

The main problem with projects that get into the discretionary review (DR) process is that they do not follow the Planning Code. If people will stick with the code and not try to deviate from it, there would not be as many DR cases to be heard. The planners at the Planning Department do not check each project with a fine-tooth comb to ensure adherence to the code. Continued lack of compliance to the code only highlights those projects as DR candidates. More neighbors and neighborhood groups may file DRs in future. It is also of note that just because a neighborhood does not protest a project does not mean that they like the project in their area. The question from projects that are granted that clearly do not fit into the neighborhood is: How did the Planning Department ever allow that one to go in? And it is true that there is inconsistent and unequal granting or denial of projects in the City.

Overall, the entire process of reviewing a project for compliance needs to be done via a detailed, step-by-step matrix or checklist of the Planning Code. Every part of the Planning Code must be translated into a line-by-line checklist of sorts. That means line items such as: In RH-2, is the rear yard open space of the project 45%? Define what "45% of rear yard open space" means. If there is a vague word such as "inappropriate," that needs to be defined in examples. Use examples from real DR cases.

In this detailed, step-by-step matrix or checklist, you will also have an index to definitions (already in your Code in some cases, but planners/architects not reading them?) in your new "Planning Code Guide." One needs to read through the Code and create these checklists/matrices so that anybody will know what to expect from a project. Zoning Administrator "interpretations" of the Code must be made clear and precise. Too many people are dancing around the Code and creating projects that, to the surrounding neighbors, become DR candidates. Again, go through the Planning Code line by line and get it down to specifics. If a flowchart must be created to understand one part of the Code, then create the flowchart but also have the checklist because the planners do not check out everything involved in a project or they do not know. With the rapid turnover in planners, none of them are experts on the Code. They do not catch violations of the Code.

As an example, there is a requirement to put the drawings of all existing and planned structures on the 311 Notification. This is not always done. The planners need to kick these back to the project sponsor until that is done.

All square footages of all levels and totals for each unit on multi-unit structures should also be on the plans. This is also another issue that the planners do not catch. If the public is forced to tell the planners what the code states, there is something wrong with the process. The public should not have to go through the codes and find these errors and mistakes not caught by the planner to whom the project was assigned.

Also, you need to get the project plans submitted by the project sponsors time-stamped and held to legal submittal requirements. New rules must be in place to prevent DR cases from dragging on for years. It is neither fair to the applicant of the DR or the project sponsor. The neighborhood residents that once supported a project may move away. The community environment changes so the DR application starts to take on new supporters and attract new non-supporters. Worse yet, people in the neighborhood will have the impression that the Planning Department is not willing to save the character of certain neighborhoods and will give up and move away, eroding the so-called "affordable housing" left in the City. As is known, new housing in residential districts zoned RH-1 or RH-2 are usually not as affordable as the building that is altered or demolished prior to completion.

All 311/312 notifications need to be posted on the Planning Department website as well as on a dial-in recording (for those without Internet access) that lists all the demolition projects going on Citywide (e.g. NW quadrant, NE quadrant, etc.). In addition, any project that changes the façade or the existing footprint of the building should be on this list even if deemed a remodel.

There also needs to be a matrix on the open space left by developments. Sometimes the development is all within the same zoning area. If one lot is zoned for a small open space and the adjoining lot is zoned for larger open space, the larger should prevail for the sake of keeping a smaller carbon footprint or an average taken.

There also needs to be a stiffer guideline for leaving more open space in the residential zoned areas of the City. Crime increases as the areas get denser. People need to use open space for their health. It becomes also a safety issue so that people can escape from fires and earthquakes into open areas in the rear and sides and front.

The Planning Code also discriminates against certain neighborhoods over others. The much more active communities, and usually those with more political and financial clout, often have additional requirements in the Code to ensure disagreeable projects are not granted permits in their neighborhood. The “better” neighborhoods can fend off offensive projects. This bias causes development to occur in the less affluent neighborhoods and displaces many people who cannot afford the newly built housing. All neighborhoods in the City should be granted equal protection. In the move toward a greener City, there should also be a matrix for carbon footprints of projects.

There also needs to be a follow-up checklist after a project is completed. Too often, requirements of a project are not fulfilled after the final “certificate of occupancy” is granted by the Building Inspection Department. Nobody in the Planning Department goes to check on projects after they are built to ensure adherence to the plans submitted. Nobody from the Planning Department goes to see if the 20% front landscaping was put in. If nobody follows the code and the rules, the public will have less trust in the planning process. This may lead to future delays.

Community meetings are not held for many 311 notification projects. There is no policing of this and when people find out from their local coffeeshop about a project, the DRs start being submitted. The Planning Department needs to have the Project Sponsor sign an affidavit that they notified all the neighbors, held a community meeting, gathered signatures, etc. A planner has even stated that a community meeting will not be held for a project with a 311 Notification. That is not following the rules. The actions of some of the planners and their response to people

questioning a project sometimes get very frictional. Often, the information sharing ends and everyone is left with a DR and other legal issues. This is great for the legal industry, but at the expense of the City Planning Commissioners and planners who spend an extraordinary amount of time playing King Solomon between developer and neighbors.

If the Planning Code does not work as it is right now – and it seems to be the case – we have to have a discussion of what is “appropriate” in different sections of the City. Sometimes, if one says that we can average everything, that may not always work to lessen DR filings, but it may be a starting point. Averaging should not be used if there are buildings whose envelopes already clearly exceed the stricter provisions of the Code. And, there are some exceptions to every rule and those need to be addressed in DRs.

Many of the provisions in Sections 235 (Special Use Districts), 238 (Nob Hill Special Use District), 241 (Dolores Heights Special Use District), 242 (Bernal Heights Special Use District), etc. are in place because of the degradation of the character of the neighborhood and from impacts in the surrounding areas. Nob Hill, Dolores Heights, Bernal Heights, etc. have their own additional provisions which shows that the Code is not about being fair to all properties in the City. Then you have Section 244, Residential Character Districts, but the Residential Design Guidelines (1989) are not adhered to. The Guidelines need to be incorporated as part of the Code which it is. They are not just some foggy design concepts but rather rules that must be followed to ensure neighborhood compatibility for new construction and alterations. Do not call them “Guidelines.”

Section 244.1, Westward Park Residential Character District, and any future special use or character districts, will continue to be formed unless and until there is compliance with the basic Planning Code provisions. Some of the Special Use Districts were created to accommodate the developer of a project because it would not fit into the existing limitations of the Planning Code; but this opens the door for more DRs. Each time special accommodations are made for a project, the Planning Code is weakened because people see it as a futile attempt to try to get developers to stay within the Planning Code provisions and they ask themselves, “Why even bother to have the Planning Code?” This needs to be fixed.

If you notice from the codes, there is no “Richmond District Character District,” no subset of the Richmond area called “Seacliff Character District” or “Jordan Park Character District,” no “Sunset District Character District,” no “Laurel Heights Character District” and no “Pacific Heights Character District” or “St. Francis Woods Character District” because within each of these areas are many diverse sub-areas that need to be studied. You almost have to make a rule for every Assessor’s Block based on architectural and historic data. This may be needed in order to stem the tide of DRs.

Most of the residents in the previous districts also have the means to initiate private lawsuits, hire teams of professionals such as architects, historians, etc. to bring their case before the Planning Commission. And here is where the DRs will likely not diminish unless we figure out how to fix the reasons for the DR submittals.

Before the project goes to the Commission, there should be a requirement to go to community mediation where talks have come to a standstill. Maybe set one up so that people will not be forced at the last minute to look at the developer's latest and greatest drawings. Sure, it becomes another layer of administration, but it may save hours further down the process.

If a project is initially deemed a remodel only to later be found that a demolition is required, a new 311 Notification must go out. All fees for demolitions must be collected. Follow-up should also be coordinated with the Building Inspection Department and the Assessor-Recorder's Office.

All Planning Department projects need to have a log of all materials for a project. People "lose" important documents. Again, these documents should be time-stamped.

This is why I would like to be a participant in getting something together to help the Planning Department and the Commission and the public not waste so much time with DRs.

Thank you for your time and attention to this document.

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