

DR Reform Meeting (5/6/10)

6:05ish meeting starts

Elaine – introduction, history of DR reform efforts, improvements made (commitments made). Administrative denial would have resulted in less staff time, failure to adopt, must make other changes to preserve improvements already made – internal changes.

November 2008 meeting – public does not trust department. Why is department moving forward with changes (behind our backs) usurping power from BoS. Cannot trust Department. No changes adopted.

Elaine – pre-app changes made.

Judy – ignored suggestions in 2004. No enforcement in pre-app.

700k of exterior changes, developer did not do pre-app.

BoS sent message, Commission hasn't heard message.

Elaine – BoS said Department to continue

BoS said nothing should be done?

Penelope – expedited fast track projects. This is not her proposal. Using exceptional and extraordinary.

Marilyn – more time to review and discuss process. Everyone should have right to full process and case report. Paying same rate. Not fair implementation of law. Can't be two-tiered process.

Elaine – rate doesn't cover cost of report.

Elaine – do people want to hear the proposal?

Steve Williams – No

Process is subjective.

Elaine – process needs to be described and examples given.

Al Martinez – can't we see proposal first, then talk about it. This is why things don't get done in planning. Property owners should have rights too. Have you seen the proposal?

Triggers need to be adjusted.

Garfinkel - Credibility of Department isn't very good right now.

Elaine – Department operating in good faith.

Group – No

Penelope – you twisted what I said. Difference is minor projects are small percentage.

Thursday night hearing. Senior managers are not here. Department not talking feedback from courts and is going off and doing what they want to do. Need meeting of the minds.

Elaine – respectfully disagree.

Penelope – You're a broken record.

Elaine – nobody is willing to listen to us.

Judy Berkowitz shirt– how long is presentation

Elaine – not willing to have staff subject to this. Will go around room and hear from group.

Penelope – now you don't want to give presentation.

Architect – many projects with frivolous DRs. Hostile environment that is not productive. Change is difficult. Need reform.

Vicki – came into process late. Did not get copy of presentation. Would like to see presentation.

Penelope – letter implies you're not going to listen to public.

Not just hostility – proposal is non-starter. We don't think so.

Kate – presentation at 6:28

Overview

Tier 1 packet submittal

Commission has decision if they want to increase.

Question about public comment in 3 minute or 5 minute.

Major vs. minor changes and taking DR.

Penelope – trying to cook statistics? Should commission take DR and require changes.

Bob – commission should take DR.

Tier 2 packet – same as existing.

Presentations. No rebuttal.

Penelope – what happens when people lie.

DR Examples for tier one. 15 hours spent.

Can you give addresses?

Example – spiral staircase. Question – what were concerns?

Garfinkel – I thought we were going to wait until after presentation for questions.

Did commission hear those cases?

Williams – spiral staircase didn't go to hearing. Resolution within one week. No staff time spent on DR. staircase moved to other side. How did staff spend 15 hours on case?

William - 2009 – only one. Staff cooked stats. Need to change threshold for Tier 1

Elaine – Department had two exceptional and extraordinary. Describes understanding of Williams position – change threshold by size.

Bob – different objectives – next door neighbors, doesn't like it because they don't like it – Department faced with economic fact that budget is based on fees – project sponsor pays fees – neighbor finds out requirements retroactively and tries to apply them – should have known them all along – expects muni to continue running on time if he's not paying enough. How long does it take to process case to get to hearing. How many projects did get improved through process.

ZA variances are blatantly illegal. Never justify 5 findings.

Williams – grants every variance. 90%.

Bob – his statistics were no better.

RDT – 8 staff members – 8 hours per meeting. Need technical skills.

Marilyn – 8 hours is not right.

Garfinkel – public to decide DR. I can be on a committee. I'm skills.

Bob – ZA deny projects for RDG.

Cathy – attorney – public – RDG depends on neighborhood. Something may be code complying, but incompatible with neighborhood. Lightwell example.

Misinterpretation of RDG is staff error. DR is only way to catch staff error. Whoever is paying for permit gets their way. Exceptional and extraordinary is department's design. Proposal is violation of the law. E E is department's way of hiding staff error. Applications are hard to draft. Must go through guidelines. Photograph, assessor's office for labels. Why would neighbor do this frivolously? Should not be left to staff interpretation.

Elaine – proposal for reconsideration to catch staff error. Should bring in city attorney again. Commission to use DR with utmost restraint. Use hyper-vigilant neighbors to get RDG complying projects. There are DRs that shouldn't be before the Planning Commission – i.e. sewer line.

No concern for complete plans. Only interested in height increases for additional revenue.

Elaine – it is a problem that department doesn't have GF support. CFO does not direct staff to find projects with more height.

Penelope – knows of projects where DR is filed to delay projects. Frivolous DRs are small projects. Size does matter. Assign projects by team – small projects to one team – get the projects through – discourage DR filing by expediting small project DRs – reduces incentive of using DR to delay projects. Don't have to change process, just make it move quicker.

Bob – how much time saved if design review – take to hearing only code-complying projects – if project does not meet guidelines then project dealt with at staff level. Meets RDG – taken to Commission with limited staff effort.

Jim Lazarus – you're always dealing with DR – 4 votes. Why are we fighting at level of work staff needs to do? DR will still go to Commission.

Garfinkel – who decides? Staff.

Planning Commission!

Lazarus – DR still heard by Commission. Why do we need to spend all this money?

Elaine – people love rebuttals.

John Lum – architect – experiencing problems with RDT – they have more power. It's taking longer due to added review. Tripled cost - \$14k for Planning review. Added costs for all citizens. 5 months to get meeting with RDT member Guidelines are interpretative. DR fees should be raised. \$3-4k getting ready for DR – not in construction budgets. Staff needs to visit site. Angry and frustrated with current case. Applying RDG without knowing context. Neighbors support project, but Department is resisting. Creative professional concerned with minor changes taking away creative possibilities. People changing projects without knowing context.

Elaine – new process – very cautious. Need site visits. Staff limits are reason for no site visits.

Avrum Shepherd – spiral staircase – prime example of situation we're trying to address. How did it get to be a DR? I've been looking at it. Privacy? Noise? Security? Pre-application? Real problems. Wouldn't want project.

Williams – Twin Peaks – steep lots. Photos show context better. Buildings built at same time. Process used as leverage.

Elaine – Did project need staff report? Did that matter. Privacy, noise and safety not addressed by code.

Bob – impacts to life livability should be addressed by code.

Judy Berkowitz – doesn't want to give credence to proposal by discussing but will do it anyway. Should be one commissioner for tier 2. Based on sq. ft. RDG should be RDG not RDS. City Attorney opinions don't say exceptional and extraordinary.

Elaine will post city attorney opinions.

Cathy - Pre-application enforcement and penalties. No preapp verified complaint – permit revoked. Anyone can sue. Right to sue. Affidavit.

What about misrepresentations. Making project larger than in pre-app.

Marilyn – not all projects subject to preapplication – all projects should be subject to preapp. If nobody wants to take DR – then department shouldn't take DR. EE is power of commission. Discretionary action of commission. \$81 fee for projects can be raised. Equal rights and application of law. Same fee. Issues with statistics. Minor revision DR should not be taken – any modifications DR should be taken. Time limits are improper. SF is exceptional and extraordinary. Rules and regulation. Staff is paid good salary to make determinations.

Lazarus – low and high fee DR applications.

Elaine – argument is if neighbors like project then it is ok. This should not set built environment.

Cathy – second class citizen for tier one.

David Tornheim – anger is because this is within 6 months. Staff cost concern is not clear. Second class citizen tier system. How does presentation time impact staff cost? BoS too early to tell. E E is issue. Department shouldn't making determination. Department giving big benefits to big developers. Sutro Tower Mary Gallagher. Need to do something about prop 13.

Elaine – we heard BoS – no administrative DR. E E too high of a bar. Need definition of frivolous

Yes – good idea let us help you.

Penelope – DR useful for neighbors to be more neighborly. Time of presentation doesn't do much. 7 vs 5 – 2 minutes. If ZA doesn't have time he should resign.

Kate – case report takes a lot of time. No case report – goes too commission quicker.

Cumbaya moment – get general fund for department. Concerned about equal access to law. Live in low income zip code. Department is driven by big developers. 555 Washington junior staff shouldn't have to pay for senior staff decisions. Get BoS support for project to determine review process? 300 items at commission. People with change in their process. Processes bent over backwards to developer. City is not planned appropriately. Subjective issue. Can't hide that fact. People can't afford buildings. Largesse to developers. 80/20.

Judy Berkowitz – Department should refuse developer funds in the future (and take GF support)

Brooks – Green Party – didn't choose name. rebuttal time critical. Need to quantify problem – last 50 years of DR – big process, but we're talking about democracy. Do not want planning staff to make subjective decisions about DR. Guidelines to be decided by Commission. 6 months, 8 months or 12 months (from BoS). Need to define frivolous. Quantify. No contest application. Staff could make friends with community, but in 5-10 years we could have another Green, Macris or Badiner. Staff will not always be competent, may be corrupt.

Alfred Martinez – agree with John Lum that DR fees should be raised. Believe in rights of everyone to have their day in court. Proposed hardship clause (Elaine – we have one). Fees to cover 50-75% of staff time on DR. Referenced 10 year cost chart. Some complaints are punitive. May think twice if they have to think about it. Agree with commissioner or panel reviewing projects (DR?) staff and outside experts ok. Wholeheartedly hope that fee increases can be used to allow staff site visits.

Judy Berkowitz – former commissioners would go to sites.

Not far away from conclusion.

Garfinkel – it's all balony – planning is morally corrupt – process is flawed – commissioners don't have qualifications – no expertise – dentist – deliver boy of flowers – political people shouldn't be doing this. So you're going to let these planning commissioner's decide? They're not qualified.

Need six months freeze to get money for Department.

Williams – applications down 50% DRs down by more than 50%. Why doesn't staff have time when numbers are down. Statistics weren't given until end. Statistics built to fit. preapp is not working. Existed for decades. Examples – DR in three weeks, didn't have preapp - 30 Edith Street (filed before pre app?), 479 Douglass – so called preapplication – building was submitted 80 feet into rear yard and revised to be code complying? Max out envelope – was not given preapp – senior staff said ok. Single projects should not determine policy. Edith – compatibility has changed – previously no, now ok. 100% neighborhood opposition is common. Staff and developers on same side. What about mandatory DRs. Rebuttal time is an issue. Scott gets 10x what I do 25-30 minutes.

Elaine – fairness issue needs to be addressed.

Elaine – spent a lot of time doing research. Not enough time to. Spending too much time arguing about statistics.

Elaine – 3 management audits.

Trying to solve a problem that we can't substantiate. Trying to engineer justification.

Cathy – 21 Iris no preapp – must make them go through preapp.

Vicki – preapp is overated. Sponsors use meetings inappropriately. RDT essential for gaining trust from neighbors. Being advocate for neighborhood. Good design is critical. Tweaking proposals – as long as public has ability to get in front of commission. (Elaine agree). No deadline on amendments.

Judy Berkowitz – should never go to BoS

Judy – RDG – when Department makes determination that project is code complying, then can't make changes. Determination is sticking point. Staff has more abilities than Department lets them have. Difficulty with RDG – generic – don't fit every situation – staff should be working on neighborhood specific design guidelines. 136 Ord Street – RDT made a horrible decision. Sugaya disagreed with RDT. RDT should have been to site. Tendency to support people with a lot of money – projects with impact on neighborhood character. Can't prove if project is spec housing. Want Department to be our protector.

Marilyn – Department recommendation on Ord – approve as proposed. RDT made error.

Elaine – Ord taken to commission to get input. Brought to commission after many revisions. Commission needs to weigh in.

Ernie – Could have gone to AIA design awards or come here. We're not talking about design, but conformity. Planning needs to give City vision. Worked on project with Joe Esherick – always used photos to display neighborhood character. Need site specific review.

Al Martinez – sq. ft. should be coupled with cost. Larger project = higher cost for both parties.

End 8:00ish