

Discretionary Review Reform Public Outreach

November 19, 2008

SAN FRANCISCO
PLANNING DEPARTMENT



Action Plan

- The Planning Commission engaged an external consultant to evaluate our business practices
- The study focused on the following major issues:
 - Consistent interpretation and implementation of regulations
 - Clear communication of regulations, requirements, and process
 - Predictability of the process and results
 - Accountability for the quality, timeliness, and consistency of decision making
 - Responsive staff and service for customers
- Staff also relied on other reviews: SPUR AIA report, DBI BPR, and other discussions to develop an Action Plan.



Action Plan: Objectives Approved by the Commission

1. Improve staff effectiveness and morale by providing needed tools, systems, and structures
2. Provide more comprehensive, consistent, and timely review of projects
3. Recognize and support preservation of significant resources while improving the efficiency and predictability of the preservation program
4. **Enable the Planning Commission to focus on higher-level policy issues**
5. Improve the public experience of the Planning process through improved communication
6. Improve Department effectiveness by providing appropriate management structures and oversight



IV

Enable the Planning Commission to focus on higher-level policy issues

- Reform the **Discretionary Review Process**, with public, the Planning Commission and staff as intended beneficiaries
Underway, to be completed Spring 2009
- Clarify **roles and expectations** and improve **communication** and the working relationship between the Planning Commission, the Landmarks Preservation Advisory Board, and staff, including senior staff
To be completed Spring 2009

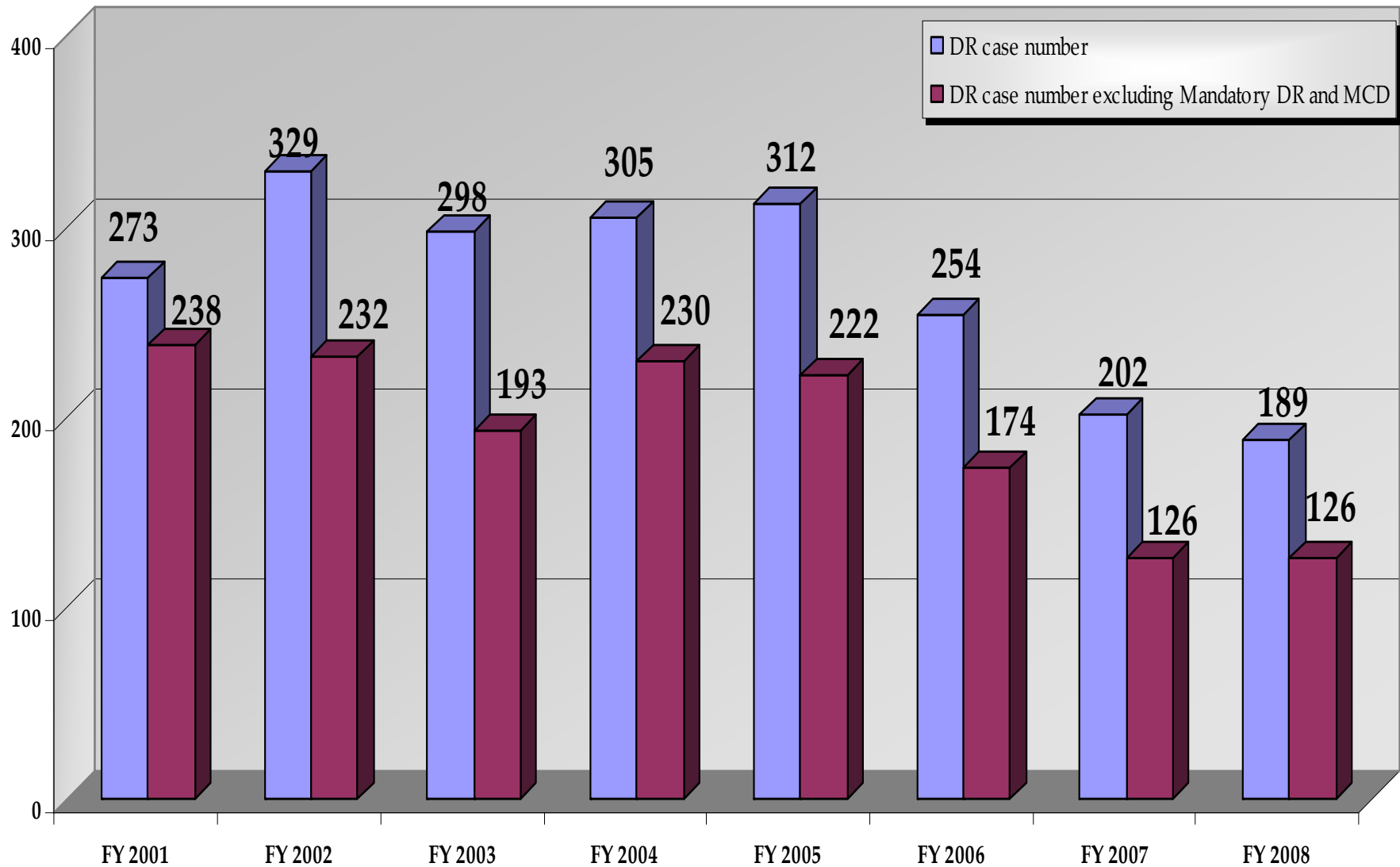


Discretionary Review

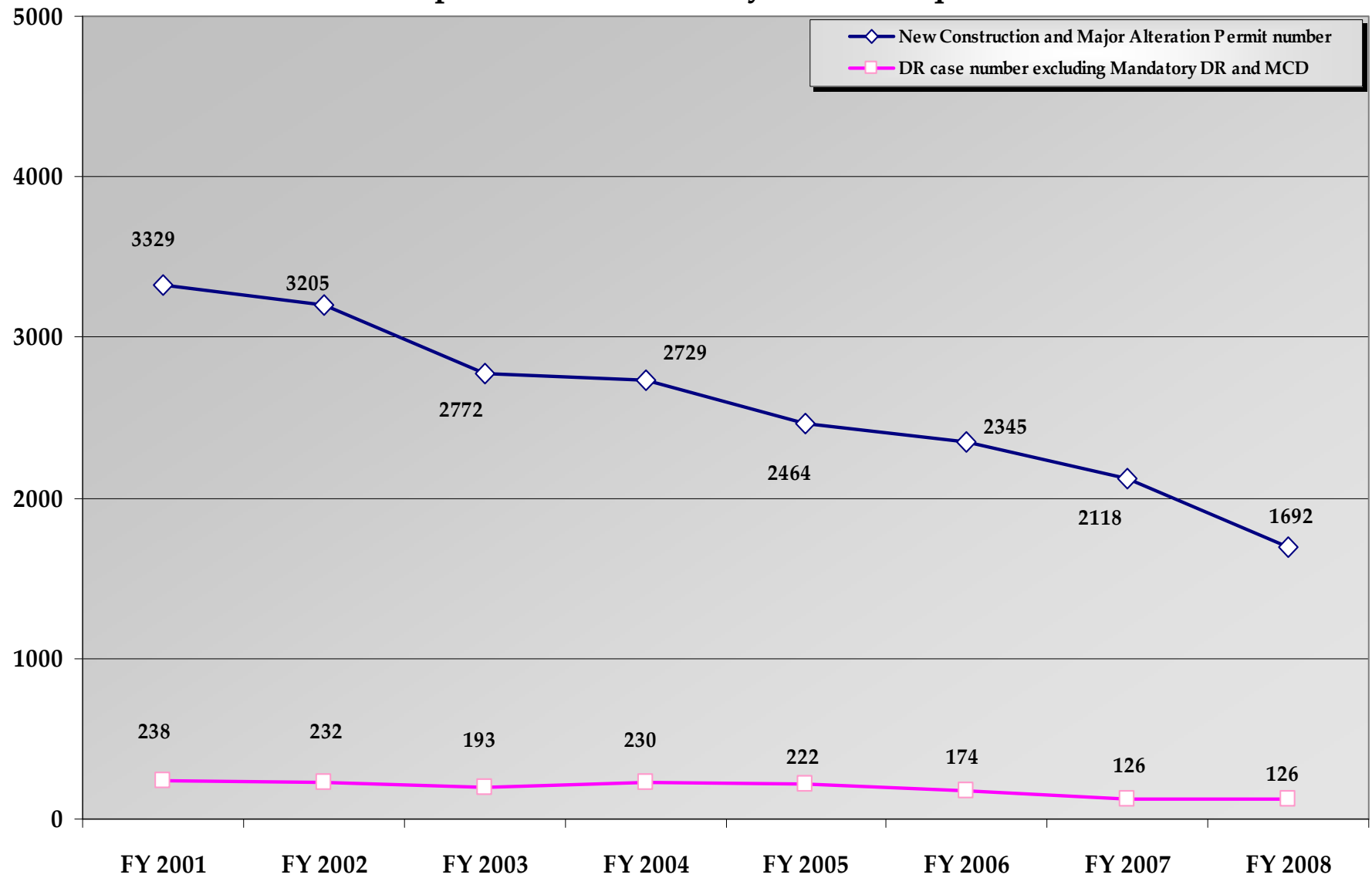
***D**iscretionary Review is the Planning Commission's authority to review code complying projects and take action if the Commission finds the case demonstrates exceptional and extraordinary circumstances*



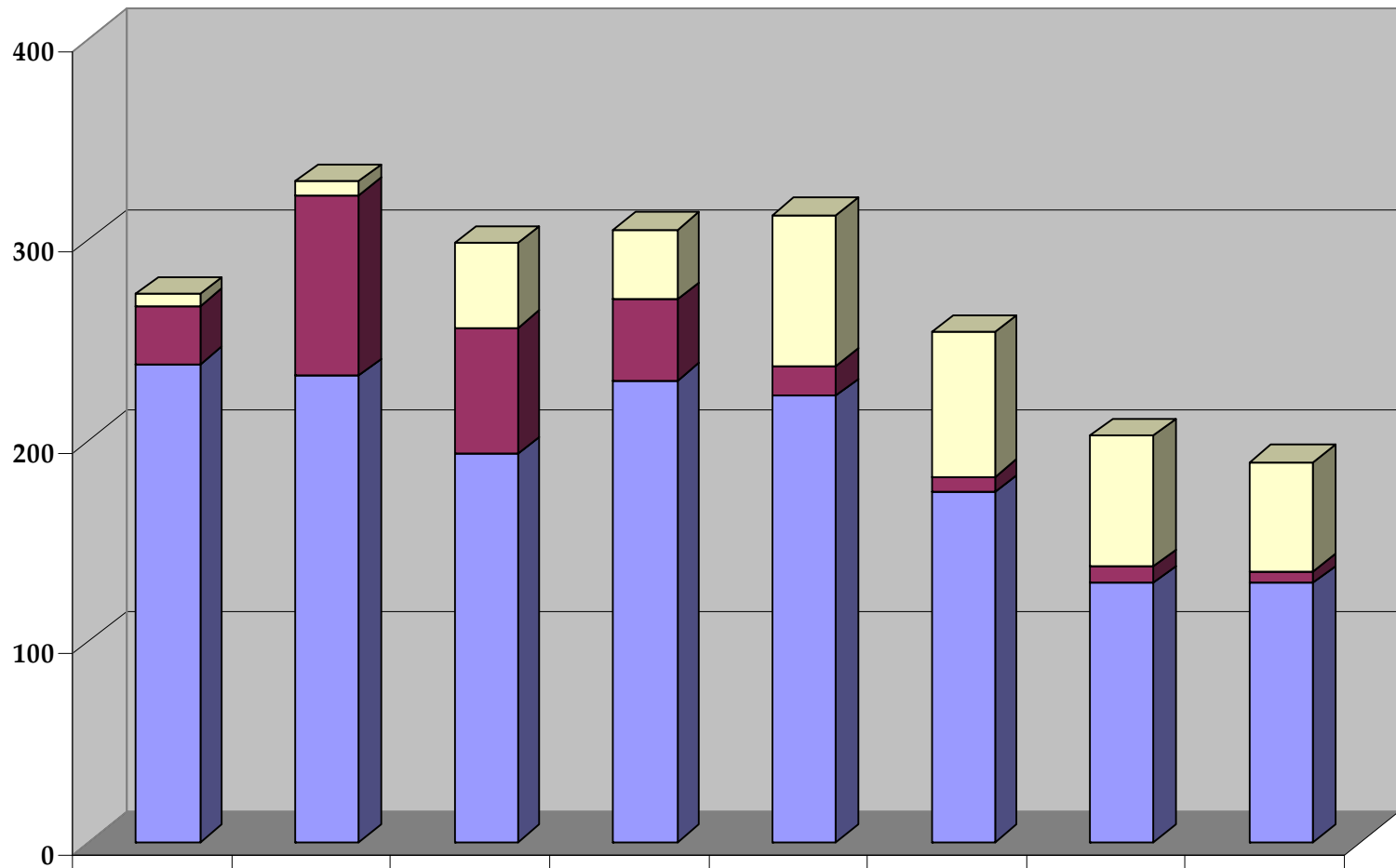
Number of Discretionary Review Cases filed from FY 2001 to FY 2008



Number of New Construction and Major Alteration Permit Applications Compared to Discretionary Review Requests



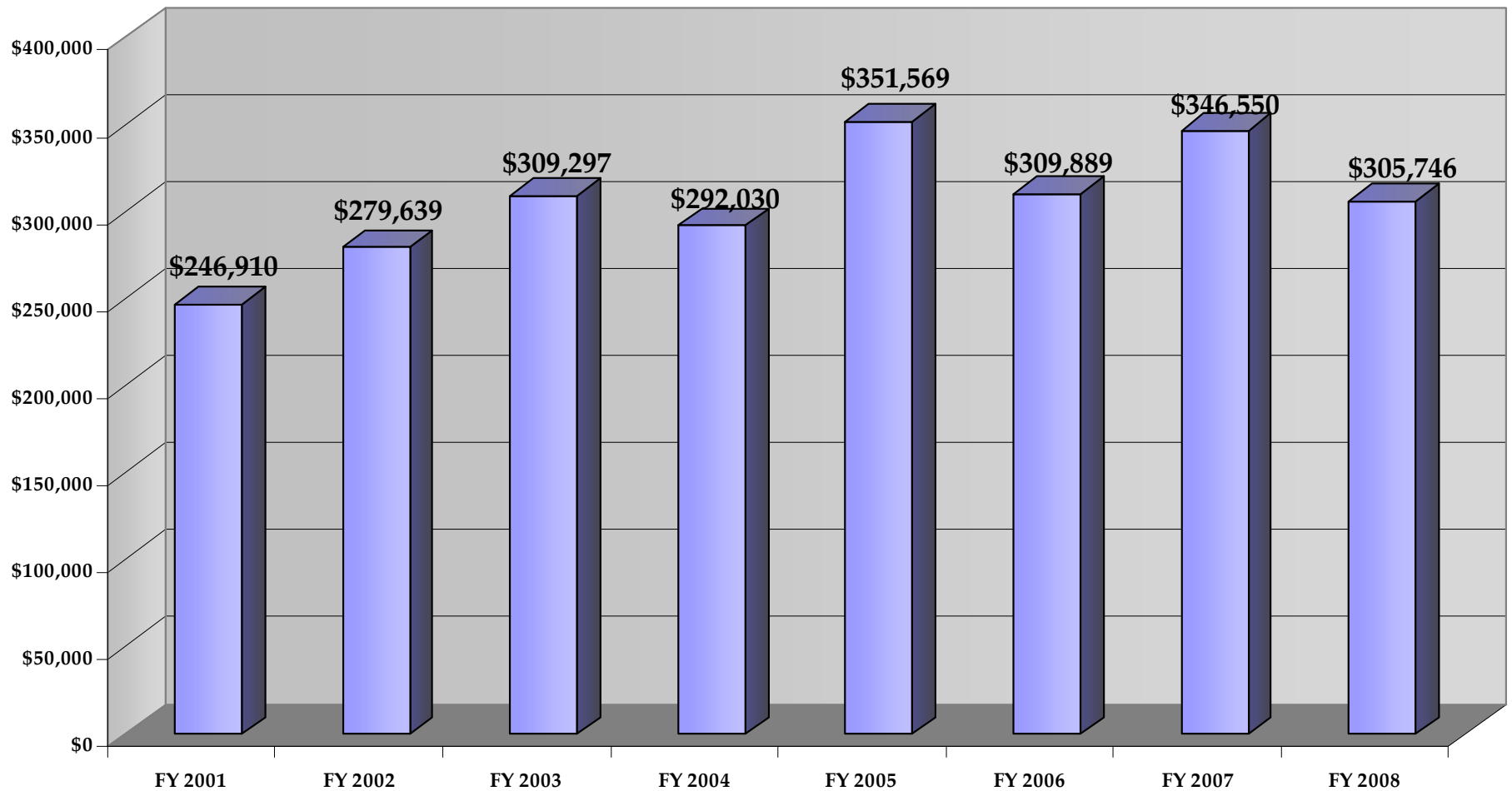
Discretionary Review Cases Initiators



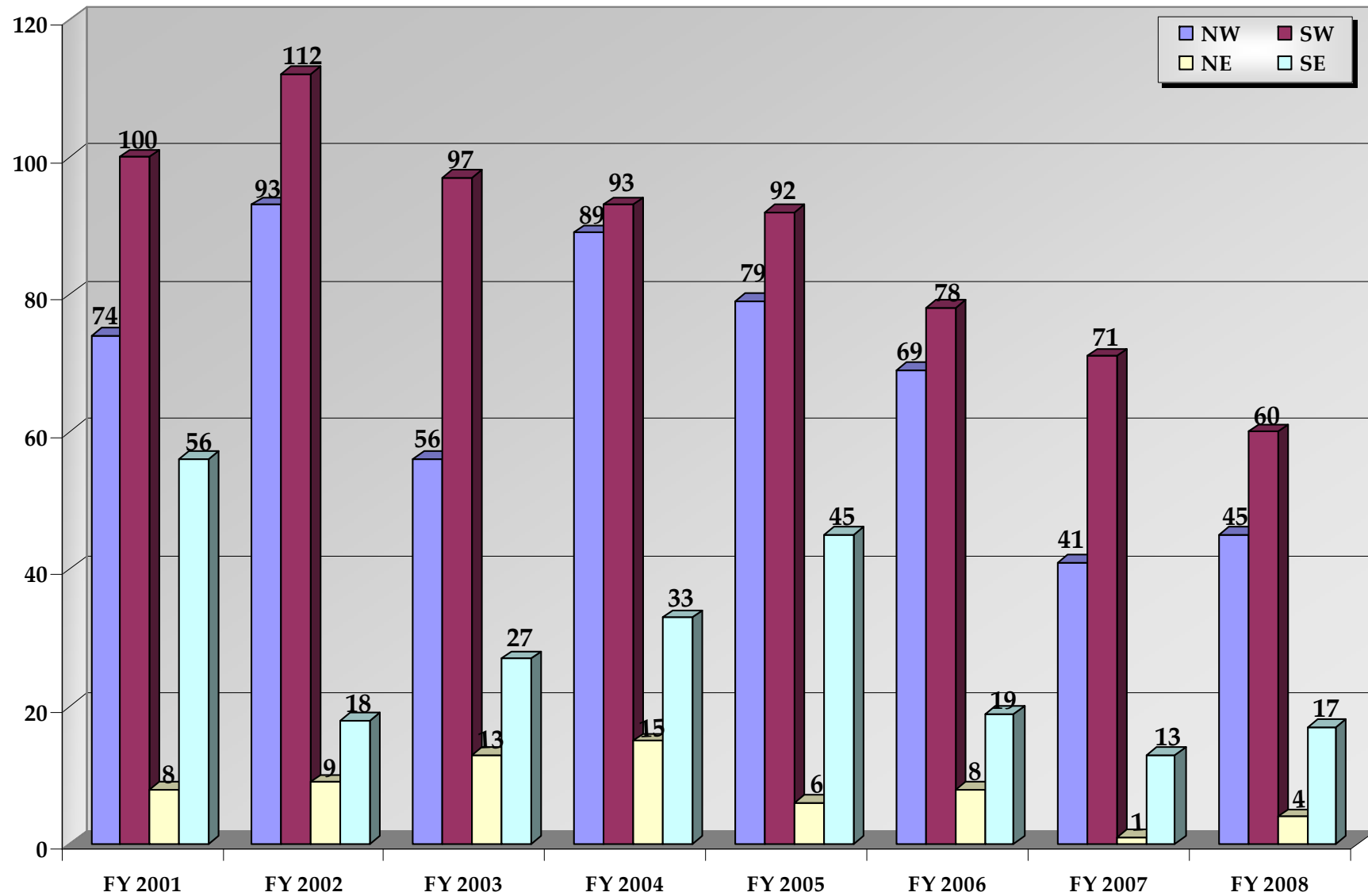
Planning Commission	6	7	42	35	75	72	65	54
Planning Department	29	90	63	40	15	8	8	6
Public / Neighborhood Group	238	232	193	230	222	174	129	129

**Planning Commission number includes Board of Supervisor and the Landmark board*

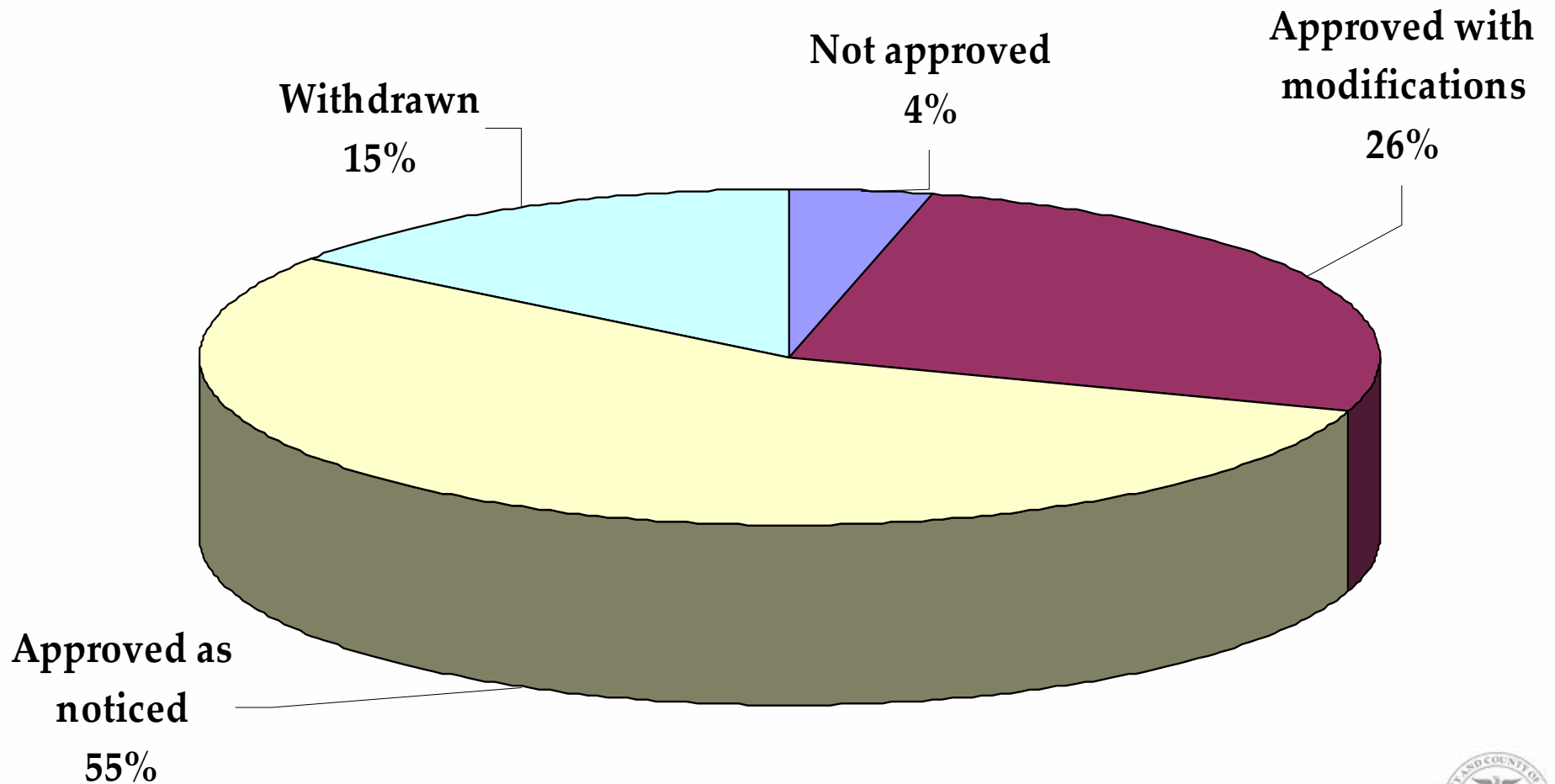
Annual Cost of Direct Staff Hours for Discretionary Review



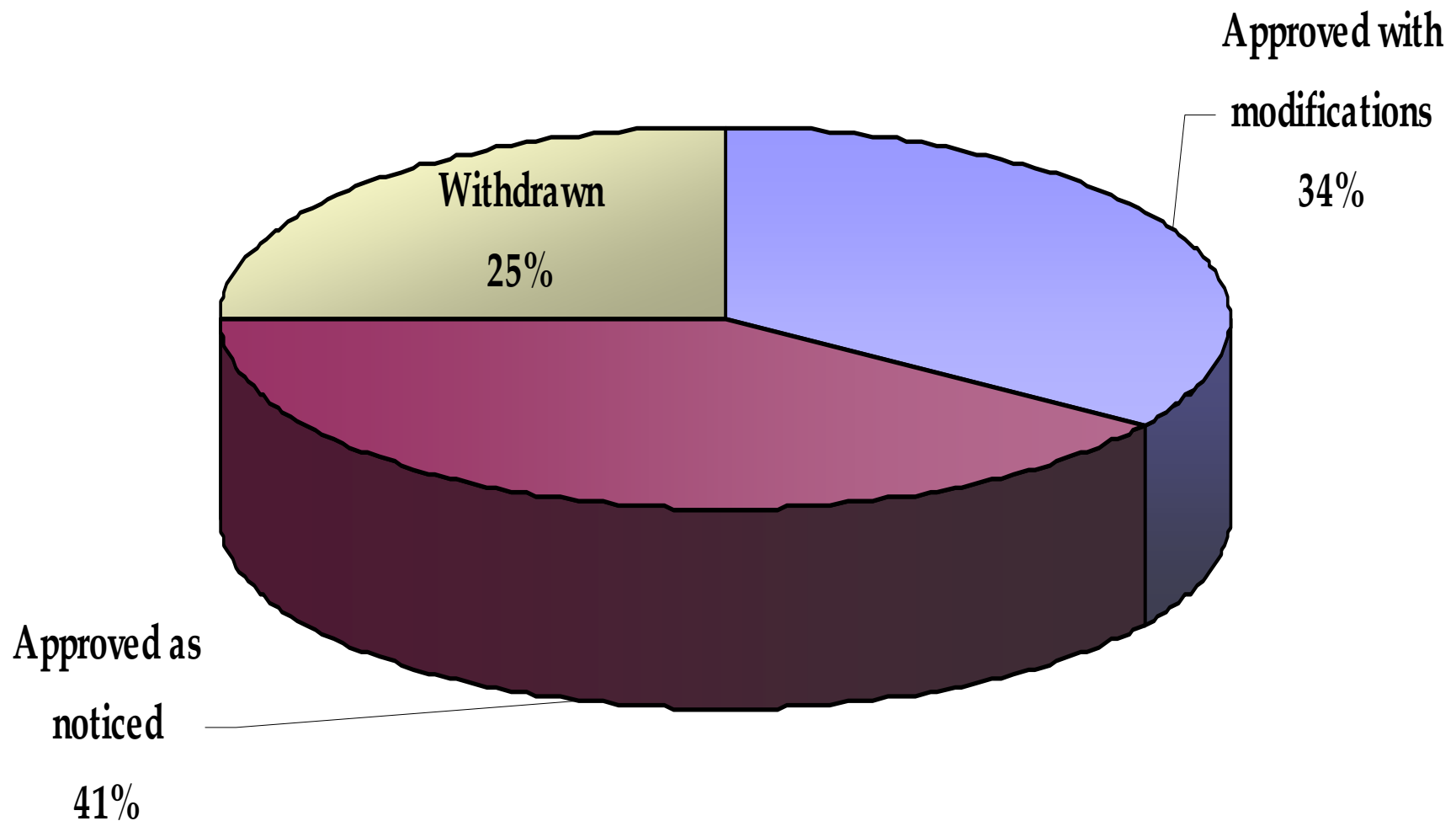
Discretionary Review filed by Quadrant



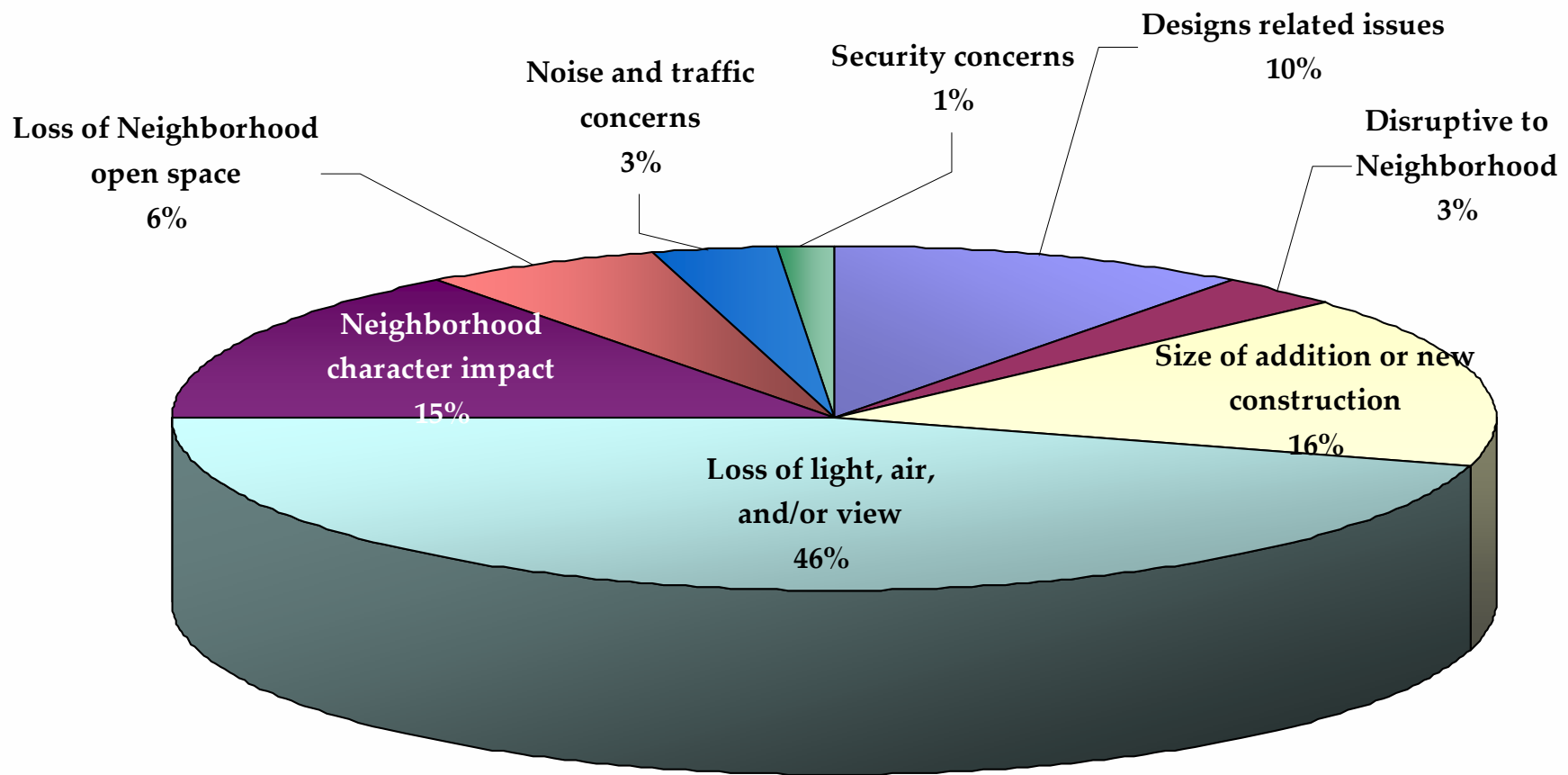
Disposition of Discretionary Review Cases Calendar Year 2007



Disposition of Discretionary Review Cases Calendar Year 2007 without Mandatory DR and MCD



Discretionary Review Issues Calendar Year 2007



Prior Reform Effort – 2004 Commission Policy

- Pre-application process for projects of a certain size
- Simple Versus Complex applications



All Recent Reviews Recommend Revisions to the Discretionary Review Process

- Budget Analyst Audit, 2003
- Matrix Report, 2006
- SPUR AIA Report, 2007

Issues: Arbitrary and political approval process that takes too much time away from the Commission's ability to focus on policy

Remedies: Delegation to ZA, Hearing Officer or separate DR Committee

Better separation of "simple versus complex"



Discretionary Review: Findings

***D**iscretionary Review process is not codified, does not produce consistent or fair results for the General public, neighbors and project sponsors, makes the development process more costly and takes time away from the Commission to address larger planning issues.*



Benefits of Current Process

- Open process and provides opportunity for residents to have public hearing where concerns are vetted
- Opportunity for greater public involvement and community participation
- Gives planners more leverage to seek project revisions
- May improve projects
- Provides for third party review of Planning Department's professional determination
- May provide Planning Commission the opportunity to review emerging planning issues



Issue/Concerns

- Driven by temperament of the neighbor, level of community involvement, and developer instead of sound planning principles and land use objectives
- Potential to result in minimal protections for lower income and more diverse neighborhoods
- Commission does not see representative sample of projects that are approved and therefore cannot easily dispense fair and standard treatment
- Removes professionalism from the planner since the DR process is more often about mediation
- Creates potential for inappropriate financial exchanges between project sponsor and neighbors
- Increases the cost of the process for the Commission, the applicant and the Department
- Inconsistent with best practices in other jurisdictions



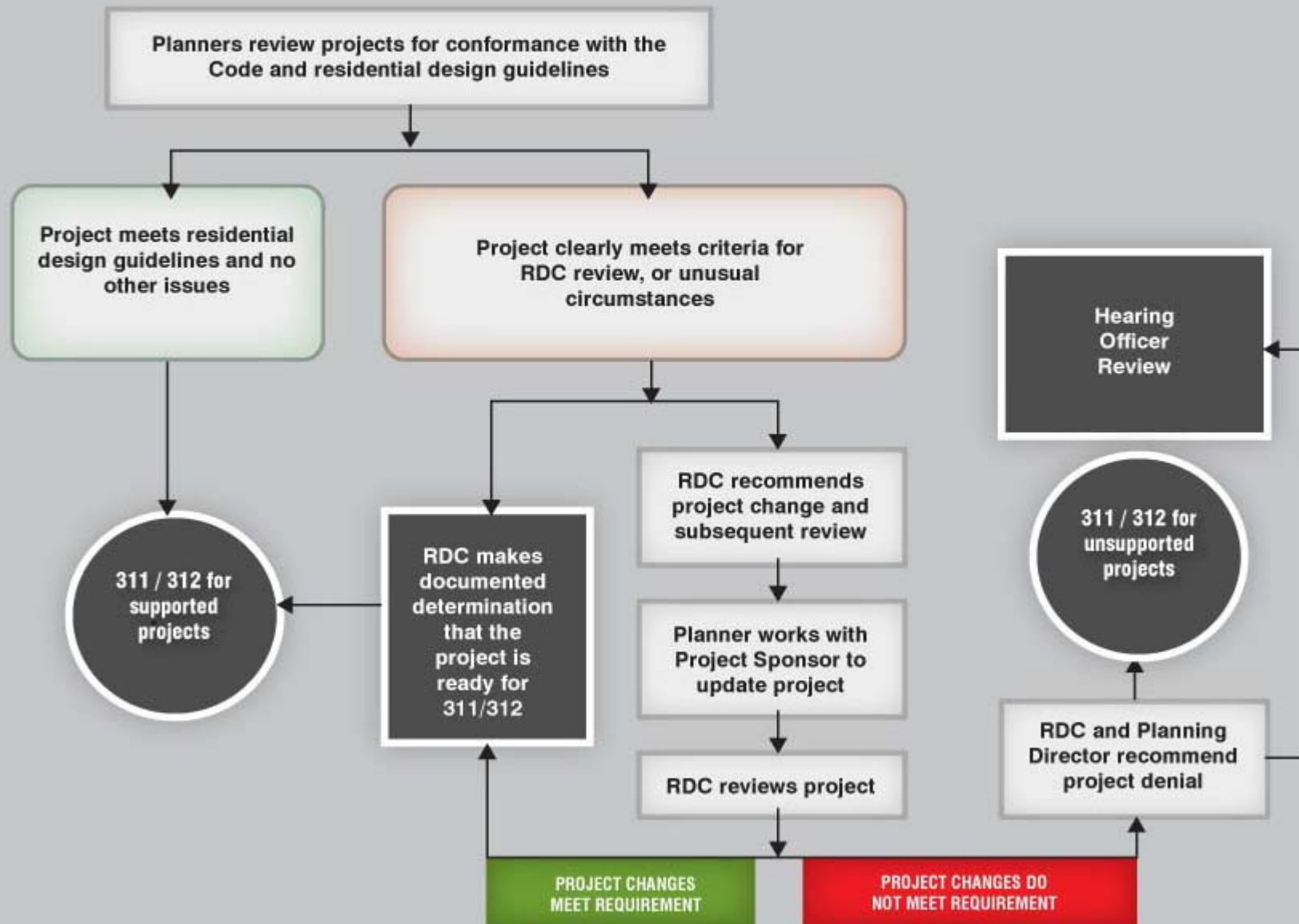
Goals of New Process

- Maintain benefits of current process
- Minimize DRs that do not show exceptional or extraordinary circumstances
- Improve internal review process and application of residential design guidelines
- Improve staff productivity and reduce waiting time for other projects in the pipeline
- Create more predictable and consistent entitlement process
- Clarify the role of the Department for applicants and the public
- Free up the Commission's calendar so that they can focus on more substantive policy issues





Proposed Internal Review Procedures



Delegation to a Hearing Officer

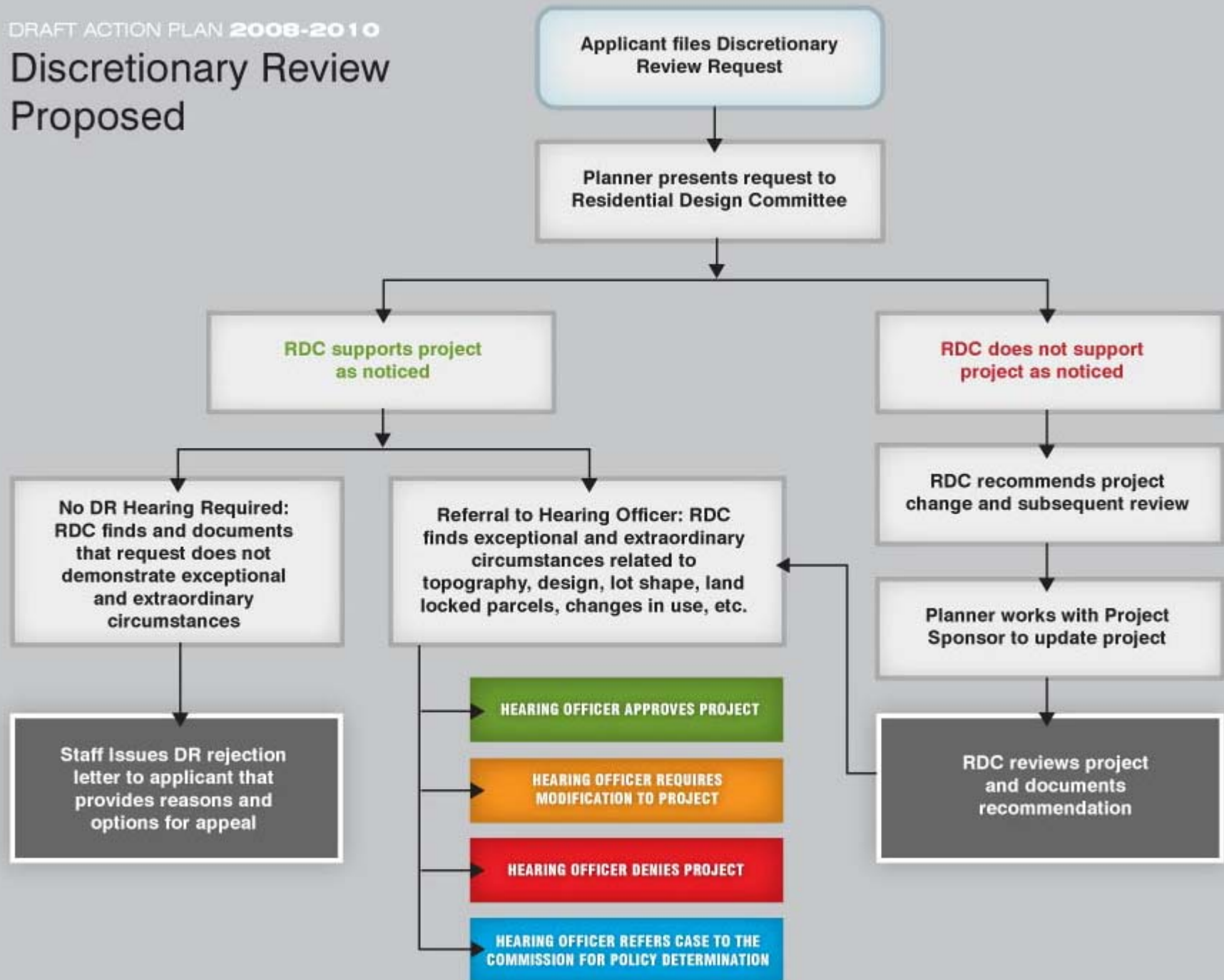
- Commission to select a Hearing Officer with qualifications to review DR cases
- Hearing Officer would be required to maintain high ethical standards and avoid all conflicts of interest
- Commission to review only mandatory DR, cases it requests by a majority vote, and cases referred from the Director or the Hearing Officer to seek policy guidance
- Commission would maintain oversight of its delegation to the Hearing Officer





DRAFT ACTION PLAN 2008-2010

Discretionary Review Proposed



Proposed DR Procedures

- Residential Design Committee formalized and decisions documented
- Criteria for Residential Design Committee review prior to public notification
- Requirement for complete DR application
- Staff returns DR applications that do not rise to a substantive planning level, i.e. views and construction issues
- Commission to delegate to Hearing Office DR cases that demonstrate exceptional and extraordinary circumstances
- Commission to review DR cases that require policy advice



Benefits of Proposed DR Procedures

- Strengthen application of “exceptional and extraordinary” circumstances
- Enhanced internal review process that improves projects prior to public notification
- Professional Hearing Officer to provide secondary review of Department decisions
- Maintains Commission’s authority to take DR



Next Steps

- Community outreach in October and November to solicit comment
- Informational hearing at the Commission on December 11
- Proposal to Commission for Action in January

