

Discretionary Review Reform

Community Outreach Meeting
February 02, 2010

SAN FRANCISCO
PLANNING DEPARTMENT



Community Outreach

- Engaged in process with many of you for over a year
- Proposal significantly changed as a result of the Commission's requirement for community engagement (from hearing officer to two-year trial period)
- Department team would very much like to test the Commission's DR Reform package for public review



Agenda

- Brief overview of proposal

- Focus on Administrative Review
 - Alignment with Commission since June
 - Results of project survey

- Open dialog

What is Discretionary Review (DR)?

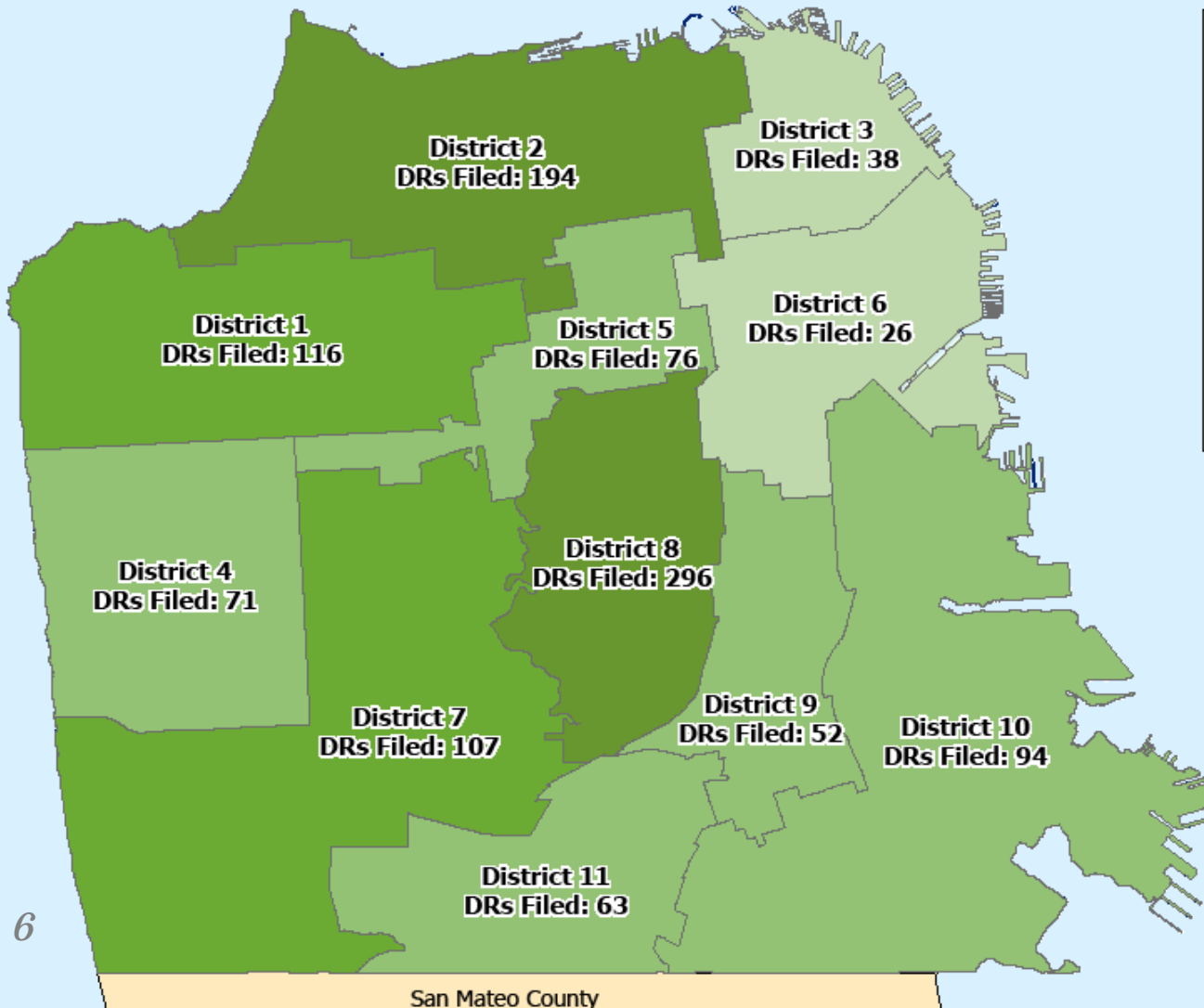
- DR is the mechanism one can use to have the Planning Commission review a Code-compliant project that would otherwise be reviewed by the Department.
- This does not replace the public's appeal rights, which are vested with the Board of Appeals.




How do “DR’s” work?

- Projects are typically “DR’d” during the 30-day neighborhood notification (Section 311/312).
- DR’s are not typically filed on large projects; they are typically filed on relatively small additions to one-and two-family dwellings.
- Anyone can file a DR for any reason for a \$300 fee; the fee is waived for registered neighborhood organizations.
- Once a DR is filed, the Planning Commission can “take DR” to modify or deny a project.

Where do DR's occur?




 CITY AND COUNTY OF SAN FRANCISCO
PLANNING DEPARTMENT

Number of DRs Filed Since 2001*

- 0 - 50
- 51 - 100
- 101 - 150
- over 150

*excludes mandatory and staff-initiated DRs

10/7/2009



What are the Shortcomings of DR?

- Delayed projects
- Project sponsors can DR their own projects to advance out-of-scale proposals to the Commission
- Development potential can be determined by the temperament of the neighbor
- Inappropriate financial exchanges
- DR Requestor often expects Staff or the Planning Commission to modify the project regardless of the merits of the DR issues
- DR decisions do not necessarily get applied to future projects, nor do they serve to clarify appropriate project review standards
- Difficult for the Planning Commission to dispense fair outcomes due the small representation of projects that they see.

According to numerous audits and reports, the current DR process is an arbitrary and political approval process that takes too much time away from the Commission's ability to focus on larger policy issues.

Goals of DR Reform

- Need for Community Engagement, Improved Communication, and a Framework for Establishing Realistic Expectations
- Need for Stronger Internal Design Review, and the Identification and Resolution of Policy Issues
- Need for a Consistent and Predictable Permitting Process

Commission's Proposal

- Commission adopted a policy and initiated legislation to significantly improve the DR and the Department's review process.
- They initiated the policy as a two-year trial period with a full public evaluation at the end of the trial period.
- The Policy established a strong feedback loop among the Department, Commission and public through weekly and quarterly updates, brown-bag discussion, and a complete evaluation initiated 18 months into the trial period.

Commission's Policy

1. Creation of a standardized pre-application packet;
2. Improved internal design review;
3. Written documentation of RDT comments;
4. Creation of Discretionary Review website;
5. Defined “exceptional and extraordinary circumstances”;
6. Establish 90-day timeline for review of DR’s.
7. Use precedent-setting Commission decisions on DR as policy guidance for review of future projects;
8. Identify aspects of the Design Standards that need clarity and report them to the Planning Commission quarterly;
9. Have brown-bag discussions to shape amendments to Design Standards.



Commission's Pending Legislation

- Use the definition of exceptional and extraordinary circumstances to allow only those projects to proceed to a Planning Commission hearing;
- Eliminate option for project sponsors to file DR on their own projects;
- Change name of Design Guidelines to Design Standards;
- Initiate 24-month trial period for reforms; and
- Offer interested parties the option of “Reconsideration”
 - Allows for a second review by the Department and full fee refund if the Department made an error.



Intended Benefits of DR Reform

- Early community engagement and improved communication
- Stronger internal review procedures that result in higher quality development
- Elimination of Planning Commission hearings for DR's that do not represent "exceptional or extraordinary" circumstances.
- Enable the Commission to focus on larger policy issues
- Targeted discussions about updating Design Standards
- A more consistent and predictable permit process



Department's Alignment

- The Department has tracked its alignment with the Commission's Hearing actions on all public-initiated and staff-initiated DRs from April 9 through December 17, 2009.
- The data shows concurrence and disagreement between staff and the Commission on two points:
 - hearing delegation
 - project outcome





Department's Alignment

Tabulation of the 23 DRs with Commission action, excluding Mandatory DR cases:

CASE #	DR TYPE	ADDRESS	DEPT. RECOMMENDATIONS			COMMISSION				ACTION	POLICY	
			STAFF	RDT	DR POLICY	ACTION	VOTE	DATE	DR POLICY	ACCORD?	ACCORD?	
1	2009.0158D	P	66 ELLSWORTH ST	no DR & approve	no DR & approve	no hearing	no DR & approve	+6-0	04/09/09	no hearing	Commission & RDT agree? TRUE	Commission & RDT agree? TRUE
2	2008.1383D	P	3944 21ST ST	no DR & approve	no DR & approve	no hearing	no DR & approve	+6-0	04/23/09	no hearing	TRUE	TRUE
3	2008.0327D	P	2012 14TH AV	no DR & approve	no DR & approve	no hearing	no DR & approve	+6-0	05/14/09	no hearing	TRUE	TRUE
4	2006.0401D	P	395 ATHENS ST	no DR & approve	n/a	n/a	no DR & approve	+6-0	05/21/09	n/a	(TRUE)	
5	2009.0256D	P	1760-70 FILBERT ST	DR & modify	n/a	n/a	DR & modify	+6-0	05/28/09	n/a	(TRUE)	
6	2007.0129Dx3	P	100 32ND AV	no DR & approve	n/a	n/a	DR & modify	+4-2	06/04/09	n/a	(FALSE)	
7	2008.0285D	P	109 ALPINE TE	no DR & approve	no DR & approve	no hearing	no DR & approve	+4-0	06/04/09	no hearing	TRUE	TRUE
8	2009.0230D	P	138 25th AV	no DR & approve	no DR & approve	no hearing	no DR & approve	+6-0	06/18/09	no hearing	TRUE	TRUE
9	2009.0337D	P	574 NATOMA ST	no DR & approve	no DR & approve	no hearing	DR for Code issue	+5-0	06/18/09	no hearing	REQ FOR RECONSDN	TRUE
10	2007.0231D	P	2750 VALLEJO ST	no DR & approve	no DR & approve	no hearing	no DR & approve	+6 -0	07/23/09	no hearing	TRUE	TRUE
11	2009.0556D	P	226 28th ST	no DR & approve	no DR & approve	no hearing	no DR & approve	+7 -0	08/13/09	no hearing	TRUE	TRUE
12	2009.0635D	P	635 BURNETT AV	no DR & approve	no DR & approve	no hearing	no DR & approve	+7 -0	08/13/09	no hearing	TRUE	TRUE
13	2009.0547D	P	225-227 LAGUNA ST	no DR & approve	no DR & approve	no hearing	DR & disapprove	+7 -0	08/13/09	hearing	FALSE	FALSE
14	2009.0642D	P	2642-2644 HYDE ST	no DR & approve	no DR & approve	no hearing	no DR & approve	+6-0	09/24/09	no hearing	TRUE	TRUE
15	2009.0479D	P	772 WISCONSIN ST	no DR & approve	no DR & approve	no hearing	no DR & approve	+5-1	09/24/09	no hearing	TRUE	TRUE
16	2009.0750D	P	70 LINDA ST	no DR & approve	no DR & approve	no hearing	DR & modify	+6-0	10/01/09	no hearing	FALSE	TRUE
17	2009.0584DD	P	3900 22nd ST	no DR & approve	no DR & approve	no hearing	no DR & approve	+5-2	11/05/09	no hearing	TRUE	TRUE
18	2009.0950D	P	820-822 BAY ST	no DR & approve	no DR & approve	no hearing	deemed approved	+3-3	12/03/09	n/a	TRUE	
19	2009.0825D	P	1354 RHODE ISLAND ST	no DR & approve	no DR & approve	no hearing	no DR & approve	+6-0	12/03/09	no hearing	TRUE	TRUE
20	2009.0382D	P	71 GRANADA AV	DR & modify	DR & modify	hearing	no DR & approve	+7-0	12/10/09	hearing	FALSE	TRUE
21	2009.0667D	S	1826 32nd AV	DR & modify	DR & modify	hearing	DR & modify	+4-3	12/10/09	hearing	TRUE	TRUE
22	2009.0102DPV	S	1966 GREAT HIGHWAY	DR & modify	DR & modify	hearing	DR & modify	+7-0	12/17/09	hearing	TRUE	TRUE
23	2009.0904D	P	1701 9th AV	no DR & approve	no DR & approve	no hearing	no DR & approve	+7-0	12/17/09	no hearing	TRUE	TRUE

Department's Alignment

19 cases with clear Hearing Delegation comparison

CASE #	D R TYPE	ADDRESS	COMMISSION				
			ACTION	VOTE	DATE	DR POLICY	
1	2009.0158D	P	66 ELLSWORTH ST	no DR & approve	+6-0	04/09/09	no hearing
2	2008.1383D	P	3944 21ST ST	no DR & approve	+6-0	04/23/09	no hearing
3	2008.0327D	P	2012 14TH AV	no DR & approve	+6-0	05/14/09	no hearing
7	2008.0285D	P	109 ALPINE TE	no DR & approve	+4-0	06/04/09	no hearing
8	2009.0230D	P	138 25th AV	no DR & approve	+6-0	06/18/09	no hearing
9	2009.0337D	P	574 NATOMA ST	DR for Code issue	+5-0	06/18/09	no hearing
10	2007.0231D	P	2750 VALLEJO ST	no DR & approve	+6 -0	07/23/09	no hearing
11	2009.0556D	P	226 28th ST	no DR & approve	+7 -0	08/13/09	no hearing
12	2009.0635D	P	635 BURNETT AV	no DR & approve	+7 -0	08/13/09	no hearing
13	2009.0547D	P	225-227 LAGUNA ST	DR & disapprove	+7 -0	08/13/09	hearing
14	2009.0642D	P	2642-2644 HYDE ST	no DR & approve	+6-0	09/24/09	no hearing
15	2009.0479D	P	772 WISCONSIN ST	no DR & approve	+5-1	09/24/09	no hearing
16	2009.0750D	P	70 LINDA ST	DR & modify	+6-0	10/01/09	no hearing
17	2009.0584DD	P	3900 22nd ST	no DR & approve	+5-2	11/05/09	no hearing
19	2009.0825D	P	1354 RHODE ISLAND ST	no DR & approve	+6-0	12/03/09	no hearing
20	2009.0382D	P	71 GRANADA AV	no DR & approve	+7-0	12/10/09	hearing
21	2009.0667D	S	1826 32nd AV	DR & modify	+4-3	12/10/09	hearing
22	2009.0102DPV	S	1966 GREAT HIGHWAY	DR & modify	+7-0	12/17/09	hearing
23	2009.0904D	P	1701 9th AV	no DR & approve	+7-0	12/17/09	no hearing

Agreement on 18 out of 19 cases regarding Hearing Delegation

one misalignment

= 95% Agreement



Department's Alignment

23 cases with clear Project Outcome comparisons

CASE #	DR TYPE	ADDRESS	COMMISSION			
			ACTION	VOTE	DATE	DR POLICY
1	P	66 ELLSWORTH ST	no DR & approve	+6-0	04/09/09	no hearing
2	P	3944 21ST ST	no DR & approve	+6-0	04/23/09	no hearing
3	P	2012 14TH AV	no DR & approve	+6-0	05/14/09	no hearing
4	P	395 ATHENS ST	no DR & approve	+6-0	05/21/09	n/a
5	P	1760-70 FILBERT ST	DR & modify	+6-0	05/28/09	n/a
7	P	109 ALPINE TE	no DR & approve	+4-0	06/04/09	no hearing
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11	P	226 28th ST	no DR & approve	+7 -0	08/13/09	no hearing
12	P	635 BURNETT AV	no DR & approve	+7 -0	08/13/09	no hearing
14	P	2642-2644 HYDE ST	no DR & approve	+6-0	09/24/09	no hearing
15	P	772 WISCONSIN ST	no DR & approve	+5-1	09/24/09	no hearing
17	P	3900 22nd ST	no DR & approve	+5-2	11/05/09	no hearing
18	P	820-822 BAY ST	deemed approved	+3-3	12/03/09	n/a
19	P	1354 RHODE ISLAND ST	no DR & approve	+6-0	12/03/09	no hearing
21	S	1826 32nd AV	DR & modify	+4-3	12/10/09	hearing
22	S	1966 GREAT HIGHWAY	DR & modify	+7-0	12/17/09	hearing
23	P	1701 9th AV	no DR & approve	+7-0	12/17/09	no hearing

Agreement
on 19 out of
23 cases
regarding
Project
Outcome

= **83%**
Agreement



Department's Alignment

4 cases where Commission and RDT differed on Project Outcome:

CASE #	DR TYPE	ADDRESS	STAFF	COMMISSION			
				ACTION	VOTE	DATE	
6	2007.0129Dx3	P	100 32ND AV	no DR & approve	DR & modify	+4-2	06/04/09
13	2009.0547D	P	225-227 LAGUNA ST	no DR & approve	DR & disapprove	+7 -0	08/13/09
16	2009.0750D	P	70 LINDA ST	no DR & approve	DR & modify	+6-0	10/01/09
20	2009.0382D	P	71 GRANADA AV	DR & modify	no DR & approve	+7-0	12/10/09

Commission modified 4 projects

Of these 4 cases, the Commission's Project Outcome increased the impact of the project on 1, had little impact in 2 cases, and decreased the impact (disapproved the project) in 1 case.

= 17% Disagreement



Summary of Recent DR Examples

	Address	Permit No.	Case No.	Description
1	71 Granada	2009.02.25.2872	2008.0673DV	Major Alteration to (E) rear cottage
2	795 Foerster	2008.05.06.1388	2008.0871DD	Subdivision and construction of 3 single-family dwellings
3	136 Ord Street	2009.07.14.2604	2009.1124DD	New Construction of a SFR at front of lot
4	1376 Florida	2009.03.27.4981	2009.0124DV	Horizontal & vertical addition, add a garage, add unit (1 to 2 DUs)
5	357 Howth Street	2003.04.21.2744	2003.086D	Two-story rear addition to enclose first floor deck
6	1321 De Haro	2008.04.03.8738 2008.04.03.8738	2008.0505 DDDV	Mandatory DR-Demo SFR and construct new 3 unit bldg
7	317 Connecticut Street	2009.0625.1244	2009.0856D	Change the use: retail to a small self-service restaurant
8	455 - 27th Street	2005.10.17.5751	2006.0406DD	8-foot horizontal rear addition, vertical 3 rd story
9	1671 11th Avenue	2006.03.24.7492	2007.1467DD	One-story vertical addition, alter front facade, relocate existing second DU to top floor

KEY

	Would continue to refer similar projects to PC
	The PC did not take DR; the Department was in alignment with the PC.
	Pre RDT Controls - some examples might require modifications under current process.
	Use DR – Dept. will continue to refer Use DRs to PC until a specific Policy is established with the PC



Options to Improve Aspects of DR Reform Package

1. Based on analysis of the DR examples, the Department has two possible suggestions for referral to the Commission:
 - a. Residential new construction projects not already subject to a Mandatory DR or CU.
 - b. Expansions of buildings located in the required rear yard.

2. Three year instead of two-year trial period for fuller public evaluation due to economic downturn.

QUESTIONS and COMMENTS

