reason for DR filing b) Whether or not filing was from or supported by a recognized community group c) Number of filings for this reason (from all DR applications) to date d) Staff reasons for recommended disposition, including any dissenting opinions by staff. <b>For summary reports:</b> a) Number of DR filings by reason b) Identification of possible policy issues e) Identification of common themes for appeals – regardless of perceived merit.	Neighborhood Network	Agree, in part. The Department supports metrics to be used for the program evaluation. Further, staff recommends that interested parties work with us to develop a method to evaluate if the program is working. The Department will not record dissenting opinions of RDT staff since the RDT serves to clarify Department positions. However, the Team will identify grey areas and policy issues for the Commission's review which arise from coming to decisions in areas without precedence or clear policy.
12	Change trigger for pre-application requirement from 10-foot horizontal extension to: “any horizontal extension of a building beyond the rear wall of an adjacent building and/or the horizontal extension of a building beyond the standard maximum lot coverage allowance of 55%, including rear yard permitted obstructions.” (Rear horizontal extensions are the types of potentially controversial projects, irrespective of how many feet they extend, that would be very well served by a pre-application process for benefit of both neighbors and sponsors).	Neighborhood Network	Further discussion required. The rationale for the preapplication triggers are as follows: the 7' ht. increase was intended to capture vertical additions that would add a floor of occupancy to an existing building; and the 10' horizontal addition was intended to capture all additions that may have a significant negative impact to adjacent properties. This was extrapolated from the Code standard for permitted obstructions Section 136(c)25 which principally permits a 12' horizontal addition into the required rear yard for districts that require a 45% rear yard. The Department has received good suggestions to change these triggers but more discussion is required before a proposal is finalized since there was general consensus on these triggers from the 2004 DR Reform effort. The DR Reform group will continue discussions and review if any DR are filed on projects that did not trigger the pre-application requirement, and will report to the Commission if staff recommends modification at the first quarterly report.
13	Clarify that the pre-application requirement is applicable to Garage Addition projects.	Neighborhood Network	Generally, garage addition projects will not trigger pre-application requirements and are approved over-the-counter. The Department issued a Zoning Administrator bulletin about garages on existing structures and potential resources which is on our website and references the approval process. Any changes to these requirements would require a public process.



Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
14	Include all residential, NC and mixed-residential zoning districts in requirement for pre-application. (There are many different types of zoning designations beyond the R zones where residential development occurs)	Neighborhood Network	Agree. The Department will require pre-application for all projects that meet the pre-application triggers and require Section 311 and 312 noticing <b>in advance</b> of submitting a building permit, conditional use, variance, or other entitlement application.
15	Clarify the process and timeline for issue-based modifications to the Residential Design Standards. Commission directive that at minimum policy issues and recommended RDS modification proposals should be brought to Commission by Planning staff at six month intervals during the 24-month trial period and at least annually thereafter.	Neighborhood Network	The Department will hold quarterly report with the Commission to address policy issues. This will allow for 6 quarterly reports before the 18-month point when the evaluation begins.
16	Commission directive to staff to begin process towards establishing standards for pre-application requirement on Conditional Use applications for formula retail uses, extension of operating hours, or CUs that are likely to increase use intensity (e.g. increased private school enrollment, or cases such as the proposed Masonic Auditorium CU), whether or not related to a building permit.	Neighborhood Network	See item #4
17	Commission directive to staff to establish a clear 1-year schedule for preparing "Neighborhood Commercial District Standards" proposal to bring to Commission, as another complementary improvement related to DR Reform.	Neighborhood Network	Agree, in part. The Department strongly supports this work effort but the timeline is contingent on securing funding. Our budget proposal includes \$50K for this effort and we are in the process of applying for a matching grant.
18	Something that has bothered me is that when a 311 notice is to legalize ILLEGAL CONSTRUCTION (one recently was for a 3-story illegal addition), why does an objecting neighbor have to pay the DR fee? Shouldn't the fee be shifted onto/paid by the ILLEGAL CONSTRUCTOR? It seems a bit much to have to pay \$400 to object to ILLEGAL construction.	Sue Hestor	Agree. As part of DR Reform Internal Design Review Improvements, RDT looks at merit of project, regardless of whether it's already been constructed. If appropriate, then standard 311 and DR process; if not appropriate and project sponsor is unwilling to modify proposal, the Department files staff initiated Discretionary Review. The public can speak at DR hearing or file their own in addition for a standard fee.

Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
19	Field inspection to verify conditions at site AT START. In discussions with DBI and Planning, convened by Sup. McGoldrick a couple years ago, DBI had agreed to have field inspectors verify the accuracy of existing conditions shown on plans (including relation to adjacent properties, slopes, etc). This field inspection could be covered by a fee paid to DBI as part of the permit application. Such verification can head off problems where conditions are not shown accurately on plans and allow correction BEFORE 311 notice is sent out.	Sue Hestor	At this time, neither Planning nor DBI have sufficient resources (including staffing) to conduct site visits at the onset of every building permit submittal. The Department has proposed a "Reconsideration" option, which provides a venue in which to address inaccuracies in plans (as well as poor application of the Design Standards).
20	Notes of staff review meetings (at bare minimum dates, attendees, instructions given to sponsor) must be attached to plans, and put in case file if one is opened.	Sue Hestor	Agree. All formal correspondence from staff to Project Sponsor will be stored on internal shared drive, and also put in a file if one exists. RDT comments will be on the website if PC adopts Policy as proposed.
21	Story pole requirement. Additions at sloping sites or where conditions make it difficult for lay person to understand relationship of proposal to neighbors shall erect story poles NO LATER at least 3 weeks before 30 day notice period expires. The existence of the story poles shall be EXPLICITLY described in 311 notice. To be done at sponsor's cost. To be done for all NEW construction.	Sue Hestor	Agree, recommended for Phase 2 implementation. However, if time permits, staff will consider with design professionals and the public story poles and 3-d renderings and make recommendations to the Planning Commission at a quarterly update report if changes are desired (see items 7 & 8).
22	Staff to require compliance with Residential Design Guidelines PARTICULARLY re setbacks BEFORE the 311 notice goes out. This includes showing all side windows facing project on abutting sites. No longer optional, depending on individual planner.	Sue Hestor	Agree. As part of DR Reform's Internal Improvements, staff will not send a project out for 311 if it does not comply with RDS's (unless Staff initiated DR is filed).
23	BEFORE the 311 notice is issued, Planning staff shall discuss issues with DBI staff, such as whether a project will require structural upgrades that will result in a de facto demolition. When questions arise after 311 notice, or while DR is pending, Planning shall seek that information and not defer issues until AFTER the plans have been approved by Planning.	Sue Hestor	Agree. Under Section 317, Project Sponsor's are required to show their demo calculations graphically if a project appears to be close to tantamount to demo. Those that are close will be review with CN or LB to determine if DBI review is needed.
24	This shall also include issues re exiting requirements and other matters that could affect the building envelope.	Sue Hestor	With the new Building Code, this is less of an issue. Staff often recommends pre-application meetings with DBI if they foresee this as an issue.

Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
25	There is a perception that some staff persons value "numbers," i.e. getting cases off their desk, rather than doing a thorough analysis of major alterations. That their client is the developer, not the public. Adjust staff attitudes.	Sue Hestor	DR Reform is seeking consistency among staff. The quality of projects is being stressed by management.
26	Establish a feedback system that solicits written input from the public on how they are being served to help the Department see where it is doing well and what could be improved. DBI and the Board of Appeals already solicit that input.	Sue Hestor	Agree. Although not within the scope of DR Reform. Sr. Management is looking into this and researching DBI,, Bd. of Sups., and Bd. of Appeals processes.
27	Quarterly reports to the Commission	Testimony - Jim Meko	Agree, and is included in Phase One Discretionary Review Reform
28	Date specific sunset date	Testimony - Peter Cohen	Agree. A 2 year re-consideration is being proposed, with the evaluated initiated 18 months after the effective date of the Code changes. Commission will at that time have the ability to re-consider the DR Reform effort and vote to continue it, modify it, or discontinue the changes.
29	Send drawings to neighbors	Testimony - Peter Wilkerstein	This is already done under Section 311 notification. Under the DR Reform Pre-App improvements, neighbors attending the pre-app meeting can request reduced plans to be mailed.
30	Too much cost burden on the home owner, especially with more pre-application, 3d drawings, etc	Testimony - Property Owner who underwent the DR process.	Proposal is intended to reduce costs overall. Costs may be slightly higher at the beginning of project development, with the goal of reducing cost and time associated with DRs at the end of the process..
31	Consent calendar of rejected DR	testimony - Alan Martinez	Weekly report provided through "Director's Report"; copy of DR Decision Letters (those DR Applications that failed to present exceptional & extraordinary circumstances) in Commission Packets for transparency.
32	Story poles are a good idea	Testimony - Bob Passmore	Proposed for Phase 2 Discussion
33	First 12 months, all rejected DR go to Commission for review	Looking for Cow Hollow Association Letter, Jeff Wood	Weekly report provided through "Director's Report"; copy of DR Letters in Commission Packets for transparency.
34	Need to understand the standards the RDT uses	Testimony - Hiroshi Ferguda	All decisions are based on Residential Design Standards and past Commission decisions.

Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
35	RDGs are qualitative, designed to be guidelines	Testimony - Martinez/Passmore	Agree. The Department developed baseline metrics as a way to "trigger" RDT review, with the goal of achieving more consistent review throughout the Department. The RDT, however, looks at every project on its individual merits and context. The Guidelines have evolved over the years and were codified under Section 311.
36	Consent calendar of rejected DR to calibrate staff	Commissioner Antonini	We are providing a feedback loop via the Director's Report, copies of the DR letters in Commission packets, quarterly reports, and the trial period evaluate in 2 years. The Planning Commission can direct us to change our approach if they disagree with how we are analyzing projects.
37	RDS subjective - facades more in the eye of the beholder	Commissioner Antonini	We agree that design is subjective; however, we base design decisions on the adopted Residential Design Standards.
38	Quarterly discussions important	Commissioner Borden	Agree, included in Phase One Reform
39	What is the process of how the guidelines become standards; need more specific standards	Commissioner Moore	The change is just nomenclature at this time, in order to underscore their required application for residential projects. The RDS's will evolve via Commission Policy. Weekly reports on the disposition of DR under Director's report, Commissioner decisions on public DR cases that demonstrate exceptional and extraordinary circumstances and staff initiated DR, and quarterly policy updates will result in the evolution of the Standards. Further, staff will host brownbag discussions with the Commission, design professionals and the public on aspects of the standards that reflect emerging issues and/or areas that require refinement.
40	Story poles are a good idea	Commissioner Olague	Agree, phase 2 Discussion
41	RDS are a work in progress	Commissioner Olague	Agree. They will evolve via Commission Policy.
42	Would like to be aware of rationale behind rejecting DR	Commissioner Olague	Agree - Decisions will be clearly documented in writing. Copies will be provided to the Commission in their packets weekly. The Director will also go through decisions weekly under "Director's Report".
43	Staff's improvement and strengthening of the pre-application process and better community notification to resolve many issues that normally trigger DR	Cow Hollow Association, Inc.	Agree, pre-application should help minimize the number of DRs filed.

Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
44	Expanding the Pre-App notice are to 150 feet to be consistent with Building Permit Application 311 notices so that there is more consistency	Cow Hollow Association, Inc.	Disagree. Section 311 covers that area. Pre-App is intended to discuss impacts from the proposal on most immediately affected people and Neighborhood Organizations are also included to look out for the interests of the larger neighborhood.
45	Including in both the Pre-App materials and the 311 notice the change in square footage and an existing /proposed photo/rendering of the subject property	Cow Hollow Association, Inc.	Agree (in part) - Improved pre-application will include (E) and (P) square footage. Renderings are expensive to create at the pre-application phase when the project is very likely to change. Rendering discussion and possible policy may be included under Phase Two.
46	Starting with the Pre-Application meeting, the project architect, neighborhood association, and Planning staff completion of a "neighborhood character" checklist based on the Residential Design Standards or individual neighborhood design guidelines. If the checklist is the same for every project in a specific neighborhood, a standardized information flow will result. (CHA Checklist is attached)	Cow Hollow Association, Inc.	Disagree. The RDS's are general enough to cover all residential districts; the Department does not believe that individual "neighborhood character" districts are necessary throughout the entire City. Projects are looked at individually, and neighborhood context will be evaluated during RDT review. There are only a handful of districts that are either neighborhood character districts or have their own adopted Design Guidelines. Projects in those areas are analyzed with the specific design criteria.
47	Providing online access to 311 notices, historic/environmental review, demolition calculations, and plan revisions for each proposed project	Cow Hollow Association, Inc.	Agree. This is in progress through the UPN and permit tracking processes. These items are under separate Action Plan Items. Demolition calculations are required by staff when a project is close to being determined "tantamount to demolition".
48	Review by the Planning Commission during the first 12 months of the new program any staff rejected DR applications that fail to meet "exceptional and extraordinary circumstances"	Cow Hollow Association, Inc.	Agree. During the first 18 months, there will be weekly reports under the "Director's Report", and DR Letters will be included in the Commissioner's weekly packets.
49	Conduction a 12-month up to 18-month trial period of Phase I and generating a report at the end of that period to be presented to the Commission and the same organizations that participated in the study	Cow Hollow Association, Inc.	Agree, in part. The Department proposes an 24-month trial period, with review initiated at the 18-month point.
50	Carrying forward DR case histories, beginning with the implementation of the Residential Design Team (Dec. 17, 2008), including information on DR's that were withdrawn by DR applicants.	Cow Hollow Association, Inc.	Agree. All RDT comments are memorialized and available as public records. If the Planning Commission adopts the proposed Policy, the RDT comments will be posted on the Department's website.

Attachment IV - Public recommendations and Department Responses to Discretionary Review Reform Proposal received on or after April 2, 2009

	Recommendation	Source	Response
51	The revised policy and procedures were not available until March 26, 2009. Therefore, neighborhood organizations and other interested members of the public have not had adequate time to review and comment on the said revised policies and procedures.	Coalition for San Francisco Neighborhoods	There was minimal changes to the case report.
52	Substantial and material changes, of over 50 pages, have been made to alter the previous proposal in this new March 26, 2009 document.	Coalition for San Francisco Neighborhoods	There have been sufficient hearings and changes were made according to public comments.
53	CSFN supports Commissioner Moore's request for an Informational Presentation enhance both the Commission's and the public's understanding of this complex changes to the Discretionary Review process contained in this new March 26, 2009 proposal.	Coalition for San Francisco Neighborhoods	Staff believes the public process which included 5 outreach meeting (123 individuals in attendance and over 50 written comments), two prior Commission hearings, and case reports has fully informed the Commission about the Discretionary Review Reform proposal.



# SAN FRANCISCO PLANNING DEPARTMENT

## Residential Design Checklist

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	

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### SITE DESIGN (PAGES 11 - 21)

QUESTION	YES	NO	N/A
<b>Topography (page 11)</b>			
Does the building respect the topography of the site and the surrounding area?			
<b>Lateral Slopes along block-face</b>			
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?			
<b>Front Setback (pages 12 - 15)</b>			
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?			
<b>Side Setback at Front</b>			
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?			
<b>Side Spacing (page 15)</b>			
Does the building respect the existing pattern of side spacing?			
<b>Note: this guideline is for side spacing not side setbacks.</b>			
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			

## Residential Design Checklist

<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>			
<b>Rear Yard (pages 16 - 17)</b>			
<p>Is the building articulated to minimize impacts on light to adjacent properties?</p> <p><b>Lightwells</b></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><b>Depth of Addition</b></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><b>Height of Addition</b></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><b>Side Setback at Rear</b></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>			



## Residential Design Checklist

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>			
Is the building articulated to minimize impacts on privacy to adjacent properties? 1. 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> 2. (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>			
<b>Views (page 18)</b>			
Does the project protect major public views from public spaces? 1. Reference the maps in the General Plan for "Street Areas Important to Urban Design and Views", "Quality of Street Views".			
<b>Special Building Locations (pages 19 - 21)</b>			
Is greater visual emphasis provided for corner buildings? 1. 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>			
Is the building facade designed to enhance and complement adjacent public spaces? 1. 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> 2. Are finished exterior materials proposed along the exposed side façade? <i>(If yes, meets threshold. If no, consult RDT.)</i>			
Is the building articulated to minimize impacts on light to adjacent cottages? 1. 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
<b>Building Scale (pages 23 - 27)</b>			
Is the building's height and depth compatible with the existing building scale at			

## Residential Design Checklist

the street?			
<ol style="list-style-type: none"> <li>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? <i>(If yes, meets threshold. If no, consult RDT.)</i></li> <li>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? <i>(If yes, meets threshold. If no, consult RDT.)</i></li> </ol>			
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).			
<b>Building Form (pages 28 - 30)</b>			
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
<b>Building Entrances (pages 31 - 33)</b>			
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? <i>(If yes, meets threshold. If no, consult RDT.)</i> <ol style="list-style-type: none"> <li>1. Pattern defined as 50% of the block-face AND the pattern existing at the adjacent buildings on either side of the project.</li> </ol>			
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?			
<b>Bay Windows (page 34)</b>			
Are the length, height and type of bay windows compatible with those found on surrounding buildings?			
<b>Garages (pages 34 - 37)</b>			
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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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>			
Is the placement of the curb cut coordinated to maximize on-street parking? 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>			
<b>Rooftop Architectural Features (pages 38 - 41)</b>			
Is the stair penthouse designed to minimize its visibility from the street? 1. Is the stair penthouse required by Building Code? 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>			
Are the parapets compatible with the overall building proportions and other building elements?			
Are the dormers compatible with the architectural character of surrounding buildings?			
Are the windscreens designed to minimize impacts on the building's design and on light to adjacent buildings? 1. Are open railings or transparent material proposed at the windscreens? <i>(If yes, meets threshold. If no, consult RDT.)</i>			

## BUILDING DETAILS (PAGES 43 - 48)

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

## Residential Design Checklist

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?			
<b>Exterior Materials (pages 47 - 48)</b>			
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?			

I:\Temp\Process Improvement\DR Reform\RD Checklist 020209.doc

## 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 policies as part of the Residential Design Guidelines.
- Parking policies for larger multi-unit buildings with units containing 3 or more bedrooms.



# SAN FRANCISCO PLANNING DEPARTMENT

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## 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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**Reviewed by:** Lawrence Badiner, Zoning Administrator  
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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

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## 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.

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 DiFrancisco, 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 abut 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.

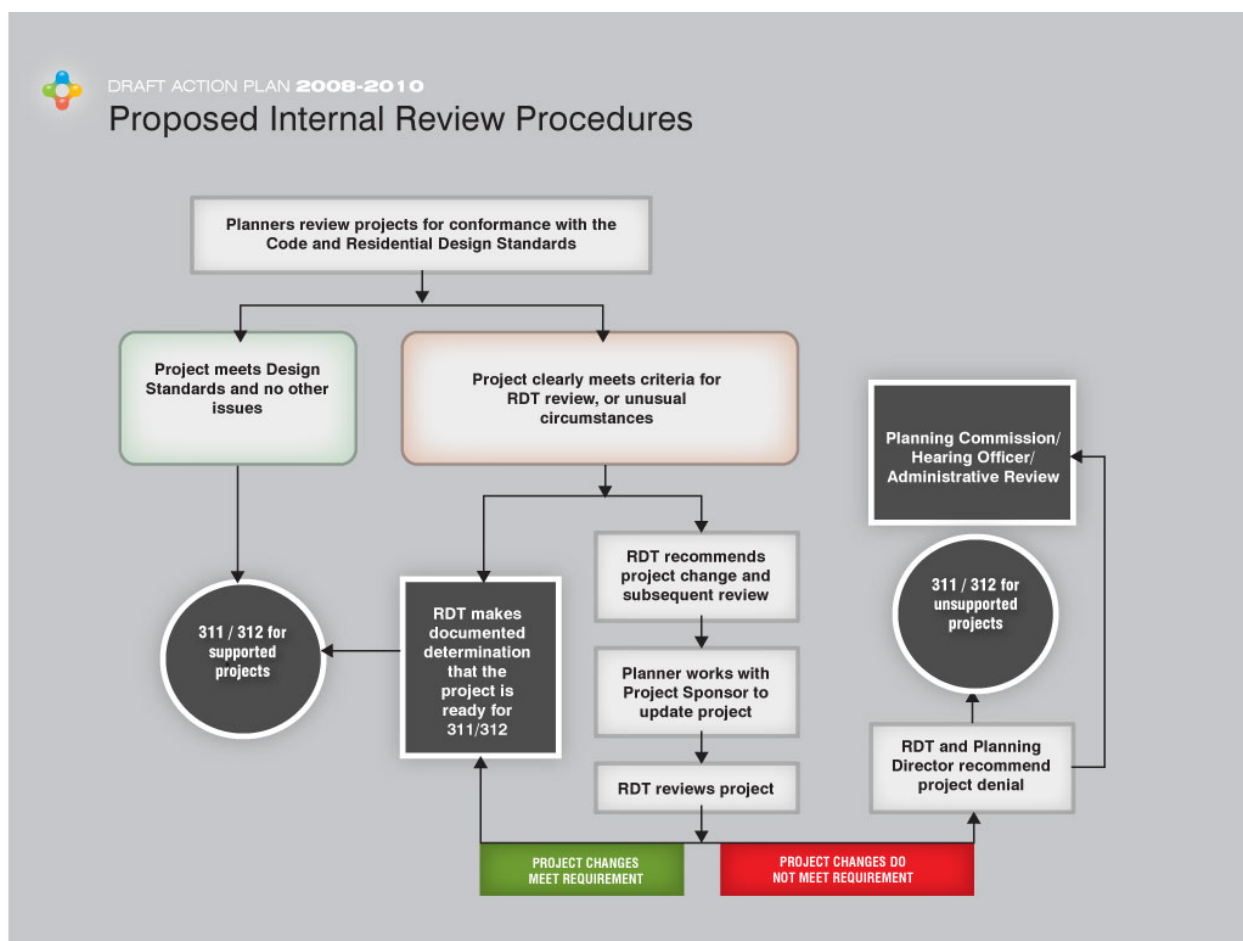
A separate group is developing recommendations for a comprehensive Design Review process, and will bring those recommendations to the Commission as part of the advancement of the Department's Action Plan.

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.<sup>1</sup> 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.

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<sup>1</sup> 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.



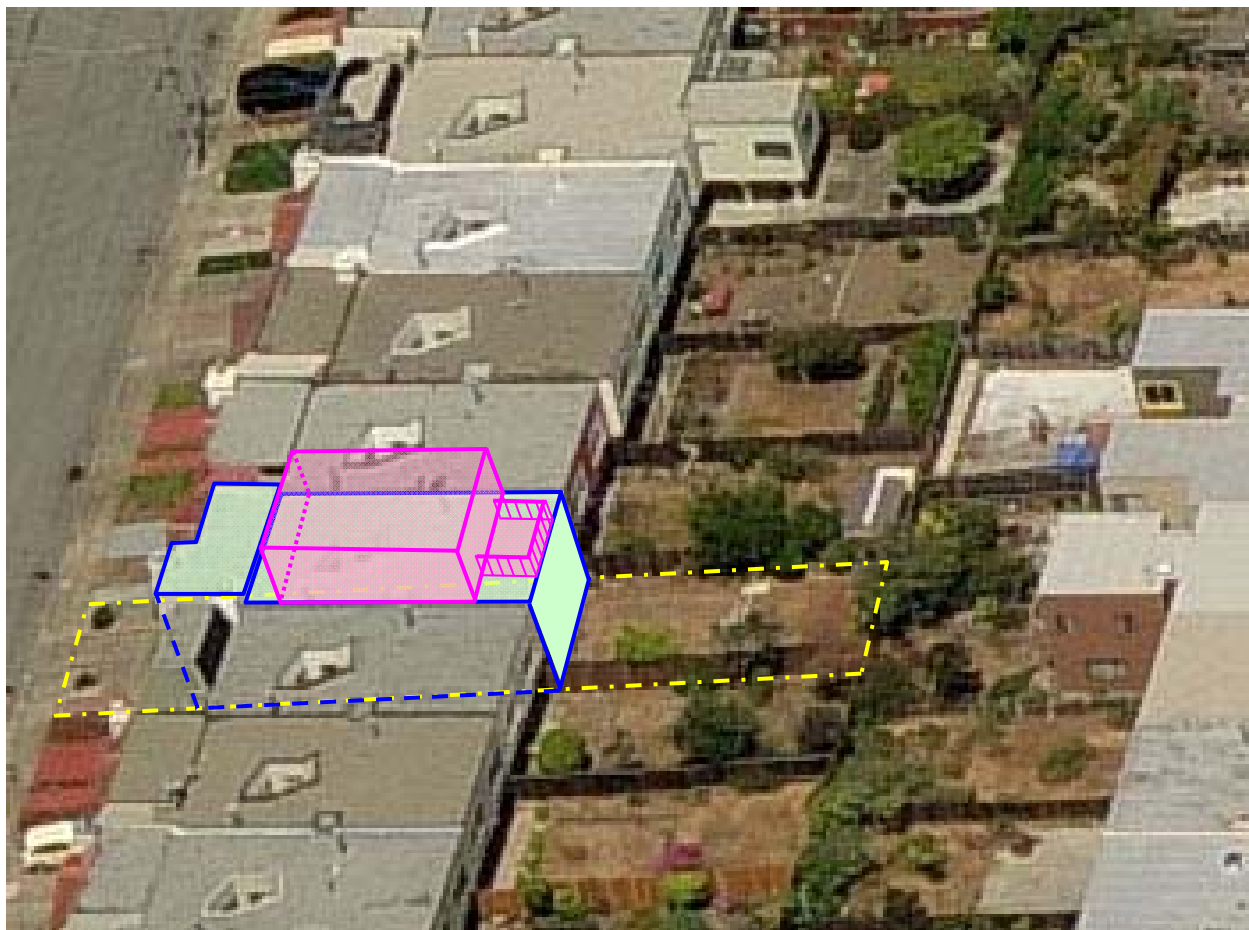


**GRAPHIC C: HYPOTHETICAL VERTICAL ADDITION**

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.

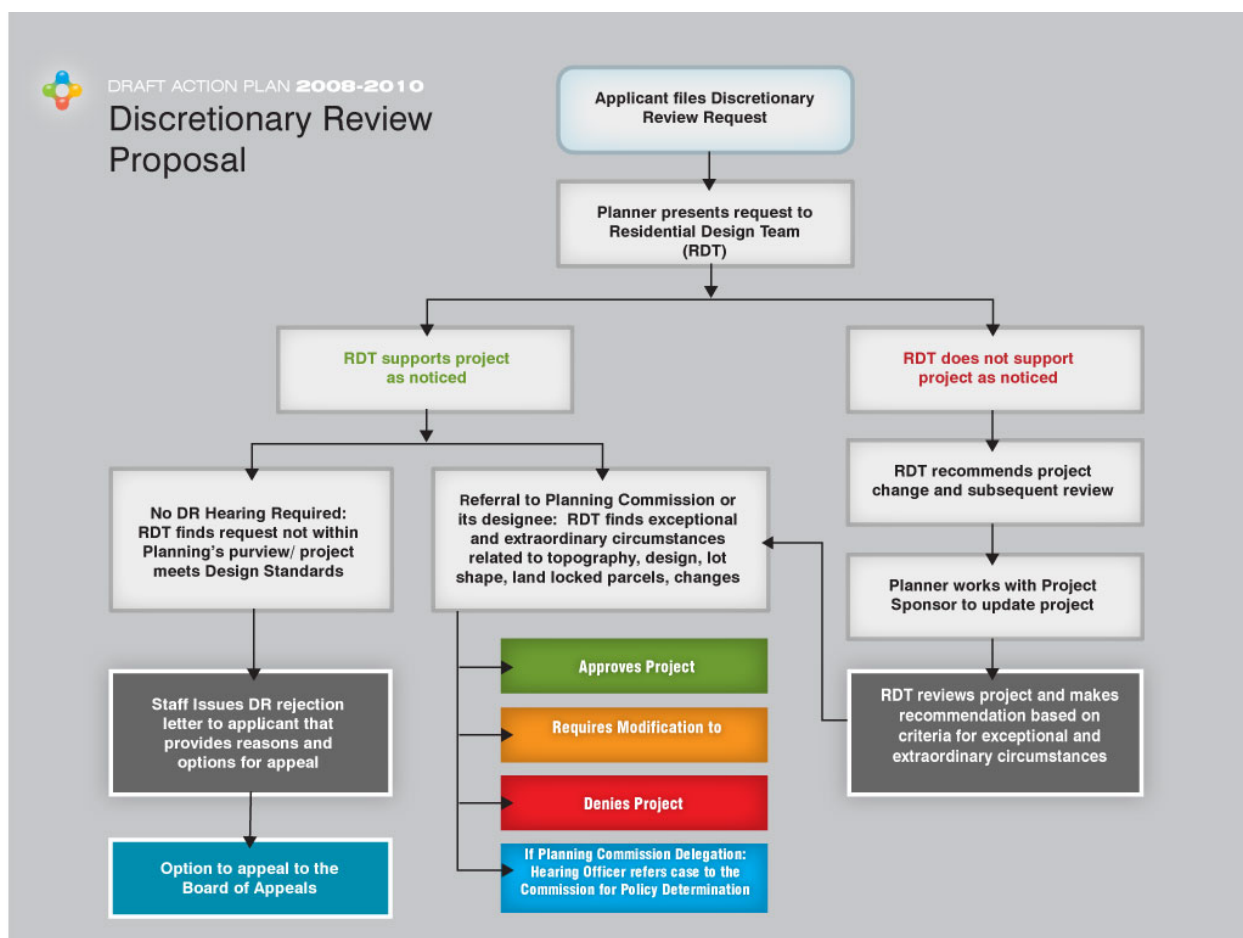
The Residential Design Standards strive to conserve neighborhood character, but they do not mandate or encourage false historicism. Although this project was the subject of a DR request in 2001, because it is respectful of the established neighborhood character, and is also an excellent design “of its 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 29<sup>th</sup>, November 5<sup>th</sup>, 12<sup>th</sup> and 19<sup>th</sup>, 2009, outreach meetings

Attachment IV – Attendance at February 10<sup>th</sup>, 2009, outreach meeting

Attachment V – Formal Proposals from Community Members presented February 10<sup>th</sup>

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**

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## **DRAFT Pre-Application Information Packet**

Adopted by the San Francisco Planning Commission on June 18, 2009

## What is the Pre-Application Process?

The Pre-Application Process shall be required to occur for certain alterations and new construction projects located in all zoning districts subject to Section 311 or 312 Notification prior to the filing of any entitlement. Projects meeting or exceeding the following scope of work are subject to the pre-application procedures outlined in this packet:

- 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 any entitlement (this includes but is not limited to Building Permits, Variances, and Conditional Use Authorizations) the project sponsor must conduct a minimum of one pre-application meeting if the proposed scope of work 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](http://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 \$816 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](http://www.sfgov.org/planning) under the Applications link for more information).
- Meetings are to be conducted from 6:00 p.m. -9:00 p.m., Mon.-Fri.; and from 10:00 a.m. -9:00 p.m., Sat-Sun., unless the Project Sponsor has selected a *Department 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#: \_\_\_\_\_; Zoning: \_\_\_\_\_), 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](http://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 Standards, 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](mailto:jim.mccormick@sfgov.org). You may also find information about the San Francisco Planning Department and on-going planning efforts at [www.sfplanning.org](http://www.sfplanning.org).



# 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 any entitlement (Building Permit, Variance, Conditional Use, etc.) 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 entitlement 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
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1. _____				<input type="checkbox"/>
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2. _____				<input type="checkbox"/>
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3. _____				<input type="checkbox"/>
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4. _____				<input type="checkbox"/>
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5. _____				<input type="checkbox"/>
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6. _____				<input type="checkbox"/>
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7. _____				<input type="checkbox"/>
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8. _____				<input type="checkbox"/>
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9. _____				<input type="checkbox"/>
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10. _____				<input type="checkbox"/>
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11. _____				<input type="checkbox"/>
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12. _____				<input type="checkbox"/>
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13. _____				<input type="checkbox"/>
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14. _____				<input type="checkbox"/>
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# 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): \_\_\_\_\_

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Project Sponsor Response: \_\_\_\_\_

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Question/Concern #2: \_\_\_\_\_

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Project Sponsor Response: \_\_\_\_\_

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Question/Concern #3: \_\_\_\_\_

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Project Sponsor Response: \_\_\_\_\_

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Question/Concern #4: \_\_\_\_\_

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Project Sponsor Response: \_\_\_\_\_

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Question/Concern #5: \_\_\_\_\_

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Project Sponsor Response: \_\_\_\_\_

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Question/Concern #6: \_\_\_\_\_

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Project Sponsor Response: \_\_\_\_\_

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Question/Concern #7: \_\_\_\_\_

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Project Sponsor Response: \_\_\_\_\_

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Question/Concern #8: \_\_\_\_\_

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Project Sponsor Response: \_\_\_\_\_

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