

INFORMATION
BULLETIN

500

January 2022

Substantial Conformance Review

The goal of Substantial Conformance Review (SCR) is to determine if the proposed project is consistent and in conformance with a previously approved permit. This includes a review of the revised project against the approved exhibits, permit conditions, environmental documentation, applicable land-use policies and the public record for the prior permit. Staff will recommend approval of the modified project (utilizing the Guidelines for Measurement on Page 3) if the change falls

within the parameters of the prior approval. A SCR decision is either at the staff-level (Process 1) or a decision by staff that requires input from the Community Planning Group and is appealable to the Planning Commission (Process 2). (Please note that all Process 1 SCR applications are distributed to the affected community planning group as a courtesy notification). If the only prior discretionary action, however, was a tentative map or vesting tentative map and a final map for the project has been approved, then this service is not available.

For Wireless Communication Facility SCRs see [Information Bulletin 536](#).

I. Substantial Conformance Review – Process 1

Unless otherwise stated as a permit condition or as required by the Municipal Code, Substantial Conformance Review is an optional service available to customers who are proposing to modify their project after a discretionary permit has been approved by the City. This optional service is offered to allow customers to provide only the information needed to make a conformance determination without having to go to the expense of preparing complete construction documents. The process does not include a review for conformance with other City regulations, which is performed when an application for a construction permit approval such as a building, grading, or public improvement permit is made.

Instead of an SCR, customers may choose to include their project changes as part of a complete construction permit application (building permit, grading permit, public improvement permit, etc.). Staff will review the project change for conformance with the prior permit as part of the process of checking the plans against applicable regulations. If the project changes are not deemed to be in conformance with the previously approved discretionary permit, minor to significant project redesign or an amendment to the previously approved permit may be required. The customer makes a choice to risk a full construction permit submittal or to opt for the more tailored SCR service.

II. Substantial Conformance Review – Process 2

Some prior approvals require Substantial Conformance Review to go through a Noticed Decision process (Process 2). This higher decision process is either a condition within the development permit itself or is required by the Municipal Code (e.g., SCR's within the Coastal Overlay Zone).

III. Submittal Requirements

All forms, documents and applications are now submitted electronically. Visit the Development Services Department website at sandiego.gov/DSD to create an account and begin the submittal process. A detailed [User Guide](#) is also available.

A. Provide the following information with your submittal:

1. A letter detailing the modifications being proposed to the project that was previously approved.
2. The final approved permit and resolution(s) of the subject permit; and the approved Exhibit A drawings and documents that are being affected by the proposed project modifications.

Visit our web site: <http://www.sandiego.gov/development-services>.

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- 3. Marked-up Exhibit A drawings and documents or new drawings at the same scale as the approved exhibits that clearly show and highlight the proposed project modifications.

B. General Application (Form DS-3032) Part 1

- C. Public Notice Package:** Required for SCRs in the Coastal Zone or when a Process 2 SCR is required by a previously approved development permit. See Information Bulletin 512, "How to Obtain Public Noticing Information," for more details.
- D. Supplemental Discretionary Project Application (Form DS-3035):** Provide when a Public Notice Package is required.

IV. Fees

The following fees and deposit are required at the time of project submittal or at issuance.

- A. General Plan Maintenance Fee:** This fee is charged at project submittal for all Substantial Conformance Review projects. The General Plan Maintenance Fee provides funding for the maintenance of the City's General Plan and is collected on behalf of the Planning Department. It is non-refundable and is collected once per project. The current rate of the [General Plan Maintenance Fee](#) can be found on the Planning Department's webpage at sandiego.gov/planning.

- B. Mapping Fee:** This fee is charged at submittal when there are plans, drawings, maps or other geographical documents utilized for project review.

Mapping Fee..... \$10.00

- C. Discretionary Project Close Out Fee:** This fee is charged at submittal to pay for plan processing, notarizing documents, permit recordation, and archiving the project file after final hearing or appeal is completed.

Discretionary Project Close Out Fee \$781.37

- D. Records Fee:** This fee is assessed at issuance for imaging and archiving the documents in records.

Records Fee-SCR Process 1 \$51.82

Records Fee-SCR Process 2

 Less than 75 pages \$103.64

 76 to 1,000 pages..... \$593.01

 Each additional 500 pages over 1,000 \$287.87

- E. Substantial Conformance Review – Flat Fee:** This fee is to pay for the initial review of your project. Individual reviews exceeding four hours and/or subsequent review(s) will be invoiced an additional hourly fee.

Substantial Conformance Review Fee \$5,158.77

V. Guidelines for Measurement of Substantial Conformance

At the time a discretionary project is approved by the City, it is acknowledged by both the Development Services Department and the developer that the plans being approved are “conceptual plans.” The plans are of sufficient detail to show department staff and citizens what the project will be and how it will look. However, the developer, because of cost and the uncertainty of whether the project will be approved, does not prepare construction documents for the discretionary review phase of the project. After a project is approved, a developer may find it necessary to modify the project. These guidelines give some guidance as to the limits that such projects can be modified without requiring a formal amendment to the project.

A finding of substantial conformance cannot be made if changes or modifications to a project are inconsistent with factors or issues that were specifically discussed and/or addressed by staff and/or the decision-maker at a public hearing.

Generally, the more significant the change, the more difficult it will be to determine substantial conformance. Conversely, it cannot be assumed that seemingly minor changes will be found in substantial conformance if it was a specific project issue identified within the project file, staff report, resolution of approval, and/or in the public hearing minutes.

Staff considers the following issues when reviewing an SCR application:

- A. Land Use** – No significant change in land use (permitted uses) from that which was approved can be found to be in substantial conformance to the original permit. Unless the permitted uses section of permit specifies uses permitted by the underlying zone, only those land use categories identified on the permit are to be allowed.
- B. Intensity of Development** – No increase in density for residential projects may ever be granted under substantial conformance. A minor decrease in the residential density of a project may be considered, so long as it remains consistent with the minimum designations of the adopted policies and plans and does not affect the sizing of public facilities within the community. The issues of concern here are consistency with the environmental document and permit, which typically only analyze and permit maximum densities, and the ability to size and finance public facilities based on the approved density.

For mixed-use projects – The density/intensity of each use approved within the project may be transferred (but not eliminated) between uses provided the overall traffic generation for the site does not increase and no other environmental impacts are generated.

For commercial and industrial projects, no increase in Floor Area Ratio (FAR) or coverage may be granted inconsistent with a permit or exhibits. Only a minor decrease in FAR or coverage (usually no more than 10%, so long as it does not affect the sizing of public facilities within the community) can generally be found to be in substantial conformance.

The wholesale substitution of one type of housing product for another (e.g., going from an approved multi-family apartment building to an attached town-house design) is not generally in substantial conformance. Such a change is quite complex and would affect several other of the design issues discussed here.

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- C. Site Design** – Site design changes can run the gamut from minor siting changes on a building to completely reorienting the footprint of one or more buildings or relocating parking, driveways, landscaping, or some other approved element of a project.

This can be the most difficult of issues to evaluate. It could be possible to reverse the footprint of an entire shopping center and have no adverse results. However, doing the same for a single-family residence would adversely affect adjacent properties and be considered inappropriate without an amendment to the permit.

Site design changes proposed for an approved project should not significantly alter nor affect the other issues discussed here – Coordination of SCR review with other departments/divisions is generally necessary when there are site design changes proposed. Consultation with the Community Planning Group is critical in significant site design changes to ensure that the expectations of the Community during the original approval process are upheld. In many cases, the modified site design is a result of more refined site studies, construction plans or specific tenant needs.

- D. Parking/Circulation** – Typically, minor changes to an approved project’s parking and traffic circulation should be considered or approved under substantial conformance review.
- E. Architecture** – Review of proposed changes to the architectural style of an approved project should weigh the significance that the department and/or the decision-maker(s) placed on the appearance/architectural style of the project when it was approved. Where findings of neighborhood compatibility were required to be made, even minor changes to architectural elements or materials could be considered significant. Though the City does not regulate private views, increasing the height of a flat roof structure to a gabled roof could affect neighbors and lead to some controversy over why the design change occurs after the public hearing. The overriding goal should be that the modified plans result in a project that is “better than or equal to” the conceptual plans that were approved. This is an aesthetic determination, not an economic one.
- F. Accessory Uses/Structures** – Proposed Changes to a project’s accessory uses or structures need to be reviewed within the context of the significance given to them during the project review and approval process. Applicants cannot propose an Olympic size swimming pool and then convert the area to an open grassy space. However, substituting facilities of a similar nature and size may be acceptable. The addition of accessory uses/structures needs to be considered as to whether the use or structure is truly accessory in nature to the approved use and project design and how it physically fits into the project.
- G. Community Plan and Planning Group** – No project can be found to be in substantial conformance if the proposed changes are inconsistent with any of the elements within the applicable community plan. For Process 1 SCR’s, the relevant community planning group is provided with the SCR package as a courtesy notice only. However, if any input is provided by the planning group prior to the final staff decision, that input will be one of the factors considered by staff prior to a final decision.
- H. Environmental Documents** – A project cannot be found to be in substantial conformance if it exceeds the impacts described and analyzed in an environmental document. Increased density, grading, traffic, biological impacts, etc., needs to be closely scrutinized and evaluated.

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- I. **Landscaping** – The overriding principle is that wholesale modification in the overall amount of landscaping should not be approved. Minor changes may be appropriate, but these must be viewed in the context of the full landscape program for the project. Eliminating significant amounts or types of landscape treatment only because of the cost is not substantial conformance. However, the replacement of landscape materials with drought-tolerant plants may be allowed if the resulting landscape complies with the regulations of the San Diego Municipal Code.
- J. **Conditions** – Conditions contained within a permit cannot be changed through substantial conformance review. Substantial conformance review can be used to make minor changes to an approved project or facility as described in a permit or shown on an Exhibit “A” if those changes comply with all conditions of the permit. Any changes that are inconsistent with permit conditions are not allowed.

Reference Table

- [Information Bulletin 512, How to Obtain Public Noticing Information](#)
- [Information Bulletin 536, Submittal Requirements and Procedures for Wireless Communications Facilities](#)
- [General Application, Form DS-3032](#)
- [Supplemental Discretionary Project Application, Form DS-3035](#)
- [Deposit Account/Financially Responsible Party Form, Form DS-3242](#)