

Discretionary Review Reform

**Adoption of Proposed Policy and
Recommendation of Planning Code Text
Amendments**

June 18, 2009

SAN FRANCISCO
PLANNING DEPARTMENT



Background

- Staff team developed proposal using audits, jurisdictional comparisons, and professional experience
- Conducted public outreach
 - 123 individuals and representative from neighborhood organizations at 5 outreach meetings
 - 50 plus written comments
- Two Planning Commission hearings



Goals of New Process

- Provide for early community engagement;
 - Provide more information and education about the DR process;
 - Improve the internal application review process;
 - Offer more transparency and information about Department's decision-making in project evaluation;
 - Ensure that outcomes of the DR process are fair and predictable;
 - Significantly reduce the time and cost of the DR review process;
 - Identify policy issues for the Commission's consideration and resolution; and
- 3 ■ Maintain the benefits of the current process.



Phase One (a Two-Year Trial) *(Potential effective date of September 2009)*

- Improve the pre-application process through a standardized pre-application packet;
- Enhance the internal design review process through mandatory Residential Design Team review and written documentation;
- Expand public information through Discretionary Review website and provide public access to project-specific information on-line;
- Define “exceptional and extraordinary circumstances”;
- Use the definition to allow only those projects that could meet exceptional and extraordinary standards to proceed to a Commission hearing;



Phase One (a Two-Year Trial) *Cont'd* (*Potential effective date of September 2009*)

- Ensure that cases heard by the Commission are identified either as case specific, or a representative of a policy issue to incorporate into Design Standards;
- Adopt a process for updating Design Standards;
- Offer interested parties the option of “Reconsideration”;
- Adopt timelines for Discretionary Review; and
- Specify a 24-month trial period for Phase One Reforms



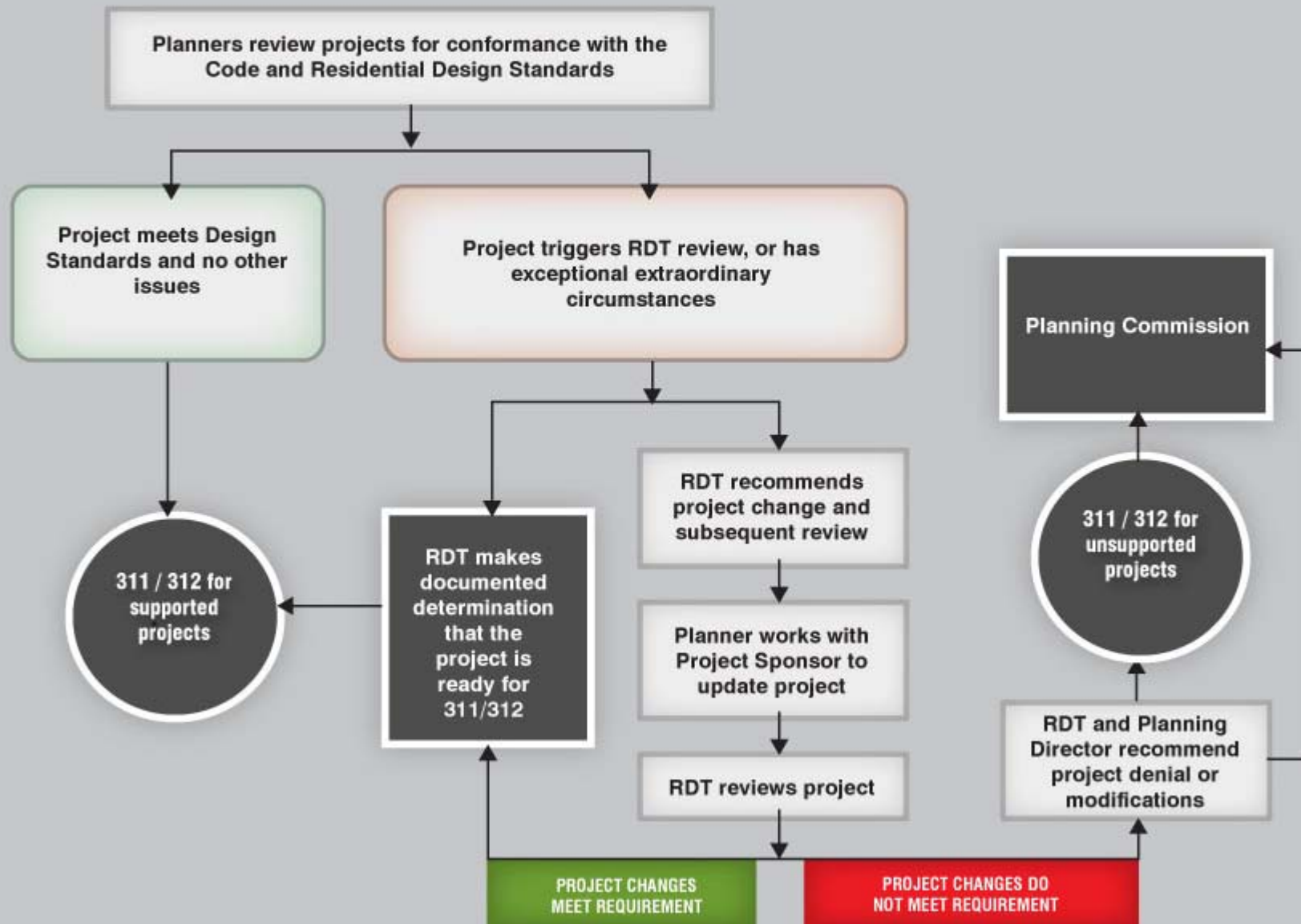
Options for Phase Two

- Require story poles or 3-D renderings or models for certain project types to better inform neighbors and the community of the size and location of a proposed project;
- Delegate review of DR applications to an independent professional Hearing Officer, who is an employee of the Commission;
- Codify the DR process; and
- Change the cost burden between the DR requestor, the project sponsor and the building permit surcharge.





Proposed Internal Review Procedures



RDT Checklist

Intent of Residential Design Team Checklist

- Provide an additional plan check tool when reviewing permit applications and plans per the Residential Design Standards.
- Achieve ***consistent review*** among all planners and Neighborhood Planning teams
- Provide opportunity for RDT to review projects to identify potential Department or Commission policies and to provide ongoing development of Design Standards.



RDT Checklist

Use of Residential Design Team Checklist

- Sets minimum thresholds to identify when review by RDT is required.
 - **Exceeding minimum thresholds does not deem a project non-compliant to the design standards, nor qualify the project for a disapproval or automatic Discretionary Review, rather;**
 - **The planner and the RDT determine the appropriateness of project per the Design Standards.**



RDT Checklist – Examples

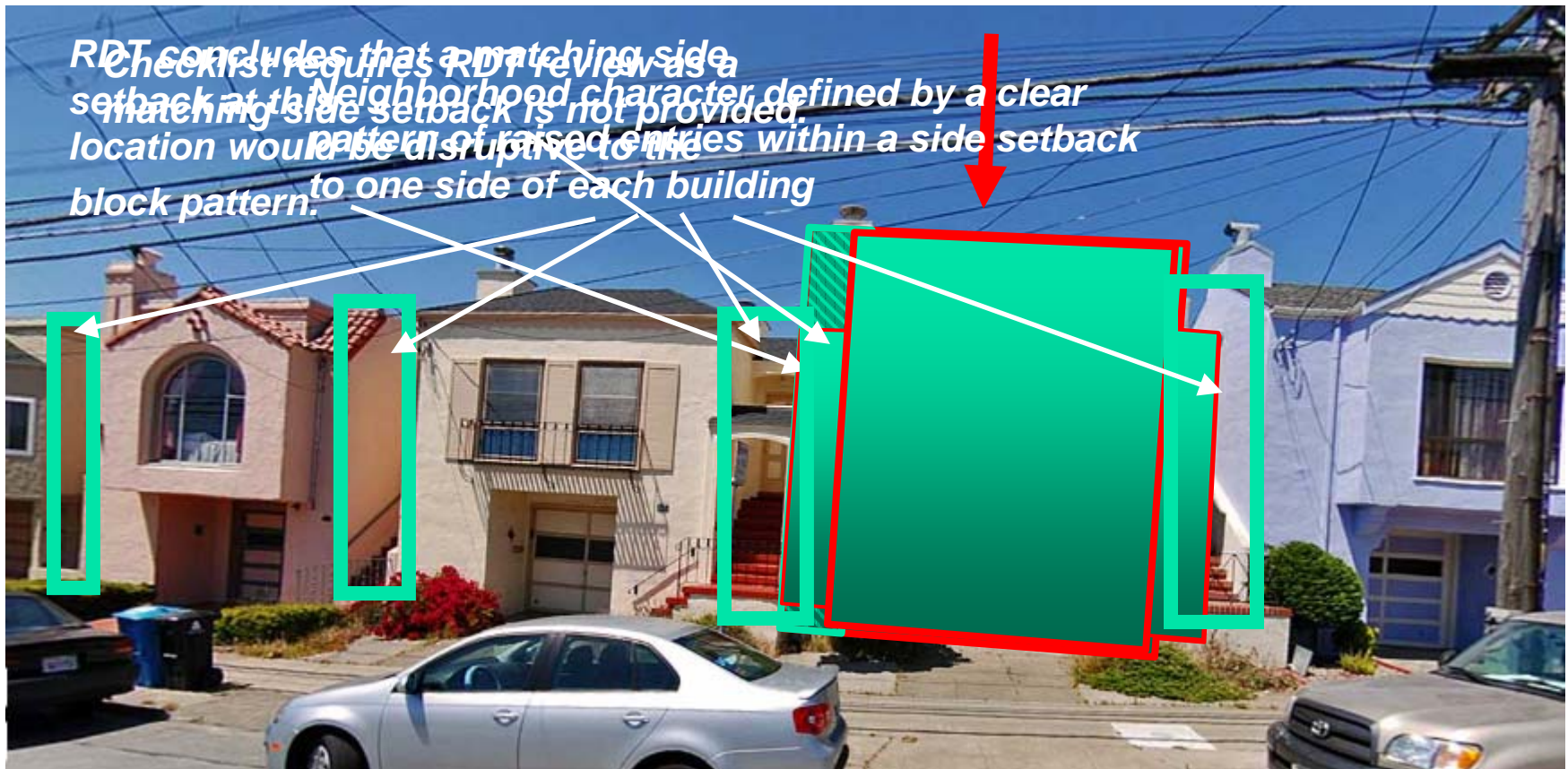
Is the building placed on its site so it responds to its position on the block and to the placement of surrounding buildings?			
Front Setback (pages 12 - 15)			
Does the front setback provide a pedestrian scale and enhance the street?			
In areas with varied front setbacks, is the building designed to act as transition between adjacent buildings and to unify the overall streetscape?			
Side Setback at Front			
1. If an adjacent building has a side setback, does the project provide a side setback of at least 3 feet wide and of a matching depth or 10 feet, whichever is less? <i>(If yes, meets threshold. If no, consult RDT.)</i>			
Does the building provide landscaping in the front setback?			
Side Spacing (page 15)			
Does the building respect the existing pattern of side spacing?			
Note: this guideline is for side spacing not side setbacks.			
1. (Quantify “pattern”.) Does the project exist within a grouping of four structures that have similar side spacing? At minimum, two adjacent structures to one side of the project and one adjacent structure to the			



RDT Checklist – Example 1



RDT Checklist – Example 2



Exceptional and Extraordinary Circumstances

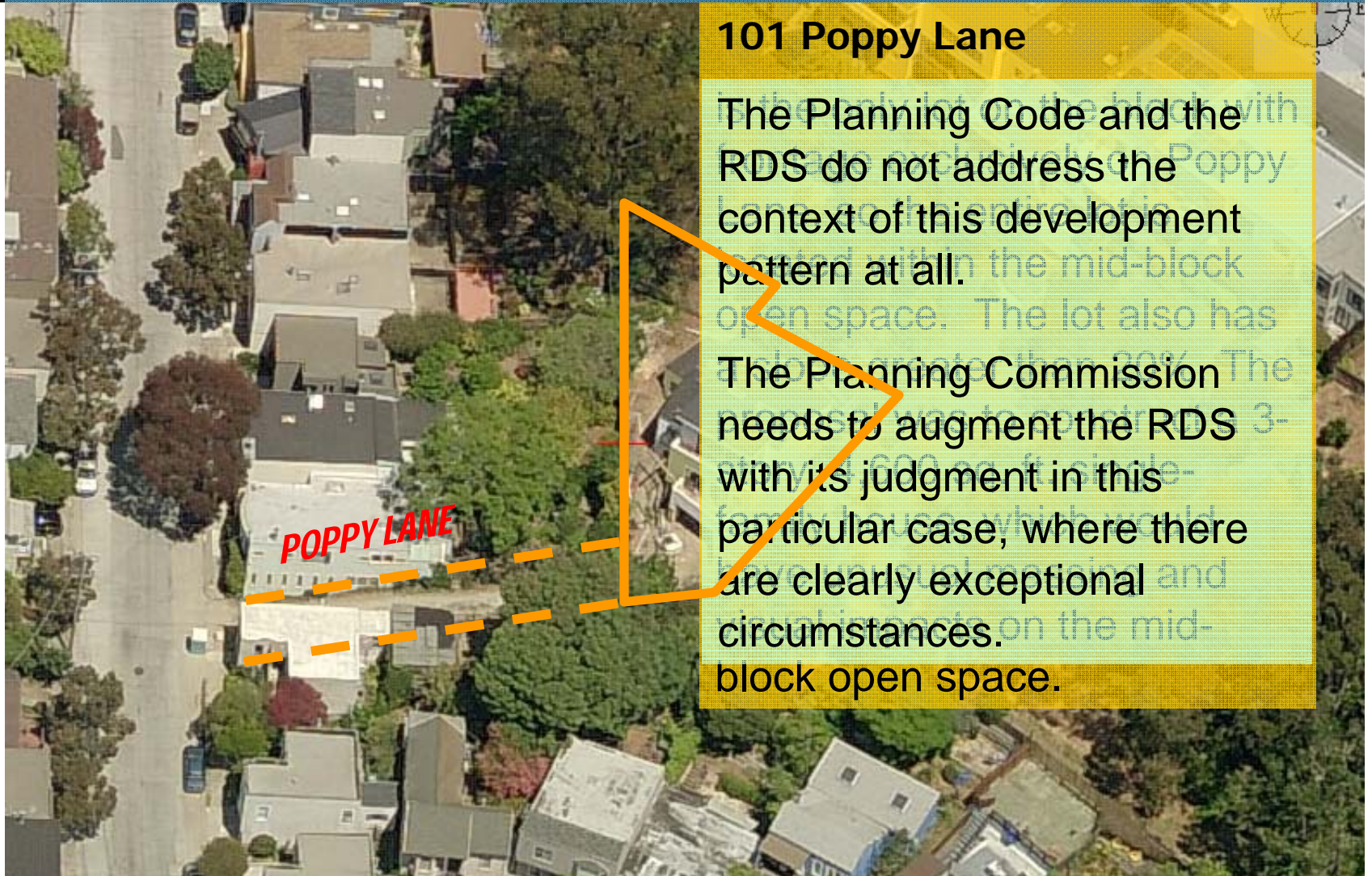
Exceptional and extraordinary circumstances occur when the common-place application of adopted Design Standards to a project does not enhance or conserve neighborhood character, or balance the right to develop the property with impacts on nearby properties or occupants.

These circumstances may arise due to complex topography, irregular lot configuration, unusual context or other conditions not addressed in the Design Standards.

Here is one example of a DR case heard by the Commission, which exhibit exceptional and extraordinary circumstances:



Exceptional and Extraordinary Circumstances



Reporting Procedures

- Interim period review: time between Planning Commission adoption & effective date of legislation
 - Ensure that staff's application of "exceptional and extraordinary circumstances" is aligned with the Commission's past decisions.
 - Inform the Commission, for each Public DR heard, if the case meets the "exceptional and extraordinary" threshold.
- 24-month trial period: time after effective date of legislation
 - DR Decisions included in Commission packets
 - Weekly updates about DR under Director's Report
 - Quarterly update hearings on policy-related topics



Revisions to the Design Standards

- Identify emerging planning issues and elements of the Design Standards that require clarification (quarterly reports),
- Use precedent-setting Commission decisions on DR as policy guidance for review of future projects (ongoing),
- Have brown-bag discussions with Commissioners, neighborhood groups, and design professionals to shape amendments to Design Standards (two or more during trial period),
- Amend the Design Standards via ZA bulletins, to reflect the Commission's policy guidance as individual policies are identified (as needed), and
- Prepare global amendments to Design Standards (every two years).



Requests for Reconsideration

The public (including affected neighbors) has the opportunity to request a reconsideration of the project by the RDT. All decisions will be in writing and available to the public.

If there is Department error, the permit applicant must then revise the project, and the Department will provide a refund of the filing fee to the requestor of the reconsideration.



Timeline for DR Applications

- All DRs will be reviewed and acted on by the Residential Design Team within 30 days of filing.
- Projects that do not demonstrate exceptional or extraordinary circumstances will receive a written letter from the RDT within two week of the RDT's determination.
- Projects that do demonstrate exceptional or extraordinary circumstances must be heard by the Commission within 90 days of the application date, including any proposed continuances by the DR Applicant or the Project Sponsor.



Today's Steps

- Commission may adopt policy resolution to endorse Phase One of the Discretionary Review Reform
 - Amended to specify trial period
- Commission may adopt resolution to recommend amendments to Planning Code Sections 311(d), 312(e), 352 and 355 to:
 - Change “Residential Design Guidelines” to “Residential Design Standards”
 - Provide for administrative review of Discretionary Review requests
 - Provide for Commission Hearings for requests that demonstrate exceptional and extraordinary circumstances
 - Provide for Requests for Reconsideration, including fee refund
 - Remove option for Project Sponsors to request Discretionary Review, and instead rely on Staff-Initiated DR
 - Establish fee for Department facilitated pre-application (June 25th)
 - Option for legislative sunset



Next Steps – Policy Adoption (June 2009)

Following policy adoption - complete initiation of Phase One for changes that do not require legislation

- DRs brought to Commission with staff analysis of applicability of exceptional and extraordinary circumstances;
- Standardized pre-application packet and procedures implemented;
- Internal review procedures employed;
- Better DR information on website;
- Adhere to the timeline policy;
- Identify policy issues for the Commission's consideration; and
- Use Commission decisions intended as precedent-setting as policy guidance for review of future projects.



Next Steps – Legislative Change (September 2009)

Following formal adoption of legislative changes, DR requests filed will be reviewed administratively -

- The applicant will receive in writing reasons why the application cannot meet exceptional and extraordinary circumstances, or
 - Be given a Commission Hearings for requests that do demonstrate exceptional and extraordinary circumstances.
- Requests for Reconsideration, including fee refund; and
 - Eliminate option for Project Sponsors to request Discretionary Review, and instead rely on Staff-Initiated DR.

