

Planning Department

Amendments to Historical District Designation Procedures and SDMC Section 123.0203

October 25, 2018

Background

District Procedures

- First Adopted by HRB in 1977, Amended Three Times
- Originally Part of a Series of Policies that Have Been Replaced by New Documents
- Only Significant Procedural Document or Guideline Not Incorporated into the SDMC of Land Development Manual

SDMC 123.0203

- Governs the Appeal of Historic Resource Designations
- Appeal to City Council on the Grounds of Violation of Bylaws or Hearing Procedures, Error in Information, or New Information

Impetus for Proposed Amendments

Current Historic District Work Program Revealed Need for Amendments

- Concern About the Outreach to Property Owners and Polling Response Rate.
- Language Regarding Property Owner Support or Opposition is Confusing.

Amendment Process

Separate Documents, Separate Actions

- Historic District Designation Procedures: Adopted by HRB and Incorporated into LDM with 30 Day Newspaper Notice.
- SDMC Section 123.0213: Recommendation by HRB, Followed by Review and Recommendation by Other Bodies Prior to Adoption by the City Council.
- Amendments to Historic District Designation Procedures May be Adopted and Implemented Prior to or Without Adoption of Amendments to SDMC 123.0213.

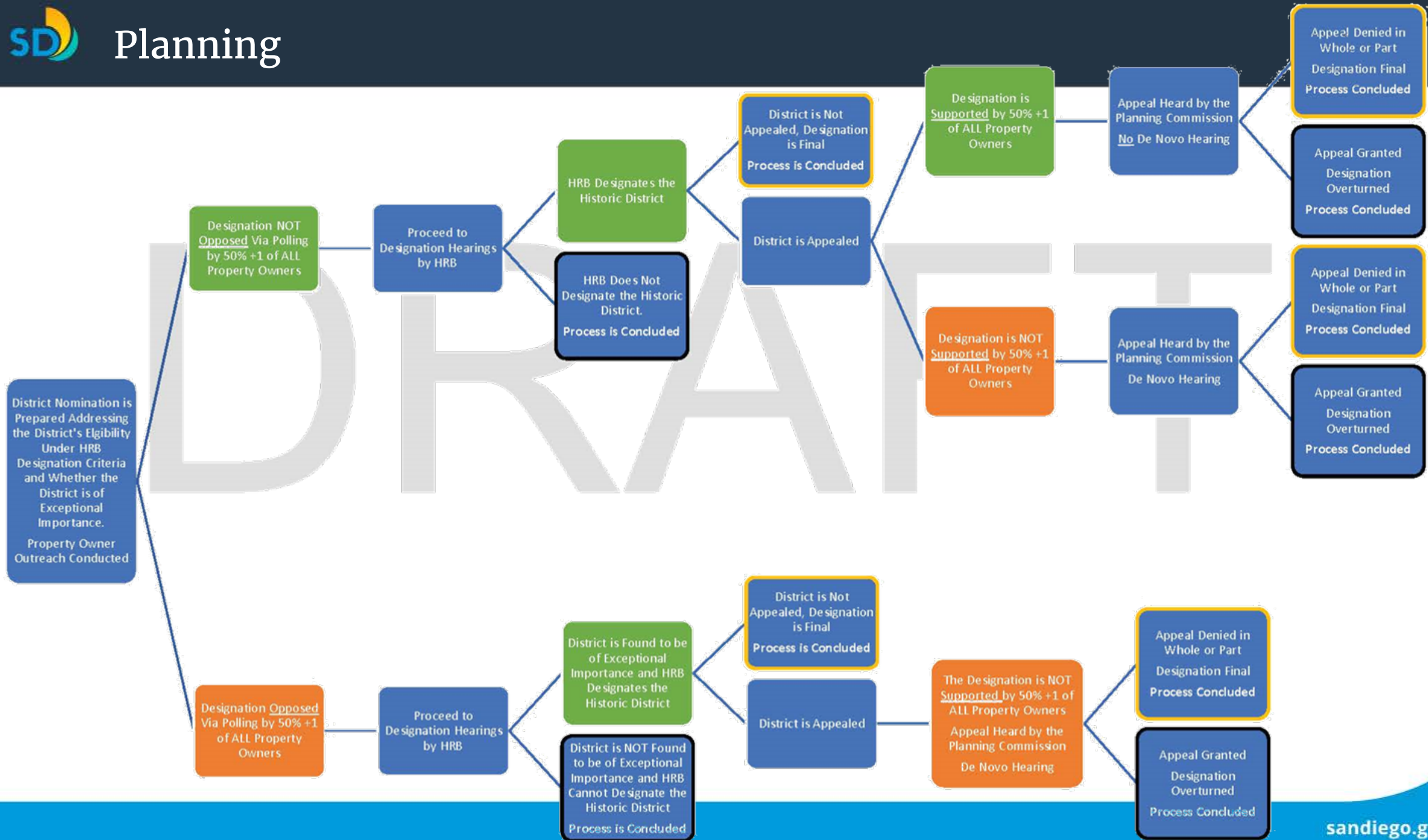
Amendments to Historic District Designation Procedures

- Rename and Incorporate as Appendix to LDM
- Clean-Up Outdated and Unnecessary Content
- Establish a New, Robust Property Owner Outreach Process
- Establish Clear Requirements Regarding Property Owner Support and Opposition
 - Each Land and Ownership (Condominium) Parcel is Entitled to One Polling Response.
 - If a Majority (50% Plus 1) of All Property Owners Submit Polling Responses in Opposition, the District Cannot be Designated Unless the District is of “Exceptional Importance” as Defined by the National Park Service.

| | Affirmative Property Owner Consent (Must Say "Yes") | Property Owner Opposition/Objection | Exceptions |
|---|--|---|---|
| CURRENT City of San Diego Register Requirements | Nomination Submitted by the City: No Nomination Submitted by Party Other than the City: Nomination Should be Supported by "Substantial Number or Majority of Property Owners" | Nomination Submitted by the City: Silent. Nomination Submitted by Party Other than the City: Nomination Should be Supported by "Substantial Number or Majority of Property Owners" | None |
| PROPOSED City of San Diego Register Requirements | No | District Cannot Be Designated Over Objection of a Majority of Property Owners (50% Plus 1) With One Exception | District Can Be Designated Over Objection of a Majority of Property Owners if the District is of "Exceptional Importance" |
| California Register Requirements | No | District Cannot Be Designated Over Objection of a Majority of Property Owners | No Exceptions if Opposed by a Majority |
| National Register Requirements | No | District Cannot Be Designated Over Objection of a Majority of Property Owners | No Exceptions if Opposed by a Majority |

Amendments to SDMC Section 123.0213

- Change the Decision Maker on Historic District Designation Appeals from the City Council to the Planning Commission
 - Decision-Making Body with Land Use and Environmental Expertise.
- If the District Designation is SUPPORTED by a Majority (50% +1) of All Property Owners, Appeal Findings Would be Limited to the Existing Findings.
- If the District Designation is NOT SUPPORTED by a Majority (50% +1) of All Property Owners, Appeal Findings Would Include a New Finding of “Evidence Not Supported” That Would Allow a De Novo Hearing.



Public Comment & Concerns Regarding Amendments to the Historic District Designation Procedures

| COMMENT OR CONCERN | STAFF RESPONSE |
|---|---|
| <p>Concern regarding the consideration of owner opposition, and the requirement that a district be of “Exceptional Importance” if the district is opposed by a majority of all property owners.</p> | <ul style="list-style-type: none"> • Does <u>not</u> require affirmative owner consent. • More permissive than the City’s <u>existing</u> District Procedures when the nomination is submitted from outside of the City, because: <ul style="list-style-type: none"> • Affirmative support is not required, and • District can still be designated if of Exceptional Importance. • More permissive than State or National Register Procedures, which provide no exceptions in the face of majority opposition. • Most historic districts are single-family or low-density residential, and these districts have never been opposed by a majority or property owners. |

Public Comment & Concerns Regarding Amendments to the Historic District Designation Procedures

| COMMENT OR CONCERN | STAFF RESPONSE |
|---|---|
| <p>Confusion regarding how polling is calculated (who can vote, how neutral responses are calculated, etc.)</p> | <p>Staff provided some additional language to clarify these points:</p> <ul style="list-style-type: none">• Each land or ownership parcel is entitled to one polling response by the property owner.• “Exceptional Importance” is only required if the district is <u>opposed</u> by a majority (50% plus 1) of all property owners.• Neutral polling responses are <u>not included</u> in the tally of opposition. |

Public Comment & Concerns Regarding Amendments to the Historic District Designation Procedures

| COMMENT OR CONCERN | STAFF RESPONSE |
|---|---|
| <p>Requiring every nomination to address “Exceptional Importance” will discourage volunteer groups and property owners from submitting nominations.</p> | <ul style="list-style-type: none"> • Requiring the “Exceptional Importance” analysis in every nomination was a staff attempt to: <ul style="list-style-type: none"> • Address contractual processes with consultants. • Allow all stakeholders to understand upfront whether the analysis supported “Exceptional Importance” • Staff understands the concern that this additional analysis may discourage volunteer-efforts, and is open to removing this analysis as an up-front requirement for all nominations. It would be required of volunteer groups if the polling results showed majority opposition. |

Public Comment & Concerns Regarding Amendments to the Historic District Designation Procedures

| COMMENT OR CONCERN | STAFF RESPONSE |
|---|--|
| Who decides “Exceptional Importance”? Staff? The Board? | “Exceptional Importance” would need to be addressed in the nomination. All nominations would proceed to the Board, and if the district were opposed by a majority of all property owners, the Board would need to make findings in support of “Exceptional Importance”, in addition to the findings related to the designation criteria. |

Public Comment & Concerns Regarding Amendments to SDMC Section 123.0203

| COMMENT OR CONCERN | STAFF RESPONSE |
|---|--|
| <p>Concern regarding changing the appeal body from the City Council to the Planning Commission for historic district designation appeals.</p> | <ul style="list-style-type: none">• The Planning Commission is a decision-making body established by the City Charter with specific experience in land use planning, environmental issues and reviews, and community planning.• Comprised of individuals in the fields of: architecture, landscape architecture, engineering, planning, and community planning/advocacy, among other fields.• As the decision maker for Site Development Permits impacting designated historical resources, the Planning Commission does have experience with Designated Historic Resources.• The Planning Commission is the hearing body on Process Two and Three applications.• Docketing is less constrained. |

Public Comment & Concerns Regarding Amendments to SDMC Section 123.0203

| COMMENT OR CONCERN | STAFF RESPONSE |
|---|--|
| <p>Concern regarding the added appeal finding of “evidence not supported” if the district is not <u>supported</u> by a majority of all property owners.</p> | <ul style="list-style-type: none"> • De Novo hearings are common in other hearing processes. The appeal of all entitlements (Variances, Neighborhood Development Permits, Coastal Development Permits, etc) include a finding of “evidence not supported”, which allows the Planning Commission or City Council to determine whether or not the decision-makers actions are supported by the information presented at the hearing. • The finding of “evidence not supported” would only be available if the district were not <u>supported</u> by a majority of property owners. |

Staff Recommendation

1. Rename the “Board’s Procedure on Establishing Historic Districts” to the “Historical District Designation Procedures” and adopt the proposed amendments to the Historical District Designation Procedures, which will be incorporated as an appendix to the Historical Resources Guidelines of the Land Development Manual.
2. Recommend to the City Council adoption of the proposed amendments to SDMC Section 123.0203.