

DISCRETIONARY REVIEW (D.R.) APPLICATION
to the
SAN FRANCISCO PLANNING COMMISSION

This application must be submitted when requesting the Planning Commission to exercise its power of Discretionary Review over a building permit application. Planning Code Article 3.5A requires a fee for filing the application.

WHAT IS D.R.?

The Planning Commission has discretion over all building permit applications. Normally, this discretion is delegated to the Planning Department, which approves applications that meet the minimum standards of the Planning Code, including the priority policies of Code Section 101.1 (established by voter approval of Proposition M in 1986).

From time to time the Commission will review a permit application. The Commission may determine that modifications to the proposed project are necessary in order to protect the public interest. If so, they can require the permit applicant to make the necessary changes. The Department will disapprove the application unless the required changes are made. This process of Commission consideration is commonly known as "Discretionary Review" or simply "D.R." By filing a D.R. application, a member of the public is asking the Commission to exercise its discretionary power.

Discretionary Review is a special power of the Commission, outside the normal building permit application approval process. It is supposed to be used only when there are exceptional and extraordinary circumstances associated with a proposed project. The Commission has been advised by the City Attorney that the Commission's discretion is sensitive and must be exercised with utmost constraint.

WHAT IS THE PROCESS?

D.R. comes near the end of the building permit application process. Permit applicants are encouraged to meet with their neighbors to discuss the project and discover -- and hopefully resolve -- any issues or concerns before a permit application is even filed. After an application has been filed, a Department staff planner reviews the application for compliance with the Planning Code, applicable design guidelines and the priority policies of Code Section 101.1, which include protecting neighborhood character. Interested neighbors can contact the planner reviewing the permit to raise special issues of concern.

Once the planner determines the minimum standards are met and the project is approvable, the applicant is required to mail a notice to nearby residents. The notice describes the project, and generally includes copies of the plans. The application is held for up to 30 days to allow neighbors to assess the project and determine whether there are any exceptional and extraordinary circumstances which they feel warrant D.R. and, if so, to file a D.R. request. The Planning Department only accepts D.R. requests during this 30-day public notification period. If a D.R. is requested, the Zoning Administrator shall set a time for hearing requests for discretionary review by the Planning Commission within a reasonable period.

An alternative to requesting discretionary review by the Planning Commission is to appeal the issuance of the permit to the Board of Appeals. Such an appeal may be filed within 15 days of the date of permit issuance. (Permits are officially issued by the Central Permit Bureau [558-6070], which comes well after Planning approval.)

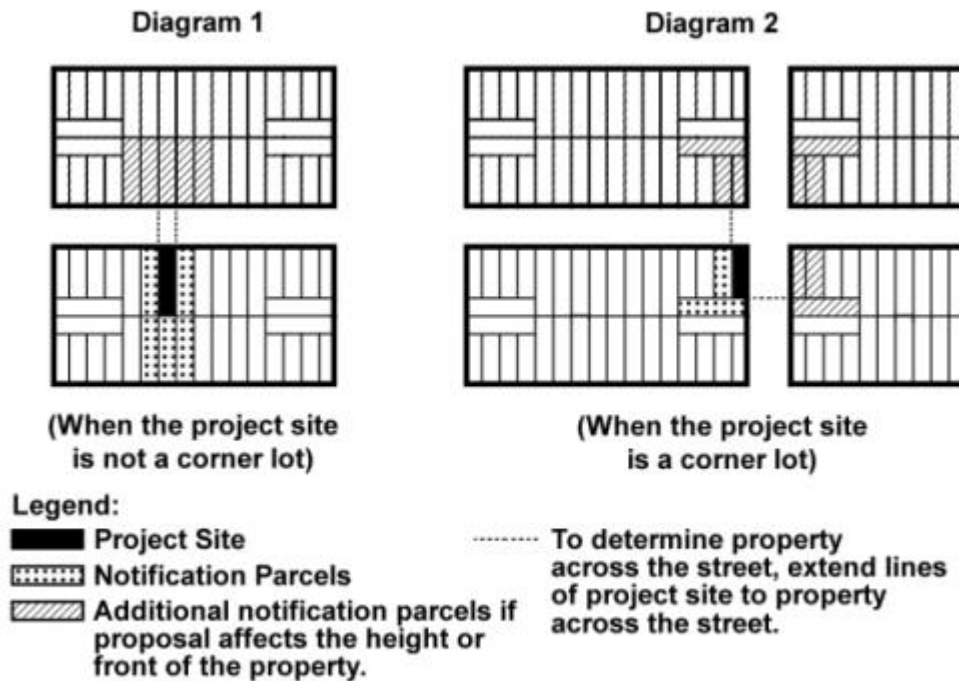
SOLVING YOUR OWN PROBLEMS

The Planning Commission strongly encourages all interested parties to make every effort to resolve among themselves any concerns about a proposed project before it becomes necessary to request the Commission to step in and exercise its power of discretionary review. Please begin by meeting with the building permit applicant and other concerned parties to discuss the project. You may also raise specific concerns and recommendations for changes with the Department's permit review planner (call 558-6377). If differences remain, the San Francisco Community Boards offers mediation help. The Commission recommends this non-binding service. Please contact the Community Boards (415 **920-3820**) directly. The Community Boards mediation is free.

INSTRUCTIONS FOR COMPLETING THE D.R. APPLICATION

1. Applicants requesting Discretionary Review must fill out the attached application and **submit it in person at the Planning Information Center, 1660 Mission Street, first floor**, with the required materials along with a check payable to the Planning Department. (Please consult the current fee schedule, available at the Planning Information Center.) The application will **not be accepted by mail, messenger or at the Planning Department reception desk**.
2. Answer all questions fully. Please type or print in ink. Attached additional pages as necessary, labeling all additional pages with the address of the property for which you are requesting Discretionary Review. Please number each page accordingly.
3. You must provide each of the following to accompany your Discretionary Review application. If these materials are not included the Discretionary Review application cannot be accepted.
 - a. Mailing Lists: Two copies of a typewritten list including all the parties listed below must be submitted with your application. The first copy must be on gum-backed, self-adhering labels, and the second must be a photocopy of the labels (or a second set of labels). Include:
 - names and addresses of all concerned parties which you are aware.
 - name(s) and address(es) of building permit applicant(s).
 - discretionary review applicant's name and address.
 - names and addresses of all abutting property owners and occupants and property owners and occupants directly across the street from the subject property (please see the diagram below).

The names and addresses for the mailing list can be obtained at the Assessor's Office, City Hall, Room 190.



- b. Discretionary Review Application: Legibly print your name, address and phone number on the appropriate lines. If you are acting as an authorized agent, please indicate the name of the party you represent in the appropriate section. You should answer all the questions on the application. Include specific reasons for requesting Discretionary Review and a clear description of the proximity of your property to the subject site.

Be specific as possible, especially in describing issues of concern. List all concerns and explain fully all projected impacts on surrounding properties, alternatives to the project, suggested changes to the project or other measures that would reduce the potential impacts. It is important to suggest reasonable alternatives, recognizing that the permit applicant normally would be allowed to build their project as originally proposed.

- c. Please submit an additional copy of the completed Discretionary Review Application. This copy will be sent to the permit applicant of whose project you are requesting discretionary review.
4. In making this application for D.R., you are requesting that the Planning Commission exercise control over a project that meets the zoning standards applicable to the subject site. The Commission only does this where exceptional and extraordinary circumstances exist. The burden of showing why a project that meets the minimum standards should be denied or modified rests with the D.R. Applicant. Consequently, you must make your request to the Planning Commission clear and concise. In addition to the written statement provided in your application, you may submit other materials that help prove your case. (Please keep submissions to 8.5" by 14" if possible, and preferably 8.5" by 11".)

- a. Photographs of both the subject site and surrounding street frontages are helpful in demonstrating your concerns. Please show the existing and anticipated neighborhood impact. Photographs should be adequate in size to show the nature of the property. In addition, please include photos showing specific concerns. Identify on the back of the photo the address of the buildings photographed, including the subject site and the point from which the photograph was taken.
- b. If you are aware of relevant covenants or deed restrictions on the property relevant to the subject of this Application, describe these restrictions, or submit a copy and indicate their expiration date, if any. (Note: covenants bind the owner, not the City.)
- c. All plans, photographs and other exhibits submitted with this application will be retained as part of the permanent public record.

ADDITIONAL INFORMATION ABOUT D.R.

The Planning Commission may use its discretionary powers to review any building permit application that meets the minimum requirements and standards of the Planning and other Codes, if the Commission judges that action on the application is necessary to ensure that the interests of the City and its neighborhoods are protected. Any concerned party may request discretionary review by filing the appropriate application with the Planning Department. However, the Commission reserves this power for exceptional and extraordinary circumstances, generally involving conflicts with the City's Master Plan and the Planning Code Priority Policies (Code Section 101.1, adopted as a result of voter approval of Proposition M in 1986). For persons concerned about projects that do not meet such standards, an appropriate recourse is to file an appeal with the Board of Appeals (BA). The BA may exercise authority over building permit applications and other matters not warranting D.R. at the Planning Commission.

The Planning Commission's power of discretion over all building permit applications derives from the City Charter and Section 26, Part III of the Municipal Code which establish the regulations regarding permit applications. The authority to review permit applications that meet the minimum standards applicable under the Planning Code is set forth by City Attorney Opinion No. 845, dated May 26, 1954. The opinion states that the authority for the exercise of discretionary review is "a sensitive discretion...which must be exercised with the utmost restraint" to permit the Commission "to deal in a special manner with exceptional cases." Therefore, discretionary review should be exercised only when exceptional and extraordinary cases apply to the proposed construction, and modifications required only where the project would result in a significant impact to the public interest. The City Attorney's Opinion was reviewed in 1979 and re-affirmed with Opinion No. 79-29, dated April 30, 1979, and the power of Discretionary Review has been upheld in the courts.

D.R. HEARING PROCEDURES

If no resolution is achieved between neighbors or with the help of Department staff, or Community Board mediation services, the Commission will hold a public hearing after the close of the notification period in which it will consider whether to approve, disapprove or require modifications to the project. The Commission will make its decision on the case based on the materials submitted by the permit applicant, D.R. requester and interested parties, as well as the testimony presented to the Commission at the scheduled public hearing.

The procedure for the public hearing will be as follows:

1. A brief description of the project issues and concerns by the Planning Department staff.
2. A presentation of the proposal by the D.R. requester -- not to exceed five (5) minutes. As stated above, all materials submitted by the applicant to the Department will be sent to the Commission for review one week prior to the scheduled hearing date. During the presentation, D.R. applicants should briefly describe their concerns about the proposed construction, how it affects their property or the neighborhood, and acceptable alternatives. Additional materials pertinent to the case may also be presented to the Commission at this time.
3. Presentation(s) supporting the D.R. request by other individuals or by a member of a neighborhood group or organization -- each speaker not to exceed three (3) minutes. Testimony should be kept brief and not duplicate the testimony or previous speakers. If possible, one person should be selected as the representative to make a presentation to the Commission. The Commission urges all parties supporting the D.R. request to limit the total length of their presentations to 15 minutes.
4. Presentation by project sponsor (building permit applicant) -- not to exceed five (5) minutes. Project sponsor should address concerns of the D.R. requester and other individuals, including concerns articulated at the hearing, and demonstrate to the Commission why the project should be approved.
5. Presentation by persons or organizations supporting the project sponsor -- not to exceed three (3) minutes. The Commission urges all parties supporting the D.R. request to limit the total length of their presentations to 15 minutes.
6. The Commission may allow the D.R. requester a rebuttal not to exceed two minutes.
7. The Commission may allow the project sponsor a rebuttal not to exceed two minutes.
8. Public testimony is closed. The Commissioners may ask questions of various persons during their discussion and consideration of the project.
9. Action by Commission on the matter before it. The Commission can vote either to approve the project, approve it subject to certain modifications, disapprove it, or continue the case to a future date.

The Planning Commission action can be appealed to the Board of Appeals within fifteen (15) days of the issuance or denial of the building permit application by the Central Permit Bureau.

APPLICATION REQUESTING DISCRETIONARY REVIEW ("D.R.")

This application is for projects where there are exceptional and extraordinary circumstances that justify further consideration, even though the project already meets requirements of the Planning Code, City General Plan and Priority Policies of the Planning Code.

D.R. Applicant's Name _____ Telephone No: _____

D.R. Applicant's Address _____
Number & Street (Apt. #)
City Zip Code

D.R. Applicant's telephone number (for Planning Department to contact): _____
If you are acting as the agent for another person(s) in making this request please indicate the name and address of that person(s) (if applicable):

Name _____ Telephone No: _____

Address _____
Number & Street (Apt. #)
City Zip Code

Address of the property that you are requesting the Commission consider under the Discretionary Review: _____

Name and phone number of the property owner who is doing the project on which you are requesting D.R.: _____

Building Permit Application Number of the project for which you are requesting D.R.: _____

Where is your property located in relation to the permit applicant's property?

A. ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

Citizens should make very effort to resolve disputes before requesting D.R. Listed below are a variety of ways and resources to help this happen.

1. Have you discussed this project with the permit applicant? YES **G** NO **G**
2. Did you discuss the project with the Planning Department permit review planner? YES **G** NO **G**
3. Did you participate in outside mediation on this case? Community Board **G** Other **G** NO **G**

4. If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the results, including any changes that were made to the proposed project so far.

B. DISCRETIONARY REVIEW REQUEST

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies?

2. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above (in question B1)?

Please write (in ink) or type your answers on this form. Please feel free to attach additional sheets to this form to continue with any additional information that does not fit on this form.

CHECKLIST FOR APPLICANT:

Indicate which of the following are included with this Application:

REQUIRED:

- G** Check made payable to Planning Department (see current fee schedule).
- G** Address list for nearby property owners, in label format, plus photocopy of labels.
- G** Letter of authorization for representative/agent of D.R. applicant (if applicable).
- G** Photocopy of this completed application.

OPTIONAL:

- G** Photographs that illustrate your concerns.
- G** Covenants or Deed Restrictions.
- G** Other Items (specify).

File this objection in person at the Planning Information Center. If you have **questions** about this form, please contact Information Center Staff from 8 a.m. to 5 p.m., Monday to Friday.

Plan to attend the Planning Commission public hearing which must be scheduled after the close of the public notification period for the permit.

Signed _____
Applicant

_____ Date