



DISCRETIONARY REVIEW

INFORMATIONAL PACKET

Pursuant to Planning Code Section 311 (d) and 312 (e), the Planning Commission may exercise its power of Discretionary Review over a building permit application.

Planning Department staff are available to advise you in the preparation of this application. Call 415.558.6377 for further information.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 415.575.9010. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文: 如果您希望獲得使用中文填寫這份申請表的幫助，請致電415.575.9010。請注意，規劃部門需要至少一個工作日來回應。

Tagalog: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 415.575.9121. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

WHAT IS A DISCRETIONARY REVIEW?

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 General Plan priority policies of Section 101.1 and Design Guidelines.

From time to time the Commission will review a permit application. As part of their discretionary powers, they can require the permit applicant to make changes to the project. This process of Commission consideration is commonly known as “Discretionary Review” or simply DR. By filing a DR application, a member of the public is asking the Commission to exercise its discretionary power, effectively taking a second look at the proposed project.

Discretionary Review is a special power of the Commission, outside the normal building permit application approval process. It is 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.

WHEN CAN A DISCRETIONARY REVIEW BE FILED?

If no resolution is achieved between neighbors or with the help of Department staff, or Community Board mediation services, concerned parties may choose to file a DR. By filing a DR, the project will not be approved at the end of the building permit notification period, and instead, the project will be decided by the Planning Commission at a public hearing, where they will approve, disapprove or require modifications to the project. This hearing will typically occur within 12 weeks after the close of the building permit notification period. The Commission will make its decision based on the staff analysis, materials submitted by the permit applicant, DR requestor, and other interested parties, as well as testimony at the Commission hearing.

WHO MAY APPLY FOR A DISCRETIONARY REVIEW AND WHEN CAN ONE APPLY?

Once the planner determines the minimum standards are met and the project is approvable, the Department will mail a notice to residents and property owners within 150 feet of the subject property, as well as registered neighborhood organizations. The notification period provides neighbors with the opportunity to assess the project and determine whether the project creates or contains any exceptional and extraordinary circumstances. If a member of the public or a neighborhood organization would like the Commission to assert their discretionary powers, a DR should be filed within the building permit notification period. Once a DR is requested, a hearing date will be set by the Planning Department within 12 weeks.

In addition to requesting discretionary review by the Planning Commission, one may appeal the issuance of the building 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 Department of Building Inspection's Central Permit Bureau (415.558.6070), this issuance comes well after the Planning Department's approval of the project.)

SUBMITTAL INSTRUCTIONS

Applicants requesting Discretionary Review must fill out the [Discretionary Review application](#) and submit it in person at the Planning Information Center, 1660 Mission Street, first floor, with the required materials along with a check, money order or debit/credit for the required intake fee amount (please consult with current [fee schedule](#)). The application will not be accepted by mail, messenger or at the Planning Department reception desk. Attach 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. You must provide each of the following to accompany your Discretionary Review application. Please answer all questions fully. Please type or print in ink and attach pages if necessary.

Please provide the following materials with the application:

Discretionary Review Application: 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 as 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.

A copy of the completed Discretionary Review Application will be sent to the permit applicant of whose project you are requesting discretionary review.

Photographs: Please include photographs of both the subject site and surrounding street frontages that 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.

Additional Criteria

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.)

In making this application for DR, 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. As part of DR reform, the Commission defined exceptional and extraordinary circumstances as the following:

“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.”

The burden of showing why a project that meets the minimum standards should be denied or modified rests with the DR 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 11”.) All plans, photographs and other exhibits submitted with this application will be retained as part of the permanent public record.

Supplemental materials for the Commission to review in addition to the initial DR application. The supplemental materials shall be submitted on 8 1/2” x 11” (folded 11” x 17” reduced plans may also be accepted).

Materials may be submitted directly to the Commission the day of the hearing.

Fees

Please refer to the [Planning Department Fee Schedule](http://www.sfplanning.org) available at www.sfplanning.org or at the Planning Information Center (PIC) located at 1660 Mission Street, First Floor, San Francisco. For questions related to the Fee Schedule, please call the PIC at 415.558.6377.

Planning Commission Hearing Timeline

- Eight (8) weeks prior to hearing: Project Sponsor submits project response to issues raised by the DR requestor with graphics (plans, renderings, etc.) to DR Coordinator.
- Six (6) weeks prior to hearing: project is reviewed at the Department’s design review team.
- Two (2) weeks prior to hearing: Deadline for submittal of public comment to be included in the Department’s staff report to the Commission.
- One (1) week prior to hearing: DR Coordinator delivers complete staff report packet to the Planning Commission Secretary.

Additional Information About Discretionary Review

The Planning Commission may use its discretionary powers to review any building permit application that meets the minimum requirements and standards of the Planning Code and adopted Design Guidelines, 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 General Plan and the Planning Code Priority Policies

The Planning Commission derives its discretionary review authority from San Francisco's Municipal Code under the Business & Tax Regulations Code, Article 1 Permit Procedures, Section 26 (a). 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.

To file your Discretionary Review application, please submit all required materials in person at the Planning Information Center (PIC) located at 1660 Mission Street at the ground floor. Please arrive with enough time prior to the submittal deadline to allow for a complete review of your submittal (including notification materials). Incomplete submittals will not be accepted.

WHAT APPLICANTS SHOULD KNOW ABOUT THE PUBLIC HEARING PROCESS AND COMMUNITY OUTREACH

- A. The Planning Commission encourages applicants to meet with all community groups and parties interested in their application early in the entitlement process. Department staff is available to assist in determining how to contact interested groups. Neighborhood organization lists are available on the Department's website. Notice of the hearing will be to adjacent neighbors, the Project Sponsor, and applicable neighborhood organizations. The applicant may be contacted by the Planning Department staff with requests for additional information or clarification. An applicant's cooperation will facilitate the timely review of the application.
- B. The Commission requests that applicants familiarize themselves with the procedure for public hearings, which are excerpted from the Planning Commission's Rules and Regulations below.

Hearings. A public hearing may be held on any matter before the Commission at either a Regular or a Special Meeting. The procedure for such public hearings shall be as follows:

1. A brief description of the project issues and concerns by the Planning Department staff. The DR Coordinator will gather comments and concerns from the neighborhood during the DR hearing's notification period. Neighborhood support or opposition will be reflected in a staff report presented at the Planning Commission hearing complete with the Planning Department recommendation to the Planning Commission to either take Discretionary Review or not take Discretionary Review.
2. A presentation of the proposal by the DR requestor – not to exceed five (5) minutes. During the presentation, DR 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 DR 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 DR request to limit the total length of their presentations to 15 minutes.
4. Presentation by the project sponsor (building permit applicant) – not to exceed five (5) minutes. Project sponsor should address concerns of the DR 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 Project Sponsor to limit the total length of their presentations to 15 minutes.
6. The Commission may allow the DR 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. Deliberation and action by the Commission on the matter before it. The Commission can vote to either approve the project, approve it subject to certain modifications, disapprove it, or continue the case to a future date.

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

- C. **Private Transcription.** The Commission President may authorize any person to transcribe the proceedings of a Regular, Special or Committee Meeting provided that the President may require that a copy of such transcript be provided for the Commission's permanent records.



San Francisco Planning

FOR MORE INFORMATION:

Call or visit San Francisco
Planning

Central Reception

1650 Mission Street, Suite 400
San Francisco CA 94103-2479

TEL: **415.558.6378**

FAX: **415 558-6409**

WEB: **<http://www.sfplanning.org>**

Planning Information Center (PIC)

1660 Mission Street, First Floor
San Francisco CA 94103-2479

TEL: **415.558.6377**

Planning staff are available by phone and at the PIC counter.
No appointment is necessary.