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ON THE COVER

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EXECUTIVE SUMMARY

When the first edition of this PAS Report was published in 1995, design review as a tool of local land-use regulation was still in its adolescence. Perhaps a few hundred cities and towns across the country were using it, which was a great increase from even 10 years previously when it was most likely in the few dozens. By the 1990s it had been recognized as a useful technique in the toolbox of regulations. A 1994 survey of 370 cities and towns found that 83 percent of them were engaged in some form of design review. Further, 60 percent of those respondents indicated that they had introduced it in the period between 1983 and 1993 (Scheer and Preiser 1994). Since then, many more cities and towns have made use of design review to guide new development.

For a variety of reasons, it seems prudent to present design review as it has evolved into its current state of use. Many cities have refined the design review process into a tool of greater craft and nuance with multiple variations. Although much more “settled” as a legally permissible tool, design review continues to evolve, with cities learning lessons both from their own actions as well as their peers. Finally, the evolution of design review has paralleled the evolution of digital technology. Now, digital images of proposed projects can be shown realistically and modified and tweaked with ease.

This PAS Report presents an updated explanation of design review, along with what has been learned from decades of its widespread application.

WHAT IS DESIGN REVIEW?

Design review is a key implementation tool used by local governments to evaluate the design of a proposed development. A good working definition of design review as used by local governments would be:

The evaluation of the design of a proposed development or building by one or more qualified reviewers, applying legislatively adopted design standards and guidelines, considering comments by the affected public.

Design review is intended to combine two sets of objectives: those of a private party involved in real estate development of some form, and those established by public policy as expressed through plans, codes, and standards. It is the balancing of these two sometimes conflicting sets of objectives that is at the heart of design review.

Project reviews are conducted by a group of qualified reviewers, typically an appointed board or commission, applying legislatively adopted design standards and guidelines and considering comments by the affected public. Design review can also be managed administratively, assigned to the planning director. Some cities use both a design commission and staff review.

Design standards and guidelines are crafted in a process of deliberation, debate, adoption, and publication. The best design review documents are heavily illustrated with photos, renderings, and numerical diagrams that are as explicit as possible to provide guidance to applicants and reviewers.

There is often confusion or misunderstanding about the difference between design standards and design guidelines. Design standards are objective, quantitative measures of design attributes. They include numbers, dimensions, and precise wording such as “must” and “shall” that result in a narrow range of outcomes. They are mandatory. They have little or no flexibility.

Design guidelines are flexible, qualitative measures of design attributes. They rely upon descriptive language, using terms such as “should” or “may,” that allows for a broad range of outcomes. Some municipalities use both, perhaps applying design standards in a downtown district and design guidelines in neighborhood districts.

Design review has a number of purposes. These fairly broad themes should be kept in mind when creating new design standards and guidelines.

1. To ensure that a proposed project takes into consideration its surroundings. Design review requires a development to recognize its immediate physical context. This should not be construed as “match the surroundings” or even “be compatible” with other development; design review is never about conformity. Design review can ensure that, as a project is designed, it takes into consideration relationships to existing development patterns, as well as those anticipated by applicable policies and codes.

2. To ensure that every proposal positively enhances the adjacent public realm. The public realm is the space between
buildings. It comprises streets, sidewalks, public spaces, parks, and trails, as well as public buildings. Design review asks new development to contribute to the collective good of a community and help build places, not just buildings on individual sites.

3. To work with other policies, programs, and public investments to strengthen the vitality of a neighborhood, district, or corridor. Design review looks beyond the boundaries of a site to see how the project adds to the evolution of a place, along with other actions both public and private in the vicinity.

4. To allow the public to comment on the design elements of a proposed development. Design review allows the public to get involved both at the time that standards or guidelines are being written as well as during design review meetings in a project’s development review process.

5. To encourage creative architectural expressions. Design review provides a pathway to achieving both public and private objectives. Generally, the intent is “getting to yes” through collaboration, respectful discussion, and an end goal of trying to make better communities.

Design review is about ensuring that both existing development and new development can work together to create vibrant, dynamic, and appealing places to live and work. Many localities regard it as part of their economic development strategy as it can enhance the overall image of the community for both residents and visitors, strengthen established neighborhoods, and protect and leverage the value of environmental assets. By blending public and private objectives for community design, appearance, and function, design review can attract new development and support applicants’ return on investment in downtown or other districts.

TYPES OF DESIGN REVIEW

There are three forms of design review. The first type involves an appointed board or commission made up of volunteers with the authority to review applications and approve, deny, or approve them with conditions. Board membership is made up of design professionals and laypeople to ensure a balance of perspectives. Planning staff provides support for the work of the board by preparing staff reports and assisting applicants in meeting the standards and guidelines in the application process.

The second type of design review is an administrative model in which professionally trained planning staff conducts the review according to adopted standards and guidelines. One benefit of this approach is that staff and the applicant can work faster toward a positive decision because the process is not constrained by docket schedules.

The third type, a hybrid design review process, involves both a board or commission and the professional planning staff, each being responsible for certain aspects of design review. In some cases the division of responsibilities is based on the size or type of project, the district it is in, or the level of complexity of the review. In large agencies that have trained architects and urban designers on staff, it is more efficient for at least some of the review responsibility to be handled administratively. This can help keep the caseload and meeting agendas for design review boards at a manageable level for the sake of the volunteer members.

In crafting a design review process, a local government will have to consider which approach best fits its existing board and organizational structure, level of staff expertise, and the projected caseload of projects that will go through design review.

BACKGROUND AND LEGAL FOUNDATION

Chapter 2 of this report examines the background and legal foundations of design review. Design review emerged out of many efforts that began in the 19th century to improve the design of communities. Zoning came into widespread use in the 1920s, but it was another 50 years before local governments took a critical look at the constraints zoning put on creativity and innovation in the design and physical character of downtowns, commercial districts, and residential neighborhoods. In practice today, design review combines the idea of directing the character and quality of development with contemporary practices of public engagement.

Although early legal decisions regarding design review authority tended to favor developers over broader community interests, more recent court decisions have found the process to be valid if it complies with certain legal principles. It was the U.S. Supreme Court’s decision in Berman v. Parker (1954) that opened the floodgates to local regulations based solely on aesthetic considerations. The court affirmed that the concept of public welfare is broad and inclusive and it is within the power of local government to “determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.”

If cities stray from proper legal procedures and adopted criteria, design review decisions can be challenged. Courts
today will generally uphold design review ordinances that adhere to the following principles:

- The stated purpose and decision-making criteria are tied to thoroughly considered policies and goals as established in a comprehensive plan or area plan.
- The process is managed by the local government as quasi-judicial; it requires findings of fact and prohibits ex parte communication by members of an appointed review body.
- Applicants are treated fairly and consistently.
- The review is limited to the physical features of a project or proposal.
- Appeals must be based on substantial errors.

If a city or town is going to engage in design review, it is imperative to address urban design and community character topics in the comprehensive plan. The aim should be to include design goals, objectives, and policies for all aspects of the plan where design is important. Adopted comprehensive plans and subarea plans should establish the desired physical character of a community or neighborhood. This is important in demonstrating a rational basis for design standards and guidelines.

THE DESIGN REVIEW PROCESS

Design review can be broken down into six basic components, detailed in Chapter 3. The first component is the triggering mechanisms that govern which development applications are required to go through design review. These triggers or thresholds vary widely among communities. The most widely used are the size of a project, as measured by parcel size, square feet, or height; its location (i.e., within a district where all projects are subject to review, such as an historic district overlay or center city); or its land-use type (e.g., mixed use projects).

Application submittal requirements are the second component. What paperwork, conceptual drawings, forms, analyses, fees, and other pieces of information must an applicant provide to the city for an application to be considered complete and ready for review? Planning departments often provide applicants with checklists of information that must be provided at the time the application is made. Items typically required as part of an application include a written description of the proposed development and explanation of how it will meet the design standards and guidelines, a site plan and visual representations of the proposed development, information on exterior building materials, application fees, and other materials as requested.

As the review process gets under way, planning departments should offer to host a preapplication conference between design review staff and the applicant to identify any problematic aspects of the proposal before a formal application is made. While the design review ordinance may describe this meeting as optional, for a project of any size or complexity, or for applicants who are new to the process, participating in such meetings is strongly encouraged. Planning staff benefit from preapplication meetings too, as they can get a sense of the size, scope, and complexity of the project.

When a formal application is submitted, staff will check it for completeness and get to work on providing public notice of the proposal, coordinating review processes with other departments, and scheduling public hearings or workshops.

Following the review process when a decision has been made by the design review board or an administrator, a “record of decision” is issued that includes facts of the application, findings, and recommendations. The record must indicate whether the application is approved, approved with conditions, or denied. Public notice of the decision must also be made.

Finally, a design review ordinance will guide applicants on how to file an appeal, which may be administrative or judicial depending on the nature of the review system.

Ordinance language for a design review process should lay out the sequence of steps, including who has decision-making authority, what materials are required at each step, and how appeals are handled.

DESIGN STANDARDS AND GUIDELINES

Design standards and design guidelines are distinctly different tools, are worded differently, and serve different purposes. As described earlier, design standards are objective, quantitative measures of design attributes, while design guidelines are flexible, qualitative measures of design attributes. Many cities use both, varying them between districts or land uses to which design review is applied.

There is no one method for a community to create new design standards and guidelines. Chapter 4 describes numerous important and helpful actions that will assure the quality and functionality of the new rules when they are put to use. If the standards or guidelines are going to be prepared in-house, a working committee should be convened.

More commonly today, local governments hire a consulting firm to prepare the document. Whoever takes the
lead, the initial tasks are to review all relevant planning policies for implementation direction; visit local projects to look for good models of desirable elements of buildings and the public realm; and prepare renderings, hand drawings, and photos to depict what the standards and guidelines aim to accomplish. A brief first draft should be prepared to generate feedback from the development sector, citizens, and internal agencies. The public should be engaged throughout the process using both conventional (public meetings and workshops) and emerging techniques for collection public comments, including app-based surveys, a project website, and public polling. A final draft can then be prepared that incorporates all sources of input and expertise.

CASE EXAMPLES

Chapter 5 offers examples of design review programs from 10 U.S. cities of varying sizes, with notes on each city’s distinguishing aspects of design review. These cases illustrate the range of variation in approaches.

Several principles can be gleaned from the case examples and from the authors’ respective experiences in drafting and implementing design review processes:

1. The design review process can involve an appointed body, professional staff, or both and work equally well.
2. The composition of appointed boards benefits from a mix of laypersons and professionals with design backgrounds.
3. Public engagement is important but should be carefully tailored to provide useful input.
4. Early design guidance to applicants is useful, both in pre-application meetings and through initial meetings with a board and applicant.
5. It is essential to have a good, clear set of design standards and design guidelines for use by applicants and reviewers.
6. Both standards and guidelines are important to allow for both predictability and flexibility.
7. Jurisdictions using design review should periodically evaluate both the process and decision-making criteria to ensure that they continue to reflect policies and desired outcomes.
8. Design review is most effective as an implementation tool for comprehensive or area plans that have been prepared with thorough public involvement and adopted by the local legislative body.

DESIGN REVIEW AND BEYOND

Design review is not the only means of encouraging good design. Chapter 6 describes nonregulatory approaches that can establish a positive ethos and support by the private sector and the public for improving the design of the public realm and the relationship of buildings to the street and to one another.

Local planning awards programs can be established to honor good work and highlight exemplary projects. Award winners serve as examples for future development. Such programs can be managed by the city or by a civic group, such as a chamber of commerce, or it can be a collaborative effort. Design competitions can elevate design quality in cities where they have been used to attract the best and brightest designers to pitch their ideas for a public building or park. Submissions must be judged by registered architects, landscape architects, or other design professionals. Local governments can set the design bar high by employing thoughtful design of new public buildings. Some cities offer monetary incentives for upgrading private projects.

Professional planning staff can lead members of the design review board or commission on walking and driving tours of nearby communities that have had excellent outcomes of design review in their downtowns, commercial areas, and residential projects. Representatives from the featured communities can share their own lessons learned from their review processes.

Local government websites can highlight completed projects that match the community’s highest design aspirations. For projects undergoing design review, the conceptual plans, renderings, and photos presented to the design review board can be posted and publicized for the public and other developers to get a look at the benefits to the community of design standards.

Forums and workshops can help raise awareness and understanding of good design. Local governments can offer “planning academies” for the public, and university-based design centers can also offer such services. Jurisdictions can convene to share their experiences and approaches to improving design. The Municipal Design Review Network in the Chicago region is one such example.

Design review is a useful method of guiding development and enhancing the quality of buildings, sites, and the public realm that has become more established, more broadly applied, and more effective with time. It will continue to evolve as a regulatory technique, with its core purpose of producing higher-quality urban design through a transparent pub-
lic process being further refined. As more cities make use of it, planning departments will need to staff accordingly with planners having design education and experience. Information technology can also be employed to help citizens become more aware of how places change and how they can influence those changes. If crafted with care and thoughtfulness, the design review process can be an effective way to direct the quality and character of development in our communities.
CHAPTER 1

INTRODUCTION
When the first edition of this PAS Report was published in 1995, design review as a tool of local land-use regulation was still in its adolescence. Perhaps a few hundred cities and towns across the country were using it, which was a great increase from even 10 years previously when it was most likely in the few dozens. By the 1990s it had been recognized as a useful technique in the toolbox of regulations. A 1994 survey of 370 cities and towns found that 83 percent of them were engaged in some form of design review. Further, 60 percent of those respondents indicated that they had introduced it in the period between 1983 and 1993 (Scheer and Preiser 1994).

However, in its formative years, there were few judicial cases to establish ground rules for design review. Indeed, many jurisdictions were reluctant to adopt the process early on because few states had provided explicit statutory authority. In some towns it seemed like an extreme intrusion into decision making by the public sector. But perhaps worse was that a number of cities that caught wind of the tool casually adopted it without much serious thought. Often committees or commissions were set up and volunteers were appointed, but there were no instructions, limits, or guidance given on how to conduct design review. That was where major mistakes were made.

Design review decisions varied widely depending on who was appointed or who had the loudest voice. Designers sitting on boards often dictated their personal design preferences. Neighbors used it to address issues that were not germane to the specific process, like zoning density. And developers were flummoxed by public review processes that they saw as intrusions into their business practices. Even worse, a few towns used design review to exclude what they saw as undesirable uses, such as low-income housing.

For many years, design review processes ranged widely in their detail and deliberation. Often, certain individuals on the review boards simply used their powers of persuasion. Decisions might be subjective if not outright arbitrary and capricious. A big part of the problem was the language contained in guidelines and standards that boards were required to follow in rendering decisions. It was common to see ordinances with overly broad and vague decision criteria such as “encourage interesting buildings,” “ensure compatibility,” and “make development harmonious.” These phrases offered no real direction; decisions could be made on a case-by-case basis with no consistency over time.

Some design review ordinances even ignored basic entitlements offered by their own municipalities’ zoning codes. In some parts of the country, the development sector was poised to challenge the very concept of design review as being an improper use of zoning authority. Even professional planning documents were not especially helpful to their own cause. They either focused on a narrow range of development types, such as franchise outlets, that were deemed offensive or relegated the subject to aesthetics—a very tenuous rationale for regulations.

Into the breach in 1995 came PAS Report 454, Design Review, which described the legal underpinning for this tool, placed boundaries on the technique, and offered guidance for its useful—and defensible—application. Since then, many more cities and towns have made use of design review to guide new development.

Cities have changed, some quite dramatically, in the last two decades. Entire neighborhoods with dense housing and mixtures of uses in close proximity have emerged. Some of these neighborhoods are historically urban; others have transformed out of previously suburban patterns. Others still reflect their suburban or small-town roots. Many communities of widely varying sizes, locations, and types have embraced design review as a regulatory tool. Design review is viewed as a way to guide the quality and character of development.

For a variety of reasons, it seems prudent to present design review as it has evolved into its current state of use. In “development years,” 1995 was a long time ago. Since then, many cities have refined the design review process into a tool...
of greater craft and nuance, with multiple variations that have pluses and minuses. Although much more “settled” as a legally permissible tool, design review continues to evolve, with cities learning lessons both from their own actions as well as their peers. Finally, the evolution of design review has paralleled the evolution of digital technology; the era of spreading out hand-drawn sketches on a table surrounded by board members is long gone. Now, digital images of proposed projects can be shown realistically and modified and tweaked with ease.

This PAS Report presents an updated explanation of design review, along with what has been learned from decades of its widespread application.

WHAT IS DESIGN REVIEW?

A good working definition of design review as used by local governments would be:

_The evaluation of the design of a proposed development or building by one or more qualified reviewers, applying legislatively adopted design standards and guidelines, considering comments by the affected public._

Note that this definition includes several important aspects. First, the evaluator could be an individual or it could be a panel of people. The former might be a planning director; the latter would be a formally appointed board or commission. The latter can include the use of people not in the design fields, as well as those who are.

Second, it highlights the need to use design standards and guidelines that have been crafted in advance and taken through a process of deliberation, debate, adoption, and publication. This is necessary to comply with the “rule of law” that is prevalent in a planning process context. No courts would tolerate a review system that involved complete discretion by individuals, however expertly trained and experienced.

Third, this definition embraces the notion that the public should be provided an opportunity to comment during the process. That does not suggest veto power or the use of petitions. But rather, residents, businesses, and property owners should be able to comment on the proposal. The public should also have the right to appeal the decision (assuming they have legal standing).

Finally, design review is a serious application of laws and, as such, is not dissimilar to a municipal court with its record-building procedures regarding a decision. Decision makers, while applying their judgment, must adhere to adopted laws and apply them with deliberation.

If a city or town is not prepared to embrace all of the board administration, staffing, continued training, and adherence to open and fair procedures that go along with design review, all of which translate into real fiscal expenditures, they probably shouldn’t be doing it.

THE PURPOSE OF DESIGN REVIEW

In a general sense, design review is intended to combine two sets of objectives: those of a private party involved in real estate development of some form, and those established by public policy as expressed through plans, codes, and standards. It is the balancing of these two sometimes conflicting sets of objectives that is at the heart of design review.

Decision makers involved in the review—whether an administrative review conducted by qualified staff or a design review board—are acting as a delegated “arm” of the local legislative body. In one sense, design review is a live demonstration of democracy intersecting with capitalism. The United States is both a democracy and a capitalist society—tempered by judicial principles of open decision making, public redress, and the role of local government. That is why design review done in many other countries—however interesting the results might be—does not translate to this country. Most often those countries have a much more centralized tradition of government, place much more power in the hands of officials, and do not allow for citizen input.

Design review has a number of purposes that vary from one place to the next. There are general principles to guide the process that many places have in common and will include in some fashion in their implementing plans and regulations.

1. **To ensure that a proposed project takes into consideration its surroundings**

Design review requires a development to recognize its immediate physical context. This does not mean “match the surroundings” or even “be compatible” with other development. Thoughtfully designed buildings can sharply contrast with their surroundings. Unlike design standards in many private covenants, design review is never about conformity. It is about thoughtfulness and includes consideration of scale, topography, and vegetation, as well as the proximity and orientation of existing structures. Design review can ensure that, as a project is designed, it takes into consideration rela-
tionships to existing development patterns, as well as those anticipated by applicable policies and codes.

2. To ensure that every proposal positively enhances the adjacent public realm, especially sidewalks and public spaces

The public realm includes streets, sidewalks, public spaces, parks, trails, and buildings that are owned by the government and available for the general public to use. Ensuring that new development positively enhances the adjacent public realm is a prime responsibility of design review. The best developers and designers take this into account in projects. Design review should instill an attitude of caring for shared community spaces. This asks new development to contribute to the collective good of a community and help build places, not just buildings on individual sites.

3. To work with other policies, programs, and public investments to strengthen the vitality of a neighborhood, district, or corridor

Design review looks beyond the boundaries of a site to see how the project adds to the evolution of a place, along with other actions both public and private in the vicinity. Development is viewed as part of a larger picture.

4. To allow the public to comment on the design elements of a proposed development

Design review allows the public to weigh in with their concerns. Residents and business owners in the vicinity of a proposal development can contribute valuable perspectives regarding history, circulation patterns, preferences for public spaces, and other subjects at the scale of a street or block.

5. To encourage creative architectural expressions

Design review should allow flexibility to encourage innovative and imaginative design solutions for a particular site. It seeks ways of achieving both public and private objectives. This requires engaging with project designers early in the process, not merely reacting to a finished design. It is meant to focus on the aspects of a proposed development that help build a street, a neighborhood, or a district. Generally, the intention should be “getting to yes” through collaboration, respectful discussion, and an end goal of trying to create better communities.

What Design Review Is Not

Design review is not a process for stopping development by neighborhood activists. People opposing a development often level their objections at the wrong target. If they believe that someone is proposing too much density or too tall of a building—elements that are codified within the zoning ordinance—they need to spend time with the city council when it reviews plans and ordinances. Design review is not the place to wage land-use battles. That said, in a municipality with outdated plans, planners and board members involved in design review should not be surprised if neighbors use that process to make their case against new development.

Design review is also not a means by which an appointed group can redesign a private development project. The development team includes professionals who are at least competent, if not creative. They should be given professional respect. If there issues with a design, and often there are, it is a matter of providing verbal direction to the project team—not taking pencil to paper and reworking it. The design team has already juggled many variables and can certainly take direction and rethink an aspect of a project.

Design review is not a tool to apply unilateral fiat by an official or a board; it requires two-way communication and collaboration. Board members, even if they are very accomplished and experienced professionals, should not give individual directions to an applicant, nor should members use the process as a platform for their personal design preferences. The appointed members of a design review board or commission should work together to provide collective direction.

And finally, design review is also not a forum for mediating disputes about land-use policy; it is not a plebiscite on a specific development proposal. A design review decision should be based on legislatively adopted design standards and guidelines, not neighborhood petitions or straw votes.

THE VALUE OF DESIGN REVIEW

Design review allows a community to better achieve its goals for economic development. It protects valuable environmental assets, strengthens neighborhoods, and enhances the overall image of the community for both residents and visitors. It can help demonstrate that the community can accommodate development while at the same time reflect shared values and attributes. It allows for engaging the public in decisions regarding incremental changes to the community and enables them to express ideas about how individual projects can contribute to the community as a whole. Design review is
about ensuring that both existing development and new development can work together to create vibrant, dynamic, and appealing places to live and work.

If the design standards and guidelines are clear and if the process is expeditious, design review can assist a development team in creating a project that meets both private-sector objectives and public goals. The process can help inform the development team about community priorities and issues. It can offer flexibility in different ways to achieve the intent of the design standards and guidelines. It can also offer early guidance on design directions in advance of major commitments to time and money.

In its best use, design review supports local democracy. It allows citizens to engage in the shaping of their communities by offering comments on proposals before they reach the stage of construction. It offers one way for people to express what is important to them as a community evolves. Design review can also be an economic development tool in that it can result in buildings that enhance property values. Communities using design review often attract better developers, as the process assures them that nearby development will not detract from their investment.

MAJOR TYPES OF DESIGN REVIEW

There are three forms of design review, none of which is inherently the best. It is up a community to decide which model best fits its circumstances.

Design Review Board or Commission

This is the oldest form of design review, with a few cities having used it back into the early 1970s. It involves a body of citizen volunteers that typically meet once or twice per month, whose members are usually appointed by the mayor or city council. The makeup of the body may be prescribed by specifying certain seats to be filled by those in specific professions—e.g., architects, landscape architects, engineers, or real estate development professionals—as well as citizens. For smaller towns, achieving this complement is sometimes difficult; there might be only one or two design professionals practicing in that locale.

The board or commission is empowered to make decisions or make recommendations to a higher authority, such as an administrator or the council. Reviews are conducted in meetings open to the public. In some cases, this process is very formal, while in others it can simply be sitting around a conference table. There are also variations of this model that can include subcommittees of a planning commission or city council, or other special review bodies that are empowered to conduct design review.

At a typical design review board meeting, the applicant will make a presentation. The board invites members of the public to make comments and acknowledges any letters or other communications it has received from the public. The board then deliberates. Sometimes a board can make its decision in one meeting, while some boards require multiple meetings. When a decision (or recommendation) is reached, a staff person or the board chair prepares a document and transmits it to the authority that makes the final decision. The board or commission may also deliver its findings and recommendations directly to the applicant.

Hundreds of cities have used this model with varying degrees of success. The major downside is that it involves unpaid citizen volunteers. They can only be expected to attend so many meetings before the process intrudes into their lives. In a robust community, with lots of permit applications, this can be a huge burden. And a backlog of docket items can slow everything down and present problems for the development sector.

Design Review by Professional Staff

With this model, a professional staff is hired and paid to conduct the review. There may or may not be public meetings, but there is an opportunity for public comment. The principal attribute of this model is that staff is always available to work with a development team. The design of buildings proceeds along a particular path with a particular timeline. Staff can be available to respond to each step, whereas a board only meets from time to time.

As in the board or commission review model, staff people who manage this design review model still have to follow procedures, send out notices, and conduct reviews using adopted design standards and guidelines.

One major advantage of this model is that the staff can follow through to the construction stage to ensure that the promised design is actually delivered. This requires comparing what is being built to what was approved to ensure that substantive changes were not made to design documents following approval. With the commission model, the staff may not be as easily able to determine the intent of a commission should a dispute arise during construction.

Hybrid Approach

A hybrid approach involves elements of both the board review model and the administrative model. Large, complicated
projects are reviewed by a board. Smaller, simpler projects are reviewed by staff. This allows small, often locally developed projects to avoid getting bogged down in a backlog. Larger projects with big design teams, deeper pockets, and longer timelines receive greater public scrutiny before a board.

The thresholds for determining which projects receive which type of review vary widely among communities, with no single “right” approach. Options include square feet of floor area, size of site, or location (such as downtown or a special design district).

Which Approach is Best?
Any of the three approaches can be effective. A design commission or board can be useful when there is a desire for considerable interaction with citizens, as meetings allow for input and discussion in a public meeting. A board also elevates the issue of design to a greater prominence in the community. A body of appointed members can be a strong, collective voice for expressing the value of design; they are highly visible public advocates. Citizen groups often prefer this model as it gives them greater access to decision makers.

A drawback to this model is that smaller communities might not have enough citizen volunteers with design expertise. Staff will need to be there to support them. That means a planning agency will need to have staff that are educated or trained to evaluate design proposals, as boards do not hire their own staff. Additionally, staff is needed to record and maintain minutes, keep track of comments, compose documents of record, make sure that procedural steps are followed, and correctly interpret standards or guidelines. This administrative infrastructure has cost implications.

The staff review model allows for more ongoing discussions with applicants as a project progresses through the sequence of design, as citizen boards only have limited points of interaction. A professional staff can result in greater continuity and consistency over time, because they can refine procedures and standards as they make interpretations on a frequent basis. The development community often prefers this model as it allows for ongoing coordination as a project moves through the process and conversations are needed. On the downside, the staff review model requires hiring professional staff, which has budgetary implications (although application fees can be calibrated to offset this).

The hybrid model allows for comparatively smaller projects to be reviewed by staff, which can be done expeditiously; all projects do not have to be placed on a docket and await a hearing date. Larger, potentially more complicated and contentious projects receive a higher level of public scrutiny by a board or commission. In this model, a jurisdiction has to provide both staff support for the board or commission, as well as professional staff to conduct reviews. This model has the greatest budgetary impact. But it does allow different types of projects to follow different tracks.

All three models have by been used by cities and towns of widely varying sizes. One is not necessarily more suited to larger or smaller jurisdictions. The determination as to which is the best fit results from determining the preferred degree of public engagement and weighing budgetary issues associated with staffing.

DESIGN STANDARDS VERSUS GUIDELINES

There seems to be some confusion over the terms “design standards” and “design guidelines.” Sometimes they are used interchangeably, sometimes they are associated with policies, and sometimes they are applied to design programs that apply to specific public-sector initiatives. For the purpose of governmental design review, it is necessary to make a clear distinction. They do have different purposes. In this report, we highlight the distinct characteristics of each.

Design standards are objective, quantitative measures of design attributes. They include numbers, dimensions, and precise wording that result in a narrow range of outcomes. They are mandatory, using words such as “shall” or “must.” They have little or no flexibility.

Design guidelines are flexible, qualitative measures of design attributes. They rely upon descriptive language and words such as “should” or “may” that allows for a broad range of outcomes. They may or may not be mandatory.

A more detailed exploration of the differences between design standards and guidelines is found in Chapter 4. In brief, standards are more quantitative and prescriptive, while guidelines allow for more flexibility and discretionary decisions.

THE ISSUE OF COST

For cities and towns that have had a design review process for some time, cost issues only rarely come up. This is because the development community has fully absorbed the process into their pro formas, just as they do with due diligence, building code review, and advance marketing. It is simply a cost of doing business. Cities using design review that were interviewed for a research report (Portland BPS 2017) note that they have seen markedly improved devel-
Typically it is cities new to using design review that are worried about costs. In some quarters there is a lingering concern that requiring projects to go through design review will elevate costs. This is both true and not true.

All design teams working for development entities, whether public or private, are assigned a fixed budget for construction costs. One of the roles of a creative designer involves how to allocate the budget. A thoughtful, creative designer can take a very limited budget and produce amazing results. But not all designers are thoughtful and creative. And like any profession, the more skilled, expert, and creative an architect is, the more he or she can charge.

The design fees for most construction projects, regardless of the talent involved, fall in a narrow range—between five and eight percent of the construction cost, a difference of about three percent. If for example the construction budget for a project is $10 million, the design fees will be in the range of $500,000 to $800,000. The more experienced and skillful designers will command the upper end of the range and vice versa. But the difference is only $300,000—approximately three percent of the construction cost.

The cost of better design is even less of an impact than that three percent. Construction costs are only a part of the cost of development. All development projects also include what are called “soft costs.” They include design fees, permit fees, utility fees, carrying costs, legal fees, and other expenditures. These can add up to 30 to 40 percent more than the construction cost by itself. Therefore, the added cost of better design is probably around two percent of the total. That is surely not an unreasonable premium.

One type of development that is particularly sensitive to costs is affordable housing. Increased costs often do not come from the design costs, per se, but the costs the project incurs to meet extra conditions of approval beyond the design standards and guidelines imposed by a review body. This can disrupt the design team’s choices of massing, materials, and finishes that contribute to keeping rents low. Public housing authorities and nonprofit housing providers must be very mindful of construction costs in order to deliver projects that meet affordability criteria within a region. (They should also be mindful of not stigmatizing a project through inferior exterior materials.) While design quality can still be an objective, deliberations about design should not jeopardize the overarching mission of providing affordable housing.

Design review can still be used for affordable housing proposals, so long as reviewers keep in mind constraints on costs. And it is not just conditions of approval that can affect an affordable housing project. An overly lengthy review for any development project, including affordable housing, can threaten complex financing; thus, the time involved in design review is important as well.

In one real-life example that one of the authors observed, a design commission imposed a condition on a low-income housing development requiring more variety for the exterior, with balconies, recesses, and different materials. One way to decrease low-income housing construction costs is by keeping the exterior envelope simple, which is how the proposed project could be described. The nonprofit applicant balked at the commission’s condition of approval and said to do that would have the effect of dropping two units. The commission’s decision was overturned by the city council on appeal, which was granted on an emergency basis because the nonprofit was on the verge of losing a grant if the project had not been approved.

**ABOUT THIS REPORT**

Many cities are familiar with design review; indeed, many already employ some version of it. However, the state of the art has been continually improving. The purpose of this PAS Report is to capture the intent, legal underpinnings, and best practices of this process. Even jurisdictions with established design review processes can benefit from an examination of its use. The subsequent chapters look at design review through various lenses.

Chapter 2 discusses the evolution of design review as a regulatory tool. It highlights judicial decisions that affect the use of this regulatory technique and summarizes past research and theory regarding design review.

Chapter 3 describes the basics of the design review process. It describes the different ways to bring projects into review and outlines a framework for a defensible process for cities to use. Different approaches used by different communities are provided.

Chapter 4 compares and contrasts the two types of criteria used by cities in conducting design review: design standards and design guidelines. It explains how to craft and organize them so that they are usable and defensible.

Chapter 5 examines a number of case studies demonstrating how both large and small cities handle design review. This look at various design review approaches should assist communities in either setting up new processes or revising and updating existing programs.
Finally, Chapter 6 offers some additional techniques and tools for encouraging good design in communities that can be used in concert with design review to make better places. It summarizes the lessons learned in the last several decades of design review practice and shares trends and recommendations with planners.
CHAPTER 2

BACKGROUND AND LEGAL FOUNDATIONS
Virtually all cities and counties in North America regulate the development of private property through some form of zoning. All states have enabling legislation that clearly delegates zoning authority to local jurisdictions. Over the past several decades, zoning has become so institutionalized in local laws, in the judicial system, and in the minds of the public that we forget that it has been in use for fewer than 100 years.

Unfortunately, zoning by itself has proven to be an inadequate tool for building livable communities. Zoning standards largely deal with numerical measures: lot size, building height, yard widths, off-street parking requirements. This quantitative approach to development—invoking rigid conformance to precise numbers and formulas—has not necessarily resulted in the livable, human-centered downtowns and neighborhoods that planners and citizens aim for in community visioning sessions.

Over the last few decades, many communities have looked at their physical character and found it wanting. Zoning laws that guided development from the 1920s through the 1980s did not protect or enhance the character of special places. Many zoning codes adopted in the three decades following World War II had the effect—whether intended or not—of preventing the development of compact, walkable, transit-oriented communities that were reflected in older established and now beloved places. In many rapidly developing postwar communities, accommodating the use of the automobile was a high priority, and so codes were written to provide for the convenient movement and storage of automobiles. In that era, professional associations also recommended standards that required high parking ratios, wide roads, separated land uses, and other aspects that worked against retaining older patterns. Indeed, “old” was not valued in some communities. Moreover, in the era of rapid suburban development, many cities simply copied zoning standards from their peers. The result was an erosion of places having their own character.

Often, buildings exhibiting interesting materials and details were demolished and replaced by generic structures that said nothing about the history, climate, or social structure of the area. This was true of both residential and commercial development. Communities—both old and new—began to look increasingly alike. In newly developing suburbs there was often no recognizable existing or historical built environment context of any lasting value. This enabled the spread of monotonous residential sprawl interrupted only by miles of strip commercial development on major arterial streets. The result was large-lot suburban tract housing interspersed with strip commercial corridors, where the built form in places as diverse as Tacoma, Washington; Springfield, Illinois; and Macon, Georgia, became indistinguishable from one another.

It did not help that the development industry, fueled by easy credit, tax breaks, and a rapidly expanding economy, generally took advantage of every possible zoning provision to build standardized “products.” For their part, many architects placed little value on existing contexts, preferring instead to design buildings that sharply contrasted with established development patterns in order to make modernist statements.

In recent years, elected officials in many communities have started to look at ways of creating, retaining, or recreating the qualities that comprise livable, memorable, and diverse community life. It is increasingly evident that zoning alone cannot do the job. This search for new methods to retain, enhance, or create a sense of community through its physical structure has led to an interest in design review.

HISTORICAL PRECEDENTS AND ATTEMPTS AT CREATING QUALITY

The application of design principles in the planning of cities has had a long tradition. Until World War II, city planning was strongly influenced by the work of architects and landscape architects who applied artistic considerations to the layout of streets, parks, and buildings. More recently, as communities...
have begun to develop new techniques to address the issues of character and quality, initial efforts have focused upon the most egregious excesses of development. Often these actions were limited to controlling purely visual elements through the adoption of various forms of aesthetic control.

The City Beautiful Movement
The Columbian Exposition of 1893 in Chicago gave rise to a desire to plan cities in a more orderly manner than had been seen during the late 1800s, when factory towns and frontier outposts sprang up almost overnight. Some cities still retain, as does Chicago, legacies of that era in parks, monuments, boulevards, and public buildings. The City Beautiful movement offered the public and many elected officials an elevated notion of the importance of design. Initially, this likely emphasized the idea of aesthetic composition—reflected in civic centers, such as those in San Francisco and Denver that were designed and built in subsequent decades (Figure 2.1). Since then, the emerging field of urban design has brought in many other aspects of design that affect community livability.

Unfortunately, in some places, architectural design of public infrastructure is often considered to be a frill, if not frivolous. It has frequently taken a back seat to more utilitarian aspects of civil engineering. Ironically, early public works projects did often incorporate a design sensibility that produced spectacular parkways, bridges, and other structures. But now it seems that technical manuals and standards have squeezed most of the human touches out of such projects; the result has been little more than huge concrete channels for moving vehicles. Design review, therefore, has a critical role to play in reinstilling the importance of the public realm in all projects—private as well as public.

New Urbanism
The new urbanism movement emerged in the late 1980s and early 1990s. Many new urbanist communities, such as Seaside and Celebration in Florida, have become known for their degree of innovation (Figure 2.2).

New urbanist communities have been developed from a clean slate, often with a single developer. They are typically not part of a political entity with constituencies that might disagree with the personal vision of the proponent or the designers. These towns are guided by strict design rules that are enacted as form-based codes and regulating plans. With a strong tradition of democratic pluralism and multiple voices, few cities in the U.S. would willingly submit themselves to directions from a small group of design professionals, however noble the intent. Nonetheless, given the planning, design, and
development efforts involved, this movement has acquired an important place in the evolution of cities.

**Historic Preservation**

The historic preservation movement offers many useful lessons for the application of design review. Scores of historic districts and conservation districts have been established in large and small cities. The form of development in these areas has been governed by review procedures and guidelines. These often are administered with some measure of flexibility, recognizing the attributes of a specific site.

For the most part, the results have been positive. Initial efforts to retain a community’s history by exacting restoration or replication have given way to encouraging changes that are sympathetic to the character of a building or area. Historic preservation has benefited from establishing clear review criteria by which to evaluate a project. Often, decision-making bodies have included design professionals so that judgments can be rendered based upon sound advice from people that understand building technologies and costs.

**Appearance Codes**

The first wave of appearance codes were adopted in the 1970s as a reaction to two decades of the insensitive destruction of older buildings and the construction of dull and monotonous newer ones. These ordinances principally dealt with the materials and colors of building facades.

Often these codes attempted to instill a sense of historic character, even if the “history” was contrived. Some communities became preoccupied with picking a “theme” and forcing new or remodeled structures to comply with, for example, “New England Village,” “Frontier Town,” or “Spanish Mission Style.” Examples of this approach are Carmel, California, and Leavenworth, Washington (Figure 2.3, p. 22). In these places, strict appearance codes managed to take hold and last. Most other attempts have failed over time.

Codes that deal only with the superficial appearance of individual buildings are not a very effective way of addressing the full spectrum of community character and livability, however. Provisions that are not rooted in the authentic history, climate, topography, and economy of a place usually produce effects that appear fabricated and false. There are ways for contemporary structures to fit in with authentic historical structures. Architects are trained to use building massing, horizontal lines, step backs, storefronts, and awnings to ensure that new development contributes to the character of historic areas rather than simply imitating that character with faux finishes.
Overlay Zones
Many local codes make use of “overlays.” This involves a two-tiered regulatory approach. Basic standards are set forth for the underlying zoning, and then for a certain mapped geographic area, an overlay district is established. For the overlay area, additional subjects are addressed; these can include design. Examples of such elements include pedestrian facilities and connections, building orientation, roof form, and architectural continuity. Sometimes a palette of materials and colors is also indicated.

Depending on local procedures, development proposed within an overlay district can be subjected to the design review process to ensure compliance, as in the case with several of the case studies presented in this report. Overlay districts highlight a particular area as being of special concern to the community and set forth a process to ensure that particular attention is given to new development or renovation. Design review deliberations, as well as review criteria, are tailored to the specific area.

Restrictive Covenants
Many communities have been reluctant to include issues of aesthetics in their policies and codes. To some, the subject has not seemed to be an appropriate one for local government; such action may be considered an excessive intrusion on property rights. While courts have taken a much broader view of the role of aesthetics, some municipal governments might still be cautious about a degree of exposure in potential litigation.

Nevertheless, the growing interest in regulating elements of design has been met in some instances through the application of private covenants. Since the 1950s, subdivisions and planned unit developments have often included complex covenants, conditions, and restrictions (CC&Rs) that are private agreements specifying an array of subjects, including building size, architectural style, roof pitch, materials, colors, and landscaping.

The problem with many of these developments is that, over time, there is less of a commonly held consensus on what is acceptable and the overall building style and appearance may grow outdated. This can affect the marketability of houses and properties, resulting in fewer and fewer homeowners remaining interested in continuing with the original terms.

Form-Based Codes
According to the Form-Based Codes Institute, a form-based code is a land development regulation that fosters predictable built results and a high-quality public realm by using physical
form (rather than separation of uses) as the organizing principle for the code. A form-based code is a regulation, not a mere guideline, adopted into city, town, or county law (FBCI 2018).

In current practice, many cities are adopting form-based codes for specific districts within their communities. Form-based codes are most commonly created for traditional downtowns or for relatively large and centrally located redevelopment sites, including formerly low-density commercial districts adjacent to downtown and other older, low-density commercial corridors. The regulatory mechanism that has often been used is a form-based district adopted as part of the city’s land development and zoning code. Such districts can also be in a stand-alone chapter of the code of ordinances, containing all the agreed-upon standards for building form, public realm, and streetscapes, as well as a separate process for the city council to sign off on applications for development in that district.

Design standards and guidelines and form-based codes ostensibly accomplish the same thing: higher quality building forms, lively public spaces, connections to transit, and vastly improved streetscapes. The difference is how the public is involved and the degree of flexibility in the review process.

In a form-based code approach, virtually all opportunities for public input and discretionary decision making occur upfront before applications for development have been received. Design review guidelines and standards are also the result of a deliberative public process, but each project is subject to “tailoring” the application of design standards and guidelines to a particular project during the review process by staff and the board. Form-based codes, by contrast, do not allow for flexibility. Design review allows for adjusting projects to better meet the intent or to reflect issues associated with the physical context.

EARLY FORMS OF DESIGN REVIEW

By the beginning of the 20th century, a handful of cities had established design commissions for very specific purposes. Created in 1898 as the Municipal Art Commission, New York City’s Public Design Commission reviewed public buildings and spaces (New York 2018). Washington, D.C.’s Commission of Fine Arts was established in 1910 to review monuments, fountains, and statues (U.S. Commission of Fine Arts 2018). Kansas City, Missouri, established a municipal arts commission in 1926 to review public structures, bridges, and fountains built by the city (Kansas City 2018). But during the Great Depression and World War II, cities had other pressing issues; design review was not high on the list. And the post-war period was focused on rapid suburban expansion and the renewal of older urban centers.

By the mid-1960s many cities had begun setting up landmark commissions to protect buildings after the waves of demolition that occurred under the federal urban renewal programs in the 1950s. The destruction of Pennsylvania Station in New York City in 1963 was a watershed event for historic preservation. Jane Jacobs’s writing in the 1960s alerted people to the increasing destruction of beloved neighborhoods and replacement with insensitive development, especially by big projects like freeways.

Seattle established a broad-based design commission in 1968 (Seattle 2018). It reviewed the design of all proposed capital investments by the city, including parks, civic buildings, and public works such as streets and utility structures. But it only had the authority to review, and still only reviews, public projects. Until the 1970s, the notion of local government reviewing private development was not widely embraced.

In 1972, Portland, Oregon, created a design commission with the express purpose of reviewing private development (Portland 2018). It was responsible for ensuring the implementation of the city’s very specific adopted design guidelines for downtown. The Portland Design Commission has continued to review private development, as well as public projects, and has expanded its geographic purview over time to include some other portions of the city.

By the 1980s, design review was part of the regulatory toolbox of many cities and towns, and its use has continued to grow dramatically in the decades since.

LEGAL FOUNDATIONS

The authority to regulate community appearance and aesthetics has been widely embraced by local governments as a subset of their police powers. The police power gives local boards and administrative agencies the authority to use the zoning ordinance (and many other measures) to protect a community’s health, safety, and general welfare. In many cases, court decisions have affirmed that authority; in others, that authority is a result of evolving public policy established over time that includes issues of design quality, economic development, and public safety.

In a legal context, design review is a mechanism by which that police power authority is put to use. It calls for the establishment of design policies, review criteria, and the creation and empowerment of a board to review, provide
advice about, and approve the designs of proposed private and public development projects.

**State Enabling Acts**

Because of the principle that cities are “creatures” of their states, it is always prudent for any city embarking upon design review to research relevant state statutes and the administrative codes that implement them.

States have enabling laws that delegate certain powers to local governments. Zoning has been a well-established form of regulation, and design review is typically considered a subset of that authority. In some states, zoning enabling statutes specifically address design review. In Illinois, for example, municipal authorities may “establish local standards solely for the review of the exterior design of buildings and structures, excluding utility facilities and outdoor off-premises advertising signs, and designate a board or commission to implement the review process” (65 ILCS §11-13-1(12)).

However, there are instances where states have become concerned about overreach by local jurisdictions. For example, the state of Oregon adopted a statute that requires cities to apply very “clear and objective standards” when reviewing proposals for “needed housing” (ORS §197.307). Similarly, the state of California has considered a bill to impose limitations on the authority of local governments to set design conditions on affordable housing, given the pressing demand throughout the state.

Some states are restrictive in what authority they allow local governments to delegate. Other states allow for generous delegation so long as the local government has adequate procedural safeguards in place. Design review must be a disciplined process that follows other proper actions by local government. This requires that a city establish a process that is transparent, follows legislatively adopted decision-making criteria, and represents a cross section of interests and perspectives informed by expertise.

**Case Law**

Over the past several decades there have been numerous judicial decisions regarding issues associated with design. Cases concerning aesthetic control, historic designation and review, sign codes, facade controls, and so forth have appeared, sometimes with widely varying results or results that have been unclear.

The rights of local governments to use zoning to regulate design were established over time. In 1941, an early historic preservation ordinance in New Orleans was upheld in *City of New Orleans v. Pergament* (5 So. 2d 129 (La. 1941)) on the basis that “preserving the historic character of a neighborhood has been defended by the courts on the grounds that preventing ‘eyesores’ in the locality was within the general welfare.” In *General Outdoor Advertising Co. v. Department of Public Works* (289 Mass. 149, 184, 193 N.E. 799, 816 (1935)), a 1935 case challenging a local ordinance in Concord, Massachusetts, that banned outdoor advertising (i.e., billboards) on private property, “the court observed that that the preservation of scenic beauty ‘from defacement promotes the public welfare and is a public purpose’” (Roth 1964). But it was the U.S. Supreme Court’s decision in *Berman v. Parker* (1954) that opened the floodgates to local regulations based solely on aesthetic considerations:

The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.

In one of the earliest cases concerning design review authority, the Florida Supreme Court, in *City of West Palm Beach v. State* (30 So. 2d 491 (Fla. 1947)), found a zoning ordinance that required buildings to be substantially equal in height and appearance to be void, given that the ordinance did not contain adequate standards to make such a determination.

In a case a decade later in New Jersey, *Hankins v. Rockleigh* (55 N.J. Super. 132. 150 A. 2d 63 (1959)), the court struck down a requirement that specified buildings be “early American” in style, since a wide range of styles could be associated with this general term. Further, the court did not find a consistent character within the geographic vicinity of the subject site to make such a limitation reasonable.

Another decade later, in *Pacesetter Homes, Inc. v. Village of Olympia Fields* (104 Ill. App. 2d 218, 244 N.E. 2d 369 (1968)), the Illinois court struck down an ordinance that gave excessive discretion to an architectural advisory committee in a city that had been attempting to prevent repetitive designs in single-family areas.

In these early cases, it is evident that courts had little tolerance for efforts by local governments to regulate design, particularly if criteria for making decisions were absent or poorly written. Moreover, it was not widely accepted that the appearance of buildings was within the realm of zoning, which emphasized public health and welfare. In recent decades this perspective has evolved such that building design is viewed as an appropriate subject of zoning regulations.
In 1978, the New Jersey court, in *Morristown Road Associates v. Borough of Bernardsville* (163 N.J. Super. 58, 394 A. 2d 157 (1978)), handed down an important decision that is still relevant today when communities adopt and administer a design review process. By 1978, many communities were becoming aware of the use of design controls and review procedures, which were given a boost in the growing support for historic districts and landmark designations. The Borough of Bernardsville had adopted an objective of “fostering good quality design and attractive appearance” and required all proposed development to be reviewed by a citizens’ advisory committee to ensure that the objective was achieved. Some very general review criteria were adopted.

However, the court found that the standards did not provide adequate guidance. The borough’s ordinance used terms such as “harmonious,” “displeasing,” and “appropriate,” but none of these was defined. The court stated:

> The basic criterion for design review under the ordinance is harmony with existing structures and terrain. This standard does not adequately circumscribe the process of administrative decision nor does it provide an understandable criterion for judicial review. It vests the design review committee, as well as the planning board, with too broad a discretion, and permits determinations based upon whim, caprice or subjective considerations.

The ordinance offers no workable guidelines to one seeking approval of plans, rendering it almost impossible for an applicant to conform his plans to its requirements and making the utilization of his property dependent upon the subjective reactions of members of an administrative agency as to the harmoniousness of a proposed structure to the existing development.

Despite the New Jersey court’s clear message to local governments, many cities and counties have adopted ordinances with language that is similarly vague. As with many other techniques of land-use regulation, jurisdictions have often borrowed from one another rather than do the research and analysis necessary to produce an explicit and defensible set of standards.

Just a few years after *Morristown*, a Minnesota court, in *C.R. Investments, Inc. v. Village of Shoreview* (304 N.W. 2d 320 (Minn. 1981)), invalidated an ordinance that made use of vague language, such as “harmony” and “highest design standards.” Clearly, as with any other piece of legislation, courts insist upon standards that be understood and consistently applied.

In 1984, the Ohio Supreme Court, in *Village of Hudson v. Albrecht, Inc.* (9 Ohio St. 3d 69, 458 N.E.2d 852 (1984)), declared that design could be addressed through zoning legislation and found that Hudson’s standards were adequate. However, the court stated: “In order to be valid . . . the legislative enactment must set forth sufficient criteria to guide the administrative body in the exercise of its discretion.” One year later, in *Zehring v. Bellevue* (103 Wn 2d 588, 694 P. 2d 638 (1985)), a Washington state court upheld a design review decision in which it determined that review criteria were sufficiently specific.

In *Morris County Fair Housing Council v. Boonton Township* (230 N.J. Super. 345, 553 A.2d 814 (1989)), a New Jersey court reiterated the necessity of having explicit standards when a community engages in a design review process. Where communities have developed detailed design review criteria, courts have looked favorably upon decisions.

Two decisions handed down less than a year apart provide very clear judicial guidance in the practice of design review. In 1992, the Illinois Appeals Court determined that a design review ordinance was an unconstitutional delegation of legislative authority when it authorized an appearance commission to act in more than an advisory capacity. In *Waterfront Estates Development v. City of Palos Hills* (597 N.E. 2d 641), the court said a legislative body must use intelligible standards to guide an administrative agency’s discretionary authority. It stated that an ordinance is unconstitutional if it is so vague that a person of common intelligence must guess at its meaning.

In 1993, the Washington Court of Appeals took a very similar position in *Anderson et al. v. City of Issaquah* (70 Wn. App. 64 (1993)) but provided additional guidance of value to local governments. This case offers a tutorial on legally defensible design review.

First, the court declared that design review is a legitimate extension of zoning authority. This had not been expressly confirmed by any court before. Second, it stated that to be defensible, a review procedure must include standards that will give unambiguous direction to applicants, designers, and decision makers. Terms that are used must be defined and explained through documents available to all parties in advance of the review. According to the court, an applicant cannot be required, and decision makers cannot be permitted, to guess at the meaning of design requirements. Third, it stated that the decision-making body must follow adopted criteria and not set them aside, substituting personal opinions.
Despite their limited numbers, these cases have established some important principles that offer a collective framework for the proper and effective use of design review. Regarding the design review process:

- Design review must rely on clear, meaningful design standards and guidelines in decision making.
- Design review must follow a course of deliberation that refers to adopted standards and guidelines and makes findings of fact; it is a quasi-judicial process (see Chapter 3 for more on this term).
- Design review meetings must be open to the public with no ex parte deliberations or communications (see Chapter 3 for more on this concept).
- Citizens appointed to review projects cannot take public positions prior to the deliberations.
- Reviews cannot treat different applicants differently; the rule of law demands fair treatment.
- Cities are given considerable leeway to carry out and interpret their own policies, codes, and procedures relating to development.

Regarding proper subjects for design review:

- The nature of a building’s businesses, owners, intended tenants, occupants, residents, or customers are not pertinent design review deliberations.
- The physical features of development and the relationships with its surroundings are the only relevant topics in design review deliberations and decision making.
- Design review is not the appropriate avenue in which to address disputes about land use and density that are established by law.

Regarding appeals of design review decisions:

- Appeals should be based on significant errors in following procedures or arbitrary decisions that are not based on the record.
- Appeals are not intended to address personal objections by opponents to a development project.

When crafting or revising a design review process together with design standards and guidelines, planners should be mindful of these general principles. It is important to have a process and decision-making criteria that can be successfully defended if challenged.
RELATION TO PLANS AND POLICIES

If a city or town is going to engage in design review, it is imperative to address urban design and community character topics in the comprehensive plan. The aim should be to include design goals, objectives, and policies for all aspects of the plan where design is important. Adopted comprehensive plans and subarea plans should establish the desired physical character of a community or neighborhood. This is important in demonstrating a rational basis for design standards and guidelines.

Some municipalities address design in the land-use element and others have a stand-alone urban design element in the plan. For example, the city of Omaha, Nebraska, working with Omaha by Design, a nonprofit urban design group, adopted an urban design element as part of its 2003 master plan (Omaha 2003). The element contains 71 urban design recommendations grouped into three topic areas: Green Omaha (the city’s parks system and other natural settings); Civic Omaha (civic places and public image); and Neighborhood Omaha (goals to preserve and enhance the design diversity of the city’s residential neighborhoods).

In 2007 the city council adopted major revisions to the zoning and subdivision codes. The zoning revisions included new zoning districts for neighborhood conservation, major commercial corridors, walkable neighborhoods, and civic spaces. Specific standards were added to the zoning chapter that address the following built environment elements, among others:

- build-to and setback lines (§55-925)
- large building retail design (i.e., big-box stores) (§55-935)
- ground-level transparency (§55-926)
- on-premise signage (§55-933)
- green parking lots (§55-928)

The city also created its first design review board to oversee the implementation of the new standards (Omaha Municipal Code §24-90). The board’s purview is citywide and its composition and mission is distinctive. It is made up of a “public section” that reviews any projects that receive substantial public funding, and a “private section” that reviews any matters that are referred to it concerning “interpretations of design review regulations, standards and guidelines, and recommendations on whether proposed amendments of development agreements are major or minor” (§24-103).

If there is not an entire element of a plan devoted to urban design, then design goals, objectives, and policies should be included in the housing, transportation, parks, and community facilities elements. Depending on how the plan is organized, plan sections specific to subareas, districts, neighborhoods, and corridors should also include language addressing design issues.

This is important because, inevitably, some party is going to challenge a design review decision that will be taken all the way to a trial court. A judge will look more favorably on a city that has drawn a nexus between planning policies and regulations. Not having that connection could add fuel to the claim that a city is acting capriciously.

If a local government has a truly comprehensive and coordinated approach to guiding development, courts usually give great weight to local decisions. Adopted design policies make it difficult for an appeal to gain traction. Courts will often dismiss a case altogether when it is evident that local officials have followed the principles of public transparency, due process, and equal treatment before the law.

DESIGN REVIEW RESEARCH AND THEORY

In his book Urban Design as Public Policy, architect and noted author Jonathan Barnett, FAICP, introduced the idea of design review as a government exercise for the purpose of “safeguarding the public’s interest in privately financed real estate development” (Barnett 1974). Barnett and most other theorists have argued that the results of government involvement in design are mixed. There is widespread agreement among such theorists, and certainly by the courts, however, that any unit of government that seeks to expand its involvement in design decision making must first establish clear, defensible principles and standards—ideally derived from an inclusive stakeholder engagement process—upon which they will make such decisions.

Design Review: Challenging Urban Aesthetic Control, edited by Brenda Scheer and Wolfgang Preiser, is a collection of essays by architects, planners, and academic experts, each reflecting on their own varied experiences with design review (Scheer and Preiser 1994). The book also contains data and analysis of a survey conducted by Scheer of 370 planners in the United States with questions about design review processes, review criteria, case load, and outcomes. Most of the contributing authors had served as staff planners or consultants for cities that had implemented design review standards and guidelines in some fashion. For example, an essay by the primary author of this report, Mark Hinshaw, FAICP, describes his work in Bellevue, Washington, in the 1980s when the city
made a bold decision to transform itself from a low-density, auto-oriented suburb into a regional center for employment, housing, and shopping that is highly regarded for its pedestrian amenities and transit accessibility.

Overall, Scheer and Preiser were quite critical of design review. They noted its relative newness and rapid adoption as a regulatory technique by local governments in the U.S. without a lot of thought given to the actual goals of such regulations or unintended outcomes. The editors questioned whether there are conceptual flaws in the idea of design review—flaws that challenge fundamental ideas about power, beauty, justice, and freedom (Scheer and Preiser 1994, 3). This PAS Report answers, to some extent, the general questions raised about the legality, fairness, and efficacy of the tool in recent decades.

In 1988, the city of Germantown, Tennessee, was successfully sued by a gas station developer on the grounds that city’s design review commission procedures were entirely discretionary. The problem was the commission had no written standards or principles to guide its decisions. Having lost their case, the city hired Gary Hack, FAICP, a professor of architecture and design at MIT, to essentially reverse-engineer a set of design review principles. According to Hack, he was asked to “distill from the practice of design review the essential principles that seemed to underlie the commission’s decisions.” Hack presented his findings as seven “Implicit Policies for Community Appearance,” which are: (1) dominant landscape, (2) domestic style and character, (3) public versus private domain, (4) architectural diversity, (5) restraint in public communications, (6) masking utilitarian objects, and (7) preservation of historic patterns.

Hack’s own account of his work in Germantown was published as an essay, “Discovering Suburban Values through Design Review,” in the Scheer and Preiser collection. The thought exercise that Hack undertook to arrive at the Germantown principles is of value to professional planners and appointed commissioners who are looking to bring order and fairness to an overly discretionary review process, especially in the many growing communities in the U.S. that do not have a dominant architectural vernacular on which to base decision-making criteria.

In 2007 John Punter, a professor of urban design at Cardiff University in Wales, distilled existing research and published work on design regulation and created 12 basic principles grouped into four themes—community visioning; design, planning, and zoning; broad, substantive design principles; and due process.

Punter’s intention was that “researchers and planners might use the 12 principles to both assess existing design processes and develop improved systems of design control and review” (White 2015, 327). He also saw these principles as positioned “to play a wider role in developing urban design as public policy, stressing both its strategic and localized role, bringing all stakeholders into a closer relationship, and utilizing the full range of design and planning instruments to achieve more democratic and effective development management processes” (Punter 2007, 170).

Punter’s principles were reexamined in 2015 by James White, a professor of urban studies at the University of Glasgow. White recommended Punter’s framework be broadened to acknowledge emerging trends in ecological design theory and practice to address climate change at the local level, to call for more rigorous stakeholder collaboration in the design review process, and to recommend increased competencies by members of design review boards to understand real estate market trends (White 2015, 325).

The general principles offered in this report encompass Punter’s recommended framework for the most part. But importantly they go much further by emphasizing the importance of using design review to enhance the public realm beyond the walls of any one building, by connecting design review implementation to other policies and programs that also aim to boost community vitality, and by engaging the public in the design review process.

CONCLUSION

Design review has evolved from being a function limited to evaluating public projects to a process having a much broader role in guiding many types of development, both public and private. For the latter, more regulatory purpose has evolved, from scattershot methods to ones involving better organization, more disciplined tools, and procedures that are legally defensible. Design review has become much more widespread in its use and this has required considerable refinement and attention to legal principles.
CHAPTER 3

STRUCTURE OF THE DESIGN REVIEW PROCESS
Beyond basic legal precepts that apply to all land-use development decision making, there is considerable leeway as to exact methods that communities may use to conduct design review. Indeed, a survey of ordinances and procedures of cities and towns across the country reveals many different approaches. There is no single “correct,” or even best, way.

One caution, however, is that there is a tendency among planning agencies and legislative bodies to copy what another jurisdiction has done. It is true that examining existing design review programs can provide valuable lessons in how (or how not) to structure and administer this process, and lists of recommended practices can be drawn from such analyses. However, each local government must create procedures and standards that address its specific context.

As long as any adopted process is clear in its application, uses clear and accessible decision-making criteria, and ensures public transparency, courts will generally be satisfied that the test of due process has been met. Conflicts of interest must be avoided.

It is important to note that government-applied design review falls squarely inside the bounds of “quasi-judicial” decisions affecting property. A quasi-judicial process involves an entity such as an appointed board, generally of a public administrative agency, which has procedures resembling those of a court of law or judge. Findings of fact and conclusions are made as part of this process. It is advisable to inform prospective appointees to a design review board of this legal construct, as it is not like sitting on other volunteer commissions.

Because design review is a quasi-judicial decision-making process, there can be no “ex parte” communications. An ex parte communication occurs when a party to a case talks, writes to, or otherwise communicates directly with a judge—or other board members, as in the case of design review boards or commissions—about the issues in the case without the other parties’ knowledge. In general, this means any form of communication about a proposal under consideration that is outside the legal record of deliberations. This includes private phone calls, emails, texting, comments on social media, face-to-face conversations, and interviews with the press—in short, any form of communication that could be viewed as influencing a decision out of the public view and record. All communications should be “on the record” for anyone to be able to view them. Therefore, decision makers cannot be lobbied and cannot discuss the project outside the public venue with anyone—neither proponents nor the general public, nor one another.

These basic legal principles are common to all design review processes. The principal variation in design review from one municipality to another is who is making the decisions—an appointed board, an administrator, or a hybrid of the two.

A design review process comprises six essential elements. Incorporating each of these into a city’s process will make it more efficient, clearer, and easier to administer, as well as more likely to survive a challenge if appealed. These essential elements are as follows:

1. Triggering Mechanisms: what requires a proposal to be reviewed
2. Submittal Requirements: what applicants need to submit for each step
3. Preapplication: what occurs prior to formal application
4. Review of Proposal: steps involved in design review
5. Record of Decision: documentation and notice
6. Appeal: administrative appeals

This chapter will examine each of these essential process elements, beginning with triggering mechanisms. But first, it will begin with a brief overview of design review ordinances.

**ELEMENTS OF A DESIGN REVIEW ORDINANCE**

To establish design review, it is necessary for a local government to adopt code language that defines and describes the
authority, the process, and the criteria used in reviewing proposals and making decisions.

Ordinances establishing a design review process need not be complicated. Chapter 4 provides a detailed look at design standards and guidelines; the following list of typical code content relates to the administrative aspects of design review. Regardless of whether the review body is professional staff, an appointed board, or a hybrid of both, the same elements need to be addressed in the code. These are the main components:

- A statement of intent
- Authority to approve, approve with conditions, or deny
- Applicability/triggers of design review
- Reviewing body: commission, staff, or hybrid
- For a board or commission:
  - composition, terms, who appoints
  - meeting schedule
  - meeting format, including public comment
  - role of chair and staff
  - stages: initial direction, review(s), recommendation
- Application process and submittal requirements
- Form(s) of public notice
- Review process/steps, including public engagement
- Reference to applicable design standards and guidelines in the review
- Record of decision
- Distribution/notification of decision
- Appeals process, including appeals body and who has standing to appeal

One single ordinance could cover all aspects of design review. However, in practice, what typically happens is that parts get placed into different sections of a city code. There might be a section on boards and commissions, so that element is found there. There might be another section just having design standards. And there might be another section on appeals of various types of decisions. This depends on how the jurisdiction structures its code.

The appendix to this report offers excerpts from the code sections for the administrative aspects of design review from the case study cities featured in Chapter 5.

**TRIGGERING MECHANISMS**

For design review to be set in motion, its effectuating ordinance needs to specify the situations that will trigger its applicability. These situations vary widely from city to city.

It is important for the triggering situation to be carefully considered. Each has different implications for workload, standards, processing time, consideration of property rights, and even political considerations. For example, it is rare for any city to require design review for single-family homes. Aside from the time involved, resistance from residents would be expected.

A thorny issue associated with triggering design review involves renovations and additions. Cities and towns receive many applications for projects that are not entirely new but that modify an existing structure. Because not all standards and guidelines can necessarily be met with partial development, it is necessary for a local government to determine how to address these situations. Some will apply a threshold of dollar amount of construction, above which all standards and guidelines apply. Others apply a percentage of floor area expansion as a threshold. Others will focus the application of standards and guidelines to the area being altered and apply as many as are reasonably possible. Finally, others simply exempt such incremental changes from full design review. There does not appear to be a single, “perfect” solution to this and the direction taken can depend upon local political considerations. In any event, it is important to keep in mind the need to encourage modest investments that can enhance a district or corridor and not attempt to overreach with burdensome costs.

**Citywide Requirement**

A handful of cities require all or most development to go through some form of review for design compliance. These are often very unusual communities, such as those whose economies depend upon maintaining an established and consistent image to attract tourists. Controlling the appearance of buildings is an economic sustainability tool. Examples include Santa Fe, New Mexico; Newport, Rhode Island; and Leavenworth, Washington (as shown in Figure 2.3, p. 22).

However, requiring all development throughout a city to go through design review is impractical for most cities and towns, as it is costly and time consuming to administer. Moreover, mandating design review throughout a city would require considerable effort in establishing a sound legal rationale to do so.

**Specific Zoning Districts**

Most cities rely upon their zoning codes to specify where design review is required. It is very common for cities to designate their downtown zones as appropriate for design review. But it may be required in other districts as well. Waterfronts...
and certain commercial districts are often designated. Typically, these are districts that a city is especially concerned about with respect to quality and character. They possess attributes such as streetscapes, views, landmarks, and boundaries that are highly valued by the community. Design review can ensure that new development respects those qualities and looks at the broader objectives of a collective image, connectivity, and visual coherence.

This approach includes amending the text of an existing zoning district to require design review within that district. This is usually accompanied by the adoption standards and guidelines applicable to that zone. This can be combined with other triggering mechanisms such as size.

The disadvantage is that design review might not be desired or useful in all areas with that zoning designation. This approach also requires an analysis to support it, with an appropriate rationale, public hearings, and a decision. This will involve a determination of how design review will apply to nonconforming structures.

**Land-Use Types**

Another way to trigger design review is by designated land uses within a particular district or districts. For example, a local government might require design review for all commercial development within a downtown district. This is done when a city is particularly concerned about the effects of a certain type of land use and would require establishing a legally defensible rationale for addressing only certain uses.

While this can be useful for holding certain uses to a higher design standard, it ignores how different uses in the same district interact and contribute to an entire area. Part of the purpose of design review is to create thoughtful development that considers the context and relationships between various types of development. This approach also could be used to target certain uses as being less desirable—a thinly veiled effort to discourage them. This would not likely survive a judicial appeal.

However, for small cities with more limited capacity to conduct design review in an appropriate manner, this approach could be useful. Such cities could require review for uses such as big-box retail development, shopping centers, and hospitals due to their greater impacts on surroundings. For these land uses, size triggers (e.g., floor area or site area) should be considered, rather than a blanket use category.

In Cleveland, the Housing Design Review Subcommittee (a joint committee of the Cleveland Housing Development Office and the Cleveland Planning Commission) reviews all new residential construction projects throughout the city as well as major renovations to existing residential structures. The subcommittee uses a score sheet with design criteria that include the location of garages and garage doors, building orientation, height, frontages and entryways, windows, and other elements (Cleveland 2016). The design review process is also how the city implements its planning goals for active communities and sustainability. The rationale for the residential design standards, which were enacted in 1995, is to protect the visual character and scale of established residential streets and neighborhoods by encouraging new home construction and major renovations to approximate the existing height, bulk, and setback measurements of houses on the same street and to not detract from the traditional architectural styles that make up Cleveland’s oldest neighborhoods.

**Size and Height Thresholds**

Design review requirements can be triggered by a project’s size and height. This approach is focused on capturing larger developments. Such projects have greater impacts on their immediate surroundings and sometimes on the community as a whole. This would require establishing a rationale that addresses how the surroundings have a particular character or importance to justify design review.

In terms of workflow for a city’s planning department, most projects are relatively small single buildings, additions to buildings, or renovations. Requiring all these to go through design review can bog down the system, as reviewing many small projects can consume a lot of time. Further, these small projects are often proposed by local businesses or property owners that have limited resources and time to appear at multiple meetings. Larger projects typically have design teams that are accustomed to design review procedures.

A study conducted for the city of Portland, Oregon, found that 20 percent of all projects undergoing design review were relatively small or were minor renovations or additions to existing structures (Portland 2017). Because of this added workload, the entire design review system was getting bogged down and acquiring a bad reputation, particularly in communities of color and among small family-owned businesses and neighborhood business associations. The threshold for requiring design review was raised to exclude the small end of the range for new construction, renovations, and additions. This allowed design review to focus on larger, complex, and more high-impact development.

Floor area, land area, and the number of dwelling units for residential projects are all factors of size triggering additional council review in Chapel Hill, North Carolina (Table 3.1, p. 34).
Design Overlays
Over the past couple of decades, the application of design overlay districts has become increasingly popular. This allows a city to keep underlying zoning intact for a specified area but to add standards and guidelines. Overlay districts can be applied to portions of zoning districts or overlap multiple districts.

The advantage of this approach is that it allows a fine-tuning of development quality while not involving a wholesale rezoning of an area. Overlays can be established by text amendments in the code to designate special review areas, rather than a complete rezone. The downside is that the overlays add requirements to the underlying zone, which can cause confusion for some applicants.

Cities must make sure that properties affected by overlays are clearly designated. This is best done through careful GIS mapping. Another strategy is to use a uniform district naming protocol, such as Design Overlay (DO), to make clear where overlay districts are in effect. For example, a Business Commercial (BC) zoning district would be mapped as BC/DO in the areas where design review applies.

This approach is particularly useful for corridors that might have many different zoning districts along them. It is also valuable for areas along shorelines, or for areas that are especially sensitive with regard to long-standing patterns of development.

Special Districts
The special districts approach has some of the same attributes as overlay districts. However, it involves creating an entirely distinct district that recognizes a special place in the community. This could be a mixed use waterfront area, a heritage area, or an area where a city has devoted investment and incentives to achieve redevelopment. The creation of a special district is sometimes coupled with a special review body made up of people with particular expertise in the type of development within that area.

In Cleveland, there are seven Local Design Review Committees that conduct review of applicable development projects within their designated district boundaries (Cleveland City Planning Commission 2018). The city also requires design review for all new development, including housing, as noted above, both within and outside of the design review districts.

Since 1969, New York City has made liberal use of special districts in all five boroughs for areas such as Little Italy, the Garment District, and Hudson Yards to bring about redevelopment in a more positive and coordinated manner than had previously occurred (New York City Planning 2018). Seattle has a number of special historic districts, including Pioneer Square, Pike Place Market, and the International District (Seattle Department of Neighborhoods 2018). Each has its own review board as well as place-specific review criteria.

Conditional Uses and Special Permits
Conditional uses are those that cities permit if they conform to additional stipulations beyond the base zoning requirements. These applicable conditions are often contained in a chapter for supplemental regulations (also referred to as “use regulations”). In a determination to approve a conditional use, an additional condition might be a requirement for any proposed development to go through design review. Conditional use reviews can be conducted by staff or by a design review commission.

Some zoning ordinances designate certain uses as requiring “special permits.” These could involve a staff-level determination or require an approval by planning commission, city council, or another designated body. As is the case with conditional uses, sometimes a special permit includes a requirement for design review.

Planned Unit Developments
Planned unit development (PUD) regulations contain design standards for projects that are required or opt to go through that development review process. PUD ordinances can contain broad-brush design standards for projects that are added to in much greater detail as the application goes through the review process with planning staff. PUDs may also be required to go before a design review commission depending on the project type, location, and other characteristics.
Development Agreements

Some state planning enabling laws allow cities to enter into development agreements, also called concomitant zoning agreements. This is a form of land-use approval in which the city and a private party enter into a contract that describes a project in full detail. As part of such agreements, cities may grant the developer waivers or adjustments to some of the base zoning requirements in exchange for public benefits, such as public open space or contributions to affordable housing programs. The terms of design review, to be conducted by staff or a commission, are described in the agreement.

Development agreements operate as contracts between a project proponent, i.e., a developer, and the local governing body that maintains authority over the project. A typical agreement sets forth the scope of the project in complete detail, including a master plan that must be followed upon approval, with detailed plans for each of the project phases. The agreement provides a guarantee that zoning and other land-use regulations will freeze to the date of the agreement.

From the planning commission and staff standpoint, development agreements enable review and consideration of a large project as a whole rather than dealing individually with zoning, design review, building, and all other required permits. It also can allow for a wider range of conditions for approval, including more detailed design review and the designation of a special entity to review the project design in phases. Finally, the agreement can stipulate the terms of community participation in stakeholder input in the proposed project. The agreement sets forth the scope of the project in complete detail, including a master plan that must be followed upon approval.

Exemptions from Design Review

Some cities have processes for applicants to apply for an exemption to design review. This is a form of “relief valve” for applicants who believe the construction or renovations they are undertaking are minor and can be completed without negating the intent of the design review requirements that are in effect for the project as a whole. Typically, the staff is tasked with deciding whether to grant the exemption.

In Belvedere, California, for example, applicants can submit a form to request exemption from design review for projects that do not trigger review requirements (Belvedere 2012). The form describes all elements that are subject to design review (e.g., building location, fences, parking areas, and site lighting), followed by elements that are exempt from review (e.g., changes in color to roofs or siding material, changes or additions to previously approved landscaping plans, and “minor changes to previously approved plans, which the City Planner determines do not alter the intent of the approved design”).

SUBMITTAL REQUIREMENTS

Cities commonly include a list of documentation required for design review in their code. The list typically begins with:

- Bike lanes, driveways, curb cuts, and road lanes.
- Landscaping, street trees, signage, lighting, sidewalks, curbs, bike lanes, driveways, curb cuts, and road lanes.
what the building official requires: site plan, floor plans, building elevations, sections, grading plan, landscape plan, etc. However, design review must also consider the surrounding context. Additional documents required should include:

- Vicinity plan—showing the site and at least one block in every direction so that it is possible to see development in the vicinity
- Building footprint plans or aerial photos—now easily obtained by GIS and Google Maps
- Street views—original photos or Streetview from Google
- An analysis of the context by the design team, with text and annotated photos

The city's types of requirements and timing for design review have a huge impact on how the process will proceed and the effect it will have on the design of a project. The city and the applicant should communicate as early as possible in the design process, ideally before substantial decisions are made. Timelines for submittal and reviews should be explained at preapplication meetings. City agencies and other reviewing bodies should hold themselves to review schedules; otherwise, the impact on applicants can be expensive.

It is useful to craft a design review process that unfolds along with the evolution of a design rather than requiring a final design at the initial stage of design review. Trying to make significant changes following a finished design invites serious pushback, as by then many parties on the development side have spent considerable time and money to develop the design. Furthermore, requiring a final design upfront also forces a development team to make premature decisions about aspects of the design such as materials and details.

Designers use a four-phase process that typically occurs over a period of six months to a year. These phases are:

1. Site Analysis and Development Program (5–10 percent design)
   This phase evaluates the site attributes, such as size, shape, zoning, topography, access, views, soil conditions, etc., and tests how a desired type and quantity of use might fit onto the site using rough footprints and computer models such as SketchUp (Figure 3.1).

2. Schematic/Conceptual Design (30–40 percent design)
   This phase includes developing and comparing alternative massing diagrams and narrows the possibilities to one or two for refinement (Figure 3.2). The basic form, orientation, layout, access, and distribution of parking result with a general idea of the arrangement of interior spaces and the exterior envelope. A general concept for the site and landscape design is also created.

3. Design Development (75–90 percent design)
   This phase looks at the design of building exteriors, including windows and cladding, exterior spaces, parking layout, loading and trash, entrances and lobbies, detailed floor plans, and structural and mechanical systems (Figure 3.3).

4. Construction Documents (100 percent design)
   These are the complete and detailed plans and specifications that allow a building to receive building permits and move on to construction. In this phase, making major changes is very expensive, as they ripple throughout the design and have serious cost implications. This phase should follow a design review decision, but some developers proceed even before a decision, thereby assuming some risk.

It would be highly beneficial to all parties if cities were to organize their review to match this progression. To help shape the design of a project, submittal materials should be tailored to each step, so that the design review process can work cooperatively with the design process. The following breaks down submittals by each phase:

1. Site Analysis and Development Program
   This should be the point of first contact between the agency and the development team, also called a preapplication meet-
ing. The discussion should be mainly about the site, zoning, standards, development objectives, and context. No design should be expected at this phase to allow for as much flexibility as possible.

Documents required:
- Map of development site, showing surroundings for a block in each direction
- Statement of development program and objectives
- Preliminary building footprint(s), with options
- Photos of site and area around it, annotated with comments
- Basic applicable zoning regulations, flagging important design standards and guidelines
- Indication of any issues

2. Schematic/Conceptual Design
In this phase, the project should receive a first formal review by staff or the board. This phase should require single-line site plans, floor plans, elevations, and perhaps a general landscape concept. This allows plenty of room for discussion.

Documents required:
- Site plan, dimensioned, with a graphic scale and north arrow
- Preliminary elevations
- Preliminary cross-sections through site and building
- Preliminary landscape plan
- 3-D digital model showing proposal and adjacent buildings (rough massing)

3. Design Development
In this phase, the project should receive a second formal review by staff or the board. This phase should involve significantly more detail, including renderings of the building set into its actual context. The documentation required will vary with the size and complexity of each project. Exceptions to items may be allowed at the outset for simple projects, or the applicant may choose to provide additional materials, such as physical or digital models, to help communicate design intent.

Documents required:
- Rendered site plan
- Landscape plan, with materials indicated
- Floor plans
- Elevations
- Cross sections
- Facade facing street at a scale of at least one-quarter inch to one foot
- Details of entry area, public spaces, walkways, common areas
- Preliminary proposed materials and colors
- Rendering(s)
- Optional: photo montage of proposed development in its context

At the conclusion of this step, a design review decision should be made. While all the documents for each phase should be included in the project file, the record of the decision should include attachments showing the final approved design.
4. **Construction Documents**

By this point design review should have been completed, and the project would be receiving its review for a building permit. However, the planning staff should check the construction drawings to see if they match the approved design and confirm that any conditions have been met. This is critical to ensure compliance, as it is extremely difficult to seek corrections after this point.

It is helpful to have an open-ended ability to ask for more information on certain subjects. A soils/structural analysis might be needed for a steep site. An urban forester’s report might be useful for a large landmark tree, or a historical analysis might be required because an older structure is involved. But this should be used sparingly, when there truly is an issue.

All documents that cities require for design review should be listed in the code. Developers and designers should not find out about an additional requirement at the counter when they are about to submit a set of plans. Providing a checklist of document requirements as part of the application packet or a guidance document helps make the process clear and understandable.

Note that the above lists of required documents include no mention of physical models. They could be provided as an assist, but certainly no models should be provided during the first two phases. An exception to this would be very conceptual, easily changed “study models.” This could be provided in the second phase to show an evolution of design thinking and issues such as relationships to adjacent structures or public spaces, access alternatives, and overall massing of floor area. Digital technology is an important tool in this process; see the sidebar on p. 40.

The entire idea of the design review process is to expose the various steps of design to scrutiny and discussion. Most good designers go through a rigorous examination of various options during the design process. Exposure of thinking during the design process can encourage better designs as expectations are elevated for more thoughtful work.

Exposing the design process for a project to scrutiny might require education of the local development community if it is used to submitting more finished designs. This can be done through manuals posted online or by providing video or in-person tutorials. Seminars can also be offered in how to navigate a city’s design review process; they are particularly useful for development teams from out of the area that may not be familiar with the steps and submittals.

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**PREAPPLICATION**

A preapplication meeting between the developer and the municipality prior to the formal submission of a project for review is immensely useful to all parties. This meeting identifies issues early on. The development team can convey the essence of the project so reviewers can be better prepared when they see the application. It can give the development team an early indication of “red flags” before they commit to an expensive design process.

Virtually all cities require a preapplication meeting for large projects. The definition of “large” will differ with each community. A possible threshold could be a site area greater than 20,000 square feet or a building size greater than 10,000 square feet. But thresholds could be different depending on the design review workload and available staff time.

Sometimes this can involve an early meeting with a review board, not merely staff. This meeting is usually offered as a free service and is “off the books.” No materials are kept on file, minutes are not kept—it is merely a conversation. Both Seattle and Portland, Oregon, have this step embedded in their processes. They view it as a way for the review body to give very early guidance for a project from the outset. The applicant can also get a sense if there are any problematic aspects of the proposal.

Portland’s Building Services Department offers applicants Design Advice Requests (DARs). These are voluntary opportunities for applicants to meet with the city’s design commission to hear its feedback on early schematic designs and to get comments about specific site and program conditions. The city strongly recommends that applicants schedule a DAR meeting early in the project schedule and notes that for large and complicated cases, multiple DAR meetings are often appropriate. According to the department’s website, appropriate topics for a DAR may include the following (City of Portland Design Commission 2016):

- Massing options
- Site organization
- Active ground level uses and transparency
- Parking and loading systems
- Circulation routes
- Landscape concept
- Utilities
- Preliminary material options
- Approach to public art
- Modifications, adjustments, exceptions, FAR bonus/transfer, and bonus height requests under consideration
During the preapplication time frame, developers may opt to meet informally with neighborhood groups to describe the proposed development. While such meetings are not commonly required, cities in which neighborhood groups are traditionally active stakeholders should encourage applicants to reach out to them early on. These meetings help to get all parties involved to start a conversation about the project. City staff does not have to be involved at this stage.

These discussions, if managed well, can help all parties involved. Some development teams have reported they find this step useful and try to accommodate comments they hear at this early stage. If neighborhood groups are brought on board early in the process, they may be more likely to support the project during the formal review. A few cities are considering making this kind of contact mandatory.

**REVIEW OF PROPOSAL**

Municipalities vary in terms of the exact procedures they follow when reviewing applications for development approval. Generally, the application process formally begins when the applicant submits a complete application, including all required forms, checklists, signatures, narrative descriptions, renderings, and drawings. The planning department is responsible for making a complete list of all required documents available both in the office and on its website. All assigned fees for development review are typically collected at the time the application is submitted.

**Checking Application for Completeness**

After receiving the application, the first order of business for development review staff is to check the application for completeness. Staff can use a checklist of application items similar to what the applicant used to compile the submittal.

A checklist for completeness should include at least the following:

- Application form(s) fully completed
- Signed approval by property owner or authorized representative
- All required drawings and site plans for the initial review
- Survey and title report
- Preliminary environmental assessment, if required
- Labels for mailed notices
- Intention to erect a public notification sign on the property
- Design review fee payment

The ordinance or guidance documents should indicate the number of days within which the city will notify the applicant that the application is complete. This decision does not use design judgment, but merely determines whether all the documentation required is in the submittal and meets requirements. If the application is not complete it should be sent back with a list of deficiencies. The applicant can resubmit the full application once the missing items have been added.

**Coordination With Other Departments and Agencies**

Design review, like other forms of development permitting, requires that different agencies coordinate their various reviews. Because design review is about far more than merely the form and appearance of a building, there are implications involving street and sidewalks, connections to parks and schools, and even fire prevention issues. Often other agencies at the county or state level will have some interest. The city leading the design review process must devise a way to collect comments and resolve them internally.

A planning agency should develop a carefully structured process for collecting and reconciling comments from other departments. If the applicants have to visit each department themselves, they will inevitably come across conflicting directions. The lead design review staff person should be responsible for consolidating internal comments and resolving conflicts and then providing a comment letter to the applicant.

Most planning agencies have regularly scheduled development review meetings in which representatives of all relevant agencies weigh in with comments on an application. For complex projects these face-to-face meetings are the best opportunity to get thorny issues resolved. Additional comments and missing information that remain unresolved after such meetings can be supplied to the designated staff member by a given deadline.

The staff member overseeing the design review process should be responsible for notifying the applicant and all reviewing agencies of meeting dates and review deadlines (along with scheduled reminders) for the internal comment period. Everyone involved in design review must be willing to organize their resources and staffing to move a project along. Providing key information late in the process is what gives local governments a bad name.

**Public Notice of Application**

Design review is a process that allows the public to have input in the decision-making process in a manner that addresses the immediate matter at hand but not broader issues that are
USE OF DIGITAL TECHNOLOGY IN DESIGN REVIEW

The world has changed considerably since the initial PAS Report on this subject was published in 1995. The availability, use, and cost effectiveness of digital drawings has advanced dramatically. Digital tools are now used by everyone in the design professions; they are no longer just a method of presentation used by well-heeled development and design firms. Some of the most commonly used applications are Sketchup (www.sketchup.com), Revit (www.autodesk.com/products/revit-family/overview), and Rhinoceros (www.rhino3d.com). Design software is continually improving and new products are introduced frequently.

One of the key advantages to digital technology is that it allows changes to drawings to be made very quickly. It used to be that changing one item might have a ripple effect throughout that would have unforeseen cost implications elsewhere. Now changes are instantly reflected in all elements of a design and it is possible to see the consequences.

Furthermore, digital technology makes it easy to visualize a proposed project. One difficulty in reviewing drawings is that some people do not have the training to interpret them. For example, it can be difficult for people to understand a drawing of a building elevation, which is a two-dimensional drawing of a three-dimensional object. In real life, buildings are seen in three dimensions and rarely in elevation. There are many relatively low-cost digital programs that allow a proposed structure to be viewed in its proposed context. Typically, these are fixed images; moving video renderings are possible but still costly.

On the other hand, there is a downside to this technological advancement. Over time, fewer and fewer design professionals have learned the skills associated with quick hand sketches. Everything produced looks like a finished, fixed drawing. And sometime the forest is missed for the trees, as everything on the drawing is given equal weight. Hand-drawn sketches can still be valuable, especially when it comes to discussing modifications to a design.

Finally, there are sophisticated programs that can make a plain building appear more attractive in a rendering than it may in fact be. That is why a variety of visual materials and representations should be required. An elaborate rendering is, by its nature, more valuable for marketing purposes than for objective review. While a good rendering is certainly fine, it is also important to have drawings that convey the basic attributes of the proposal, without distracting imagery.
not part of the review, such as the underlying zoning require-
ments. To achieve this, the public must receive adequate no-
tice of impending decisions and of deadlines by which ques-
tions and input must be received. There are several methods
of notification used by local governments to achieve this,
some of which are more effective than others.

- **Newspaper notices.** In many jurisdictions this is still the
  legal method of providing notice of imminent government
  actions, but this is fast becoming an outdated notion. Few
  people read journalism in print any more, much less the
  back section with notices. Relying on this, however legal it
  might be, would not be fair to the public.

- **Posting of property.** Even in a world where planning
  department websites post notices, agenda packets, and
  applicant-provided drawings and data about proposed
  projects, there is no substitute for a sign posted on the
  actual site. Municipalities should require applicants
to erect and maintain one or more signs on the subject
property to provide notice to neighbors of the pending
design review or zoning actions. The city can provide a
sign template for the applicant to follow. The sign should
name the project, provide the address and contact in-
formation, and summarize the proposal with a sentence
and some basic data, such as number of dwelling units,
square footage, height, uses, and other information. The
date, time, and location of upcoming public meetings or
hearings should also be on the sign. In the age of rampant
graffiti and tagging, these signs can be easily vandalized;
an additional specification might be to use a clear plastic
covering that can be cleaned or replaced. Signs should
be four by four feet or four by eight feet in size. A com-
mon type of notice posted on a property regarding an
impending action is a letter-size sheet. However, this
is sometimes insufficient to attract the attention of the
public. Relying upon this form can lead to complaints of
inadequate public notice.

- **Mailings.** The applicant should provide mailing labels for
  residents within a specified distance from the site, typically
  within the range of 300 to 400 feet, or about a city block
  length. Beyond that, the numbers increase exponentially
  and mailings become impractical and costly. The mailings
  should be targeted beyond property owners to include
  renters. Senders can address notices to “Occupant” or
  “Box Holder,” and the post office can simply include such
  notices as part of their deliveries. The city can mail them
  or require proof of mailing from the applicant.

- **Standing mailing lists.** Many cities keep mailing lists for
  organized neighborhood associations, civic groups, cham-
  bers, merchant associations, and other interested parties
to receive automatic notices of an impending design re-
view and other decisions. These methods can help reach
commercial establishments and nonprofits that often are,
unintentionally, excluded from public processes. Groups
can be invited to be included by providing the city with
some basic information, such as tax status, organizational
structure, and membership data, to ensure they are au-
thentic civic groups. Since these entities change from time
to time or change locations, the list should be regularly
weeded and refreshed.

- **Websites.** This is a necessity. Staff can post a running list of
  projects and the permits being sought, a brief description,
  and the date of a decision or appeal period. City websites
can have a public notice link, with the title of the proposed
project and the action in question in the link. Many resi-
dents now rely on this way of getting information to stay
informed about changes in their communities. However,
there are still many people who do not use computers who
would want to provide input on a project, so this means is
not sufficient by itself.

Beyond these standard approaches there are further
methods of getting the word out. Neighborhood newsletters,
including online versions, can be good options. Posting no-
tices at libraries, community centers, kiosks, and coffee shops
is another strategy.

**Public Engagement**

Public engagement in the design review process differs de-
dpending on whether a community has adopted the profes-
sonal staff model or the board/commission model of design re-
view (see Chapter 1 for descriptions of these different models).

**Public Engagement With Staff Review**

The professional staff model of design review involves a
series of conversations between staff members in the plan-
ing department, between staff members in different de-
partments, between the staff and the development team,
and between the staff and the public. There are typically
no hearings and no public meetings: public comments are
received by mail (or email) and considered in the review.
Communications between parties is done through design
review staff, who act as intermediaries.

The advantage of this method is that the design review
staff can have multiple conversations with the development
team as the project progresses and revisions are simple and
expeditious. Ideally, at least, both groups are concentrating on resolving issues and getting the project to a stage where the applicant is prepared to apply for a building permit. The dominant mode is “getting to yes.” Rarely does the staff feel like it must deny a project, but sometimes it is necessary. The ability to say no allows for a better yes.

A downside of this “behind the scenes” method is that it can make neighborhood groups suspicious that the staff favors the developers and has not given sufficient weight to neighbors’ concerns. At the very least, neighborhood groups do not feel they are on an equal footing with the developer. With this method, it is useful to remind participants that this is a permitting process, not a legislative process. If private property is involved, there are no votes or petitions on development projects. It may need to be explained—repeatedly—that the best point of interaction with development is when the laws are being considered, not individual projects. But, admittedly, that is difficult to say to a heated opponent.

In design review administered by professional staff, public comment is expected to be given by letter. Comments that are phoned in also need to be made part of the public record. If a planning and design review board has no authority to impose traffic management or vehicle use limitations. It is also wise to limit comments to three minutes per person, and to set time limits for applicants and the board as well. This sets some simple ground rules of behavior.

In this version of design review, the role of the chair is key. That person must not only explain the rules, but must guide the discussion and focus it; achieve consensus, if not a clear vote; rein in other board members who go adrift in comments; and not only keep the peace but keep the meeting moving along (staff should support with timekeeping). For this reason, it is important for chairs to receive special training in managing meetings. All board members should receive regular training, with instruction by the city attorney that they are part of a quasi-judicial process. Ex parte communication of any sort, even just showing up at a protest meeting, can jeopardize a decision, as discussed in the beginning of this chapter. The rule of law is paramount. Board members are acting somewhat like judges in this role and judges cannot be lobbied.

In some appeals, decisions have been overturned by a court when someone in a decision-making body violated these legal principles. Examples include not disclosing that the member received calls at home from people protesting the project and discussing concerns. Or, conversely, a board member is quoted in the newspaper expressing support for a project prior to a decision. This is serious business, not unlike being on a jury. Vetting people being considered for appointment to a design review board should be meticulous. Appointed members must be fully trained on their legal obligations.

Timelines
One problematic aspect of design review is that without boundaries, it can be an open-ended process. Very large projects may take as long as 18 months to go through design review and all other permitted phases. The time involved with conducting a review and making a decision has a direct effect on when a project can enter the marketplace. If a project misses a window in the market, the consequences are significant.

A city should work with its local development commu-
nity to determine a reasonable time frame for design review. Generally, a well-managed design review for a freestanding, single building with a few stories should be able to be completed in less than three months. Reviews of high-rise buildings or multiple buildings on a site should be able to be completed within six months. There might be an occasional outlier, such as a site with many acres and multiple phases that could require a longer time.

Expected timelines can be determined by looking at past history of reviews. If a city is newly considering adopting design review, staff could reach out to other cities of similar size and development types for their experience.

Some cities have set time limits in their code. The design review ordinance for the city of Arcata, California, requires the commission “to act upon each application within two meetings or 30 days, whichever comes later, from the first consideration of the proposal, unless the applicant consents to further continuances” (Arcata 2018).

However, there are many aspects of a review process that are not within the city’s control. For example, if something needs to go back to the applicant for revision, there is no control on how long that might take. For this reason, legally imposed time limits often have a “time clock.” Each revision period turns off the clock, and the clock is turned back on once the revised materials are submitted. It is good to set guidelines and frequently check to see if they are being met.

One technique that smaller cities use is to contract out the technical design review portion to a consultant, usually a licensed architect. This is common when an agency has very limited staff and a workload that prevents an expeditious review of complex projects. The cost of this contract is passed on to the applicant through design review fees.

It is also a good idea to place expiration dates on design review approvals. Standards and codes change over time, and if construction of an approved project is significantly delayed, it may no longer comply with new standards. Five years is a reasonable maximum period; after that, the approval expires and the applicant must start over.

**Review Criteria**

The two main types of criteria used for making design review decisions are design standards and design guidelines. These are used by the decision maker, whether a board or administrator, to evaluate the project. The former are quantitative and involve little or no flexibility; the latter are qualitative and can offer more flexibility with regard to meeting the intent. Chapter 4 offers a detailed discussion of both of these tools.

Sometimes, certain standards or guidelines are identified as being the most critical for a given project and location. The review involves determining how each one is met and whether modifications to the design are warranted to ensure compliance.

Occasionally other criteria can be referenced, such as specific comprehensive plan policies. However, generally these are integrated into the language of the design standards and design guidelines. The standards and guidelines are intended to make clear those subjects that the review will focus on, so that the applicant, the reviewing body, and the public can know what is being reviewed.

For design review to work effectively, general policies should support the more specific tools, demonstrating a clear nexus that can be seen by courts should there be an appeal. All standards or guidelines should be able to be traced back to an underlying policy. And it should go without saying that the regulatory tools must be consistent with policies.

**RECORD OF DECISION**

Regardless of who makes the final decision—a board (or commission) or department head—there must be a record of the decision that includes findings of fact and conclusions.

A report with recommendations should include a description of the proposal, an explanation of how it fits the design standards and guidelines (or not), and any conditions of approval. It would also be useful to summarize comments from the public and how they have been responded to (or not). This record is vitally important in the event of an appeal, as the appellate body will reply upon this record to determine of there were errors of fact or procedure.

This report need not be lengthy. Depending on the size and the complexity of the project, it might range between 5 and 20 pages. It is best to be brief. If a project complies with standards, one need only cite the standard, not do a detailed analysis. On the other hand, if it does not meet the standards and conditions are imposed, or denial is recommended, it is necessary to be specific. It would be further useful to show a nexus with applicable policies. The effort should ensure that the decision is defensible.

In the professional staff review model, the report is typically written by a staff manager, reviewed by a staff person with a legal background, and signed by the department director. This method has become increasingly common, as it reduces appeals due to errors or oversight and it follows a consistent format and reasoning.
In the board or commission model, it is most common for staff to write up an interpretation of the commission’s findings, though in some communities the commission members write the report. The commission reviews the draft, issues any corrections, and approves it. This could be a matter of formalizing and organizing minutes. Such reports would benefit from a review by the city attorney’s office to make sure that the decision and rationale are defensible.

Many smaller and midsize projects will involve similar issues and applicable standards. A department could develop a template that allows a staff person to check boxes or fill in blanks. This can expedite the simpler reviews. But for larger, more complicated, and potentially contentious projects, a thorough analysis is advisable to help make the decision defensible if it is appealed.

Decision
The actual decision can be brief. It could be simply a design review approval. However, many decisions will include a series of conditions following the approval, if nothing else highlighting the subsequent steps such as filing the report with the county assessor (to be attached to the deed) or meet conditions imposed by the fire marshal. These can be pro forma conditions, listed upfront automatically.

Conditions involving design changes are another matter. It is not uncommon for some minor issues to be unresolved by the time of the design review decision. For example, specifying the exact species of a tree could be delayed until the building permit stage. But it would be unwise to have a long list of deferred issues with conditions attached. This indicates that the review was not thorough or the decision was rushed. Deferring major items to a later point in the process puts unnecessary pressure on the agency. It is much better to take the time to resolve the issues during the review.

Most design review ordinances give the decision-making body the authority to “approve, approve with conditions, or deny” a proposal. Most of the time, the middle course is followed. However, occasionally it is necessary to deny a proposal. This is a serious decision and can have political repercussions. This authority should be used very sparingly. Denial should be reserved for cases where it can be documented that the development team was not willing to make changes to the proposed project so that it would comply with the standards and guidelines.

Notice of Decision
Every city has its own way of legally providing notice for a permit or decision. The precise method is often specified in the general municipal code or in the code authorizing design review. The content is the final decision with conditions, if any. This should be sent to the applicant, the various people who sent in comments, and any other agencies that have review or permitting authority. The property itself need not be posted.

A key element in the notice is to indicate an appeal period and with whom the appeal would be filed. Many cities wait until the appeal period has been exhausted to issue any subsequent permits. Some will allow building permit submittals to be reviewed with the risk taken by the applicant in case there is an appeal. An appeal that is filed in a timely manner will usually stop any further processing.

ADMINISTRATIVE APPEALS
A key piece of the design review process is allowing for an appeal of the decision, either by the applicant or another party with legal standing. Legal standing can vary for different jurisdictions. Some places allow anyone to have standing. Others have narrowed it to people who participated in the review process by either being an applicant or a party who provided comment. Design review ordinances should make this clear.

It is important to have this step prior to a court appeal; the judge will always want to know if administrative appeals have been exhausted. Appeals of design review decisions can be heard by any one of several parties.

- **City Council.** It is common for a city council to be the appeals body. However, having a legislative body whose members likely have little or no training in design oversee the appeals process can lead to problems in understanding the substantive issues raised during an appeal. In addition, council members in the role of an appeals body cannot have ex parte communication. This limitation can cause problems for the constituents of council members as they are used to free access, and may require the recusal of council members or at least a declaration of the nature of communications. Another downside is that appeals can take time away from other city business. Testimony is taken with witnesses (which can consume many hours) and a record must be kept in case of further appeals. Citizens also sometimes view appeals as a kind of plebiscite on the project and orchestrate big turnouts of opponents. Unless carefully managed by the city attorney, appeals hearings can be very contentious.

- **Planning Commission.** This is a reasonable model, although planning commissions often have more than
enough workload than to take on appeals. Planning com-
mission sometimes have members with backgrounds in
design or development. But if that is not the case, it can
be difficult for a body used to discussing policies and pro-
grams to understand the detailed aspects of codes, stan-
dards, and guidelines.

- **Board of Zoning Appeals.** Some cities use their boards of
zoning appeals for design review appeals. The downside is
that BZAs do not always have members who are trained in
the design professions and they may struggle with design
questions.

- **Hearing Examiner.** A hearing examiner is similar to a
zoning judge; in this regard, this approach is a continu-
ation of the quasi-judicial process. The position is ap-
pointed by the mayor, city manager, or city council and is
usually filled by an attorney with a planning background
or a planner with a legal background. Hearing examiners
conduct proceedings almost exactly like courts. They take
testimony only from witnesses indicated in advance by the
city, the appellant, or the applicant. Cross-examination is
allowed. Materials are marked as evidence. Rules of law
and precedents are followed. Examiners can dismiss cases
out of hand as being unsubstantiated. They can also de-
mand that the parties narrow the issues down to a hand-
ful; a shotgun approach does not work. In an appeal, the
examiner gives weight to the city's process and documen-
tation. He or she is not determining whether people object
to a project but whether the city has made a procedural or
substantive error in applying its adopted standards.

Of the various options, the hearing examiner system al-
most completely removes politics from the picture. This can
sometimes please a city council as they are spared meetings
consumed by hours of testimony and rancorous audiences.
Developers prefer this process because it is more objective
and measured, as well as apolitical. Neighborhood groups of-
ten don’t like it, as it does no good to show up at an examiner
hearing with a big crowd and a petition in hand.

It should be noted that there are some unusual ways of
hearing appeals in some states. Oregon, for example, uses a
state board called the Land Use Board of Appeals (Oregon
2018).

In any of these methods, there can be continued appeals
to the courts. And at that juncture, the expenses and time
involved for all parties increases significantly. If a case goes
beyond a local appeal, the first judicial level is the county trial
court (or superior court). Most judicial appeals stop at this
level. These courts will not hear a case until administrative
appeals at the local jurisdiction have been exhausted. Occa-
sionally, design review cases go all the way to the state level,
though this been exceedingly rare, as the limited number of
cases discussed in Chapter 2 indicates.

**CONCLUSION**

As with any regulatory tool, design review has evolved and
matured as it has seen more widespread use. It has become
more orderly, methodical, and consistent in its structure and
application. The techniques described in this section are in-
tended to equip cities with the means to ensure that design
review meets the tests of other regulations—fairness, public
transparency, and objectivity. Implemented thoughtfully, de-
sign review can be an effective way to help guide the livability,
quality, and character of communities.
Design review is based on a set of criteria that are adopted and implemented as either standards or guidelines. These two terms have resulted in considerable confusion in many quarters.

*Design standards* are fixed, quantitative measures of design attributes. They include numbers, dimensions, and precise wording that result in a narrow range of outcomes. They are mandatory. *Design guidelines* are flexible, qualitative measures of design attributes. They rely upon descriptive language that embraces a broad range of outcomes. They may or may not be mandatory. Both are typically displayed in a combination of illustrations, diagrams, photos, and text.

Design review processes can use a combination of standards and guidelines. Standards should be codified in the zoning or development code, while guidelines can be published in a separate document and referred to in the code. The local legislative body should formally adopt both design standards and design guidelines. Design standards are adopted by ordinance, while design guidelines may be adopted by ordinance or resolution. In some communities, design guidelines may not be adopted legislatively, but many land-use attorneys maintain that unless design guidelines are adopted in some manner by the legislative body, they have little effect.

Table 4.1 provides a comparison of these tools. The sidebar at the end of this chapter describes how to create design standards and guidelines; keeping these categories and the attributes listed in mind during the process will help frame the language in a manner that allows for better administration.

It is worth pointing out the distinction between ministerial standards and discretionary guidelines. To make an analogy, an example of a standard might be, “The maximum speed limit shall be 65 mph.” This is clear, measurable, and not arguable. A guideline allows for judgment to be applied; for example, “Vehicles must be driven within safe limits given the conditions of the road.” The first exhibits specificity, the second is more about sound judgment. Both approaches can be useful but they are not interchangeable. Legally, ministerial actions call for the application of objective, measurable criteria that leave very little room for different interpretations.

It might be tempting for some planners to want to only use design standards. Objective requirements eliminate arguments with applicants. But design review should be about collaboration, cooperation, and a mutual desire to arrive at a good outcome. It is not about producing cookie-cutter solutions. The process requires a professional attitude of respect and understanding and not merely a mechanical exercise of applying codes. “The code says . . . ” is not a positive way to engage in a collaborative effort.

More importantly, neither urban design nor architecture should be subject to templates. Thousands of books have been written about all aspects of design and there are few hard and

### TABLE 4.1. COMPARISON OF DESIGN STANDARDS AND DESIGN GUIDELINES

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<th>Guidelines</th>
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*Source: Authors*
fast rules. Indeed, design is a subject that lends itself to debate; design review is one embodiment of the democratic notion of civil discourse.

DESIGN STANDARDS

Having specific design standards is useful to ensure that development results are consistent and predictable. But the number of such standards should be fairly limited, addressing the most critically important aspects of a corridor, a district, or a neighborhood. Examples include:

Street and Sidewalk Design
- Connectivity of streets and sidewalks
- Traffic calming and bicycle facilities
- Transit access
- Sidewalk “zones” for planting and storefront activities
- Street trees and other plantings

Site Design
- Pedestrian connections to public sidewalks
- Pedestrian lighting
- Location of parking
- Landscaping of parking lots
- Screening trash areas

Building Design
- Weather protection over sidewalks
- Visible entrances to buildings
- Transparency at ground floor
- Concealing mechanical equipment
- Upper-level stepbacks

Although standards should be written to be objectively administered, they can have internal choices that allow for some degree of variation. A “menu” approach can allow for choice, allowing the design team to craft their own combination of elements. For example, a design standard addressing “Visible Building Entrances” using a menu of options might look like the following:

Visible Building Entrances
Intent: The primary entrance to a building shall be visually prominent from a public street.
Standard: Of the following methods to achieve this intent, at least three of the following shall be used:
- Recessed facade
- Projecting facade
- Raised canopy
- Taller door dimensions
- Double doors (or revolving doors)
- Lighting fixtures flanking the entry
- Steps or stoops
- Change in materials

In this approach, it is sometimes useful to maintain a catalog of design features that would meet these terms. It is also always useful to include a glossary of definitions.

To add an element of potential creativity, cities may add a choice to the list of “an element chosen by the designer to achieve the intent.” This allows for a creative idea not imagined by the writer of the standard. Sometimes designers come up with something unexpected. If possible, standards should try to allow for—or at least not discourage—more innovative design approaches. The reviewing body is merely responsible for ensuring that standards are met and design elements used in the project meet requirements.

Content of Standards

A jurisdiction should reserve design standards for those aspects of site and building design where it truly wants to see specific outcomes. It is a matter of finding an appropriate balance between quantitative elements and qualitative elements.

Keep the set of standards to a relatively small number that are the most important subjects to address. The longer the list of standards, the more designers will be restricted in being able to develop creative solutions. Moreover, the longer the list of design standards to comply with, the less manageable the process becomes for both the design team and the reviewing body. It is simply difficult to keep in mind that many directives. Long sets of standards may have overlapping or sometimes even conflicting language. It is better to focus on the items that are truly important to a given setting than attempting to cover every single detail.

Within the scope of design review, standards can be organized into three to four categories. These should be laid out from the broad to the specific and in a manner that reflects the design process, starting with the larger context: for example, street and sidewalk design, site design, and building design, as indicated above. Some communities also address signage within their design standards.

For each of these subjects, it is probably best to keep the number of standards to somewhere in the range of five to 10. Some subjects (such as site design) might have a number toward the upper end of the range because of the complexi-
ties of the surroundings. Others, such as sign design, might have fewer standards.

The total number of standards should fall into the range of 30 to 40 for any given district or corridor. That is a manageable number that can be discussed in reviews, regardless of who the review body is. More than that and the entire process can seem burdened by a plethora of directions that give a design review process the reputation of being difficult to navigate.

Record of Interpretations
Regardless of how well-crafted standards are, there will inevitably be situations that require interpretations by the decision-making body. There are also frequently circumstances that, if not unique, were not anticipated. This will require a disciplined form of application so that there is a precedent that can be applied in other similar cases. To have varying interpretations of a single rule can create havoc in the development community going forward.

An agency conducting design review should keep a file of interpretations. Legal staff should be asked to review and approve each one. Interpretations should be maintained on the agency’s website, filed according to subject matter, for people to see what has been decided previously.

Illustrating Design Standards
Graphics are very often useful to help explain a standard. An important rule, however, is “the simpler the better.” Keep the information to a few key dimensions, such as the minimum height or width of a canopy, or the various zones within a sidewalk. Graphics should be line drawings that can easily be readable if a page is scanned or copied.

Graphics should illustrate the written standards, not add new information. The written standard is always the rule, and graphics should never convey information that conflicts or muddies the clarity of the standard. The use of graphics from other cities should be avoided, as some standards are tailored to the particular circumstances, history, or patterns of a place and may not be transferable.

Another approach to illustrating design standards is to use photographic examples from built projects. First, this is hard evidence that other developments have achieved the standard. In addition, multiple examples demonstrate that there are different ways of achieving it. Examples should be drawn where possible from the community itself, or from other nearby communities. Architectural forms, details, finishes, materials, and even colors are often regionally specific.

However, be careful that an illustration does not unintentionally violate another standard. Also, be sure to periodically freshen up examples, as building designs can become dated over time. If the standards are included within an adopted code, it is difficult to include photo examples in a standard codified publication. One alternative is to maintain a website or electronic file of numerous examples of a built result of each standard.

Departures or Deviations from the Standard
Variances are not typically part of a design review process. These are exemptions from codes, as authorized under state statutes. Variances can be granted when it is difficult for a property owner to comply with numeric requirements, such as setbacks, due to a situation not under the control of the owner and unique to the property in question. An example would be a triangular lot that, if all setbacks were applied, would have no practical area left for a building.

Many cities include within their design review process a possibility of receiving a “departure” or “deviation” from a standard. This request is specifically flagged in an application. The test is usually whether the proposed design feature meets the intent in an equal or better way than the precise meaning of the standard. An example might be a standard that calls for an upper-level stepback of 10 feet above a height of 50 feet. A departure might be given for a stepback of 15 feet at a height of 60 feet. Some jurisdictions consider departures as a matter of course, to encourage better design. Others do not approve them lightly and insist upon some tangible public benefit being provided in exchange for the departure or deviation.

Finally, some design standards have built within them the possibility of alternatives. This can be done through a menu approach, as described previously, or by indicating multiple ways of achieving the standard.

Suggested Format
There are many different ways of formatting design standards. The examples provided in the sidebar on p. 50 illustrate one successful way. They are formatted to read like a short verbal and visual “story.” The reader can scan the headings to get the essential information or go deeper to get the details. The diagrams illustrate the words.

DESIGN GUIDELINES
The ability to use professional and reasoned judgment has always been the cornerstone of good city planning. The process of making good communities is not merely about dimensions, quantities, and proscriptions. It is a part of a
EXAMPLES OF DESIGN STANDARDS

Street Design
Subject: Street Trees
Intent: To provide consistency in the appearance and function of street trees.

Standards:
- Street trees shall be planted behind the curb in a linear planting and furnishings zone at least four feet in width.
- Street trees shall be a minimum of 2.5” in caliber at the time of planting and spaced between 25 feet and 30 feet.
- Tree planting pits shall be at least 25 square feet in area.
- The species shall be drawn from a list of approved street trees provided by the city.
- Tree pits shall be covered according to city specifications.
- Mature trees shall be limbed up to provide a minimum clearance over the sidewalk of at least eight feet.

Diagram:

(Walker Macy)

Site Design
Subject: Pedestrian Connectivity
Intent: To allow people on foot to access multiple destinations in a commercial or mixed use area without encountering barriers.

Standards:
Each development shall allow for a connection to adjacent properties with a walkway that is a minimum of 8 feet in width.
- This requirement may be satisfied by providing a walkway between the main entrance and a public sidewalk or by placing the building frontage at the back of the sidewalk.
- Pathways painted on surfaces used by vehicles shall not count toward meeting this standard.
- If an adjacent property is developed, the new connection shall match up with the existing one.
- If no development exists on an adjacent property, this requirement still exists to allow a connection in the future.

Diagram:

(Walker Macy)

Building Design
Subject: Ground-Level Transparency
Intent: To ensure along certain streets that there is a high degree of visual connection between human activities within a building and human activities in the public realm.

Standards:
- A commercial use located along a designated Class A Pedestrian Street (see attached map) shall have windows and doors on facades facing a public street that use clear “vision glass.”
- On the street-level floor the amount of glass shall be at least 75 percent of the street level facade, measured between two feet above grade and 12 feet above grade.
- Materials such as mirrored glass, tinted glass, translucent glass, and opaque spandrel glass may be used but shall not count toward the minimum.

Diagram:

(Walker Macy)
Design guidelines offer direction without limiting choices. They are inspirational and educational. They open up possibilities. At their best, they challenge people to make better buildings, better streets, and better places. Design guidelines, effectively used, can encourage people to think collectively—that they are engaged in the important actions of creating whole neighborhoods, not just building something on a single site.

This is why design guidelines use “should” statements. While each guideline must be considered, there is flexibility inherent in the wording. It is even possible that certain circumstances prevent a guideline from being applied, but at the very least, that assessment will have been done. Guidelines allow for site-specific conditions to play a role; what may be appropriate in one location may not be in another. Design guidelines are intended to be applied through a collaborative discussion of what makes sense in a particular context.

Design guidelines should be organized into the same categories as design standards: for example, street and sidewalk design, site design, building design, and sign design (optional).

Although broad words such “appealing,” “compatible,” and “interesting” can be used in intent statements, the actual guideline statements should convey enough specificity for the language to be acted upon without much interpretation. Vague nouns and adjectives can result in confusion and contentious arguments over meaning. They can also result in decisions being overturned if a court finds guideline language too vague and therefore invalid under the constitutional void-for-vagueness doctrine.

**Discretionary Decision Making**

Design guidelines allow for subjective decision making. This is not a bad thing. They allow the administrator or board to exercise sound judgment after thoughtful deliberation. By the same token, the proposer of a project should also be free to suggest a more creative way of accomplishing the same intent.

But design guidelines are not any less applicable because they use the verb “should.” Any set of guidelines should include a preface that clearly spells out their use and states they must be considered in any project for which they are required. It is certainly possible that some guidelines might have less import or impact, but an applicant is responsible for making that case. The burden of proof is on the applicant, not the city.

To strengthen the rationale for “enforcing” guidelines, cities should cite the comprehensive plan section(s) that each guideline supports. This provides a nexus to a policy adopted by the legislative body. This also helps in defending a decision if it ends up being appealed to a higher board (e.g., city council) or a court. If a city can show a clear connection between legislative actions and regulatory actions, it will be difficult for an appeal to be successful. Courts give considerable leeway to city actions that are reasonably and consistently linked to an overall policy direction.

Decision makers must also assume responsibility for staying within the bounds of the guidelines as adopted by the local government. Though decision making based on guidelines is discretionary, decision makers must base their decisions on the guidelines as adopted.

Because design guidelines do involve discretionary decisions, some administrators or boards seek advice from consultants who are architects, landscape architects, or urban designers. It is commendable that such decision makers recognize their own limitations and secure counsel. It is possible for a city to have a standing list of design professionals with on-call contracts vetted through a normal selection process available to provide assistance. This can be especially helpful for smaller cities that do not have staff with design backgrounds.

Typically, it takes a few hours for a design professional to examine a set of plans, a few hours to write a memo to the director, and sometimes a few hours to meet with the applicant. In the authors’ experience, rarely does this take more than 10 hours in total (e.g., in the cost range of $1,000–$2,000, depending on the reviewer’s hourly rate). These relatively low costs can be passed on to the applicant through fees.

**Flexibility**

By definition, guidelines embrace flexibility. The “should” statement must not be read as “shall.” The decision-making body should invite design teams to not just meet the letter of the guideline but address the intent behind it. This is precisely where design guidelines can make a project shine and go beyond merely meeting the basics. Design and development teams should be encouraged to be playful and treat the guideline as an aspiration that can be met in many different ways. For example, guidelines can be used to prevent a repetitious use of standard building design templates, which is often a hallmark of corporate chains.

Design guidelines can set forth a description of a desired outcome and indicate examples. As is the case with design standards, they can also employ a menu of options to achieve the intent. The examples in the sidebar on pp. 52–53 illustrate both. The objective should be to invite development teams to come up with unique and creative designs.
EXAMPLES OF DESIGN GUIDELINES

Subject: Streetscape
Intent: On designated pedestrian streets, the sidewalks should be safe, convenient, and attractive for people on foot.

Guideline:
Along street frontages, the development should include multiple features that encourage and support use by people on foot. Examples include:

- Seating in individual seating units, ledges, benches, or a combination
- Pedestrian-scaled lighting fixtures
- Artwork, including inlays in the sidewalk surface, mosaic walls, and sculptures
- Seasonal floral plantings
- Directional signs, oriented to pedestrians

Note: These are examples of features that contribute to the streetscape. Other unique and creative elements that meet the intent may be proposed.

Subject: Public Spaces
Intent: Public spaces within a development should be usable, attractive, and lively.

Guideline:
Public spaces should be provided by development in areas shown on the attached map. Each public space should contain at least four of the following elements:

- Trees and other planting
- Seating in a variety of types from fixed to movable
- Pedestrian-scale lighting
- Special paving materials, not just scored concrete
- Artwork, including on the surface of vertical objects
- Water feature, still or animated
- Food services or other permanent vending

At least two sides of the space should be occupied one or more of the following:
- Retail shops
- Cafes/restaurants, including outdoor seating
- Personal services
- Public uses such as government, schools, library, recreation center, and human services
- Public assembly buildings such as theaters, churches, and conference center
- Public markets

Note: The elements are deliberately not more specific in order to encourage unique designs. This menu approach should result in many different combinations.

Photo of streetscape elements: (Walker Macy)

Photo of public space elements: (Mark Hinshaw)
Subject: Buildings at Key Intersections

Intent: Certain intersections should be highlighted by elements of new development.

Guideline:
When located at key intersections designated on the attached map, buildings should provide at least three of the following features:
- Corner plaza, with planting and seating
- Corner tower form
- Large window openings
- Sloped or pitched roof form
- Richer colors
- Refined cladding materials such as stone and brick
- Seasonal planting
- A feature proposed by the designers that meets the intent

Note: There are many ways of shaping a building to result in a sense of importance for the location. This guideline invites creativity in architectural expression.

Photo of key intersection elements:
One rich subject for a design review board or staff to discuss is the appropriateness of “one-off” designs. In some design quarters, professional standing is elevated by the degree of uniqueness or sometimes quirkiness of architecture. Is this appropriate in all places and for all uses? Does a community want to be dominated by a private building that calls attention to itself with intense colors or form? Some communities thrive on variety; others place a greater value on consistency. There is not necessarily a correct answer here.

**Record of Interpretations/Application**

Because the application of design guidelines can vary widely by situation and site, it is useful to maintain a record of decisions to show how various developments have met each guideline. This allows applicants to see that there is a range of acceptable approaches. This could be particularly helpful for small business or property owners who only do development occasionally. It also makes it much easier for the municipality to maintain consistency in how the guidelines are applied over time.

**Illustrating Design Guidelines**

Just as with standards, graphics are always helpful to illustrate design guidelines. The same caveats apply to guidelines as with standards: the design principle displayed in any graphic must be explained in the text. Care should also be taken when photographic examples are used to emphasize that the one or two images provided are not the only options but merely some representatives of the total spectrum of approaches.

Captions are especially useful to direct readers to the salient attributes of examples, as well as call-outs around an image to reinforce what the important points are. Good publishing software can allow for much more editorial formatting.

**Suggested Format**

As with design standards, there is no one “perfect” way to format design guidelines. The sidebar of design guidelines on pp. 52–53 demonstrates one format. Note the use of the word “should,” since this is a guideline and not a standard.

**USING BOTH STANDARDS AND GUIDELINES**

Each community must determine for itself the appropriate mixture of standards and guidelines. To only have standards locks development into a narrow range of design options and doesn’t always sufficiently address more qualitative characteristics. On the other hand, to have only guidelines provides a weaker set of directions with the chance of missing attributes that are important to the community.

In order to determine the right balance of standards and guidelines, it would be useful to list all of the subjects that are potentially needed to address design issues in a district, corridor, or area—perhaps a few dozen subjects. Then, identify the subset of subjects that is critical for clarity, consistency, and predictability. This could be less than 10. These would be turned into standards while the rest are addressed as guidelines or in some cases discarded. The result should be a number that can be reasonably managed in the review process.

Because they are quantitative and objectively measurable, design standards are often included within zoning codes. Design guidelines are typically provided in a separate document that is more graphic in format, as codes do not allow for much illustration beyond simple diagrams. However, both standards and guidelines may be put into a separate, user-friendly document for particular districts, such as a downtown, so that applicants have a single comprehensive set addressing design issues. In this case it is vital for an agency to ensure that the wording of standards in the user guide is absolutely identical to the code language to prevent conflict and confusion.

**CONCLUSION**

Design review involves ensuring that proposed development meets both a baseline of attributes and a quality that builds and strengthens districts, neighborhoods, or corridors. This chapter describes the characteristics of the two principal tools used in the design review process. Design standards by nature are mandatory and measurable; design guidelines are flexible and discretionary. Both should be used together to produce desirable outcomes.
COMPOSING DESIGN STANDARDS AND GUIDELINES

The following is a suggested process for developing design standards and guidelines:

1. Create a working committee composed of five to nine people, including staff, planning commissioners, and representatives from the design community. Consider broader public involvement activities, including open houses, workshops, and surveys to explain the forthcoming standards and guidelines to the public. (Note: A broad public involvement program will not be necessary here if there is a recently adopted comprehensive plan or district plan and the design standards and guidelines are an implementation action of that plan.)

2. Alternately, hire a consulting firm to create new design standards and guidelines. Using a consultant to create the standards and guidelines does not preclude the need for a working committee, however. That group would be tasked with overseeing the consultant’s work product and advising staff on the process.

3. Review all design-related goals, policies, and objectives in the adopted comprehensive plan and subarea, district, corridor, and neighborhood plans to use as organizing principles and categories.

4. Make field visits to new development projects in the community and nearby jurisdictions and collectively critique the projects, listing both positive and undesirable attributes. Consult with development review staff in those jurisdictions about their review processes.

5. Consider other existing buildings and sites in the jurisdiction, including historic structures and districts, that embody the building type and site features that new design standards and guidelines will aim to achieve. Working committee members can nominate suggestions for the team to consider.

6. Group the standards and guidelines into topical categories; for example, street design, site design, and building design. For each category, craft a brief statement of intent.

7. Discuss and determine which items should be strict and which should allow more flexibility.

8. Assign a staff member with graphic capabilities to draw diagrams that represent each standard or guideline. Collect and include photographs as examples of each standard and guideline.

9. Prepare a draft of the text and graphics. Keep the number of pages to no more than 50 to ensure brevity and ease of use. For standards, make them clear, specific, and measurable. Some could have menus of choices, as long as the choices are very clear and defined. Use the verb “shall.” For guidelines, allow for flexibility through menus of choices, descriptive language, and adjectives that describe concepts. Avoid numbers. Use the verb “should.” Avoid vague terms such as attractive, pleasing, compatible, and harmonious.

10. Present the draft to various groups, including the planning commission, city council, neighborhood associations, and representatives of builders’ associations to get comments. Include draft updates on the city’s weekly email blast if appropriate.

11. Post all draft and final work products on the municipality’s website with links to public meetings and hearings schedules and instructions on how to submit written comments.

12. Refine the draft into a hearing-reading form and begin the process of legislative adoption.
CHAPTER 5

CASE EXAMPLES
Design review is applied in cities throughout the country with varying population sizes. Within the United States, there are several dozen cities that range in population between 500,000 and one million people. Most of these cities use some version of design review (or landmarks review), and a number have recently gone through the process of revising or refining their approaches. Many smaller cities use design review as well. It is this group that has been increasingly making use of design review in recent decades.

Regardless of size, most cities employ similar techniques, including the use of design standards and guidelines, and have developed ways to incorporate public comment. The biggest distinction is whether the review process is done by professional staff, by a board, or a hybrid of the two.

This chapter offers 10 case study examples of how design review is applied in a range of cities with varying population sizes. The list focuses on cities of less than one million population, as there are only 10 cities in the U.S. that exceed that size and lessons from very large cities are often difficult to transfer to smaller places. The case study cities are listed from largest to smallest in population size.

**AUSTIN, TEXAS**

Process: Professional staff review of nonresidential and mixed use development in certain areas; design commission review of development in the downtown and other designated areas
Criteria: Design standards and guidelines
Documentation:
- **Austin City Code**
  - Title 2, Administration; Article 2, Boards; §2-1-130, Design Commission.
  - Title 25, Land Development Code; Chapter 25-2, Zon-

Figure 5.1. Austin, Texas
(Roschetzky/stockPhoto/Getty Images photo)
ing; Subchapter E, Design Standards and Mixed Use. Subchapter F, Residential Design and Compatibility Standards.

- Land Development Training [video]. Austin Planning and Development Review Department.

Austin has experienced significant growth and development since the early 1990s, as its warm climate, irreverent vibe, and thriving tech industry have made it a desirable place to live and do business. There has been considerable commercial and residential development within and close to downtown.

The city has design standards for residential infill development and development in several special districts and areas, including the waterfront and transit corridors. A design commission oversees the application of design guidelines for projects that have applied to the city’s Downtown Density Bonus Program, new City buildings in the downtown, and, since 2008, other “areas of the city which, through general agreement, seek to create and shape dense development” (Austin 2009).

The guidelines are divided into four categories: areawide urban guidelines, public streetscape guidelines, plaza and open space guidelines, and building guidelines. “Because the city is a community of people and not of buildings,” the guidelines are based on a set of eleven values commonly held by the city and its residents: humane character, density, sustainability, diversity, economic vitality, civic art, a sense of time, unique character, authenticity, safety, and a connection to the outdoors (Austin 2009, 4–6).

Austin’s design commission has 11 members who are appointed by the city council. Unlike in many other cities, a professional background in a design profession is not a prerequisite for membership. The commission’s bylaws explain that the body’s duties and responsibilities are to, in part:

- Offer policy recommendations regarding specific issues of urban design
- Participate in developing design guidelines
- Provide citizen education and outreach regarding quality urban design
- Provide a venue for citizen input on the design and development of the urban environment
- Maintain liaison relationships with city staff and other boards and commissions

The design commission has also developed interim design guidelines for public infrastructure projects. The intent is to “address the design character and construction of components and systems that structure and support the ongoing development and growth of the City of Austin and aim to enable the City to attain its vision of becoming the most livable city in the country” (Austin n.d., 2). The guidelines highlight 10 core principles: integrated infrastructure should be contextual, connected, integrated, compact, sustainable, hybridized, humane, ecological, timeless, and inclusive.

SEATTLE

Population 704,352 (2016)

Process: Design commission reviews public projects with city funding; neighborhood design review boards review private commercial and multifamily development

Criteria: Design guidelines and standards

Documentation:

- Seattle Land Use Code, Title 23, Land Use Regulations; Chapter 23.41, Design Review.

Since the early 1970s, Seattle has had a design commission that has been active and well respected. However, its charter calls for it to principally review projects funded by the city, such as community centers, libraries, police stations, parks, and other civic improvements. The commission has a very limited role in private development, only weighing in when a project proposes to vacate a street or alley. In return for an approval, it seeks tangible public benefits, such as artwork, enhanced pavement, or a small public space. This review process has been accepted by all parties and has been seen as adding value to public investments.

In the mid-1990s, the city adopted a neighborhood design review process that applies to commercial development and medium- to high-density housing (Seattle DCI 2018). There is no review of single-family dwellings or industrial projects and, as stated above, the design commission reviews all public projects.
The city was divided into seven sectors, which are groupings of smaller neighborhoods, and a design review board was set up for each. The city has been recently looking at reducing the number to five, as managing that many boards has proved to be a huge administrative commitment. All the boards share a dedicated design review staff with the Department of Planning and Development, with a lead staff person for each board.

Each board has five volunteer members with a mix of representation. The five positions are selected from the following interests: design, community/residential, development, and business/landscape design. Typically, there is more than one member with a design background.

The boards meet several times on a project, including for what is called “Early Design Guidance,” in which no design is reviewed but the board instead states its priorities from a list of guidelines adopted by the city council. The applicant shows the site, the program, and some salient issues. Although this is not a formal public hearing, the board sets aside an amount of time to hear from the public. Letters can also be sent in and reviewed. After holding at least one more meeting (but often two and, occasionally, three) the board makes a recommendation to the director of the permitting agency.

An interesting aspect of the boards’ review authority is that they can recommend departures from many numeric standards, such as setbacks and upper-level stepbacks. They cannot increase or reduce building height or floor area ratio, however. To keep the process moving along, a meeting on any given project cannot exceed two hours, with at least half that time reserved for deliberation by the board. This means both the applicant and members of the public must be brief and relevant in their presentations. Indeed, the chairs of the boards often give brief introductory speeches that summarize their review authority. Anything having to do with land-use entitlements, such as density, height, and parking, are off the table; no comments will be heard because those issues are beyond the board’s authority. This keeps commentary relevant to design issues.

Collectively, the boards review many hundreds of projects each year. In recent years, this has sometimes meant more than one meeting a month, with two to three projects discussed at each meeting. It is sometimes difficult to find citizen volunteers to commit that amount of personal time; all meetings are in the evening. Moreover, the “personality” and quality of the various boards differs quite significantly. The downtown board attracts the most experienced and creative talent; other boards less so. The city has been grappling with how to elevate the quality and consistency of reviews while still allowing for public involvement. One recent addition has been a “Director’s Rule,” an administrative directive to developers that they find ways to receive and incorporate public comment prior to the formal city review (Seattle DCI 2018). That pushes developers to meet with neighborhood groups early in the development process.

Each neighborhood was given an opportunity to devise its own guidelines, reviewed for propriety and legality by the
administration. Alternatively, a neighborhood can choose to rely upon a generalized set of guidelines developed by city staff. To date, less than 20 percent of the city's neighborhoods have crafted their own guidelines. The director makes formal decision with recommendations by the applicable board.

Finally, appeals of a decision are made to a hearings examiner. The examiner holds a formal, courtroom-like hearing. It is not an open public hearing but rather a focused appeal involving only the city, the applicant, and the appellant (sometimes the latter two are the same). The examiner can dismiss the appeal, can affirm the appeal and remand it back to the department, or deny the appeal. Usually appeals stop there, but occasionally some go to superior court. It should be noted that prior to design review, many projects were appealed on environmental grounds. The development process was frequently disrupted by contentious and protracted legal challenges. The current process, which involves considerable public input, has reduced appeals to a trickle.

DENVER

Population: 682,545 (2016)
Process: Professional staff review applied to private development in specific areas throughout the city
Criteria: Design standards and guidelines
Documentation:
- Denver Design District GDP Urban Design Standards and Guidelines. City and County of Denver, 2017. [One example of many]

Denver has made a number of strategic planning decisions over the last 20 years that have resulted in a considerable amount of development in multiple parts of the city. The former Stapleton Airport is now a mixed use development large enough to be a complete new neighborhood. Downtown has benefited from the introduction of light rail, a surface transit/pedestrian street, and major civic investments, such as a performing arts center and stadiums. Perhaps the most dramatic change has occurred in the area surrounding the grand and now restored Union Station. Once on the edge of the Lower Downtown historic district, the area is now intensely developed with mid- and high-rise buildings with a large residential population.

Design review in Denver is an administrative process conducted by staff trained in design. As of 2018 there are more than 25 design review districts in the city, categorized as either “neighborhood context” or “special context” districts. Nine of the districts apply a combination of standard and guidelines and the remaining districts use one or the other (Denver CPD 2018). Design review is administered as part of the city’s general development review process.
Article 10 of the city’s zoning code also contains general design standards that apply throughout the city, including in the design review districts, except where specified (Denver 2018). In addition to general standards for parking, landscaping, pedestrian facilities and circulation, site grading, and outdoor lighting, Article 10 contains special sign regulations for designated zoning districts and subareas.

Within the downtown, the staff coordinates reviews with the Downtown Denver Partnership (www.downtowndenver.com), a development authority set up to plan, fund, and direct projects. According to city staff, the review function has resulted in many buildings of high-quality design and character. The review process does not focus on “blending in” but rather encourages unique, high-profile design concepts. Formerly a rather architecturally conservative city, Denver has been using design review to encourage special places and distinctive architecture.

One interesting aspect of this city’s approach to design review is that it only looks at the first 85 feet of a building’s height, with the idea that the lower floors are those that relate to the public realm of the street. They leave the upper floors to the preferences of the development team. This approach focuses design review where it counts the most. It also gives freer rein to designers to make expressive buildings of their own creation.

The city’s administrative design review process is appealable to the board of adjustment rather than the city council. However, there have been few appeals. This may be due to the careful integration of the public review process with the private design process.

Denver’s process employs two techniques that are transferable to other cities. First, it initiates review at the early concept stage, rather than waiting for a finished design. The staff actively engages with design teams in a collaborative manner. This resolves many issues early on. Second, the staff does rigorous follow-up in the field as projects are constructed to make sure that the design elements that were shown in the plans are, in fact, built.

**PORTLAND, OREGON**

Population 639,863 (2016)
Process: Hybrid. Design commission reviews public and private projects in the central city and other designated areas; staff review projects in other areas
Criteria: Design standards and guidelines
Documentation:
- Portland Municipal Code, Title 33, Planning and Zoning.
- Chapter 33.218, Community Design Standards
• Chapter 33.420, Design Overlay Zone
• Chapter 33.710, Review Bodies; §33.710.050, Design Commission
• Chapter 33.825, Design Review
• Design Review Application Process. City of Portland Bureau of Development Services, 2018
• Websites:
  • “Design Overlay Zone Amendments,” www.portlandoregon.gov/bps/70324

Of the cities described here, Portland has had the longest-standing design review process. Initiated in the early 1970s, design review has been used by the city extensively over the following decades. Design review has contributed to the city becoming a model for intelligent and thoughtful urban and building design.

The impact of design review through codes and adopted implementation criteria on development in the Center City, which flanks the Willamette River, has been particularly striking. Many development projects have made outstanding contributions to the public realm. These are particularly evident in downtown, the Pearl District, and the Lloyd District, where numerous new buildings have recently been built. Development in these areas has complemented major public investments in streets, parks, and other public spaces.

Portland uses a single design commission to review both public and private development. By ordinance, the makeup of the seven-person board must include different design professions as well as residents. In recent years, because of considerable development intensity, the board meets twice a month, with meetings sometimes extending from early afternoon to late evening.

Initially set up for guiding the downtown core, the board’s geographic purview has been incrementally extended to cover most portions of the central city, as well as other designated commercial and mixed use districts. Currently, the city is in the process of extending its reach even further into areas that have seen considerable development but do not receive design scrutiny. The city is considering recalibrating thresholds to reduce the number of projects requiring review.

It is also updating sets of design standards and guidelines, some of which are out of date.

Portland has a hybrid design review system. Not all projects come before the design commission. Depending on location, size, and type of development, a design review staff conducts some reviews. Moreover, the administrative design review staff of 10 to 12 people is separate from the staff of three to four people that supports the design commission. The commission is under the Bureau of Planning and Sustainability, while administrative design review is done by the Bureau of Development Services.

The design commission holds hearings and the public can and does testify. In recent years the workload has been so intense that meetings have gone on for more than seven hours, from early afternoon into the evening. The city has been making some management improvements, such as limiting times for discussing each project and exempting small projects altogether, to reduce the timelines and make the process more predictable for all parties.

In 2017 the city completed a comprehensive audit of its design review process (Portland BPS 2017). The Design Overlay Zoning Assessment involved interviews with developers, designers, and neighborhood representatives. It looked at what other peer cities do with their design review procedures, and it reviewed scores of built projects to see if they accomplished the legislative intent. A host of recommendations emerged that addressed public engagement, the management of meetings, and focusing reviews on larger and more complex projects.

The assessment noted that many of the design standards and guidelines being currently applied were written in the early 1990s, and the city now has an entirely different set of priorities than it did back then. It also found that there were simply too many standards and guidelines for both designers and reviewers to easily keep track of, and some were conflicting. The city is now embarking on an effort to both update and simplify their design codes, standards, and guidelines. The lesson is that decision-making criteria need to be reexamined and recrafted from time to time.

From scores of interviews with civic organizations and individuals, it was clear that residents and the development community value the design review process and see that it is part of a larger picture of actions by the city to carry out its urban design vision. That does not mean that decisions are not immune from contention; indeed, the city commission (elected council) has overturned some design commission decisions on appeal. Also, Portland has set a high bar for design, with its public buildings as prime examples. The qual-
ity of development in that city is significantly better than many other cities in the U.S. However, field inspections and permit research determined that a significant number of developers have moved into areas not governed by design standards or guidelines. Some of the projects in these areas do not show the same level of high-quality design found elsewhere in the city. Portland is amending its code to bring these areas in.

CLEVELAND

Population: 385,809 (2016)
Process: Local Area Design Review Councils are appointed to review and advise on development projects in the city’s eight design review districts; all new housing construction in the city is subject to separate design review standards and guidelines administered by a committee of the City Planning Commission
Criteria: Design guidelines and standards for general development; separate criteria for new housing construction
Documentation:
- Cleveland Zoning Code, Chapter 341, Design Review

Cleveland has an expansive design review program that applies to all development that falls into the following categories:

- Within the city’s seven design review districts
- Any new construction of residential, commercial, or institutional buildings that are outside of design review districts
- New residential construction citywide
- All public properties, including exterior alterations to buildings and structures owned by local, county, state, or federal government or by any other governmental agency, including regulated public utilities
- Planned unit development districts

The Cleveland system features seven design advisory committees, made up of five to 11 district residents appointed by the plan commission (Cleveland City Planning Commission 2018). The planning director transmits all development applications that are subject to design review to the appropriate local advisory committee and the committees’ reviews are conducted concurrently with other applicable reviews. The

Figure 5.5. Cleveland’s waterfront (Ron Thom- as/Getty Images photo)
planning director has the discretion to approve an application administratively if he or she determines it will have no significant impact on the design or appearance of the property.

Between 2011 and March 2018, the local committees reviewed approximately 2,400 applications. Signage and building demolitions were the two most common application types. The criteria in the design review ordinance used to review proposed demolitions ($341.08) attempt to mitigate loss of architecturally significant structures, but also allow for the removal of buildings that that are a blight on the neighborhood.

The design guidelines ($341.07) range from the general to the specific. The criteria encourage contemporary building design, stating, “All buildings are recognized as products of their own time” ($341.07.b). This means new construction is not expected to mimic historic architecture. The exception is where such design would clearly detract from the architectural unity of a grouping of architecturally significant structures. The guidelines are very specific when it comes to sign design, addressing sign types, placement, color, lettering, the overall quantity of information displayed, and how signs or lettering are attached to a building. Also of note, although they are labeled guidelines, they include two prohibitions: chain-link fencing and billboards are not allowed in the design review districts.

Cleveland also conducts design review on all new residential construction and substantial renovations to existing houses. That program is run by the city’s Community Development Department, which staffs a Housing Design Review Subcommittee, a joint committee of the city’s Housing Development Office and the Cleveland Planning Commission. The residential design standards were enacted in 1995. Their purpose is to ensure that any residential infill project is consistent in terms of height, setback, roofline, and bulk requirements of the houses around it. Affordable housing projects are subject to design review if they are built on city land bank land or if they receive community development–administered funds, such as housing trust fund money. The city created a residential design scoresheet that planners use to administer the residential design review process. From 2013 to 2017 there were, respectively, 39, 50, 66, 87, and 60 new residential projects that underwent design review. Approximately twice that number of major housing renovation projects went through design review each year.

**BELLEVUE, WASHINGTON**

Population 141,400 (2016)

Process: Professional staff review process for downtown, most commercial, and high-density housing districts
Documentation: Design standards and guidelines

- Bellevue Land Use Code
  - Chapter 20.25, Special and Overlay Districts; Part 20.25A, Downtown
  - Chapter 20.25, Special and Overlay Districts; Part 20.25D, Bel-Red
  - Chapter 20.30, Permits and Decisions; Part 20.30F, Design Review
- Websites:

In the early 1980s the city of Bellevue adopted land-use policies that directed most growth away from freeways and into its downtown. A new district around a light-rail station was added in the early 2000s. Since adoption of the downtown plan and code, Bellevue has gained a dense downtown filled with dozens of towers, both residential and commercial. Its skyline rivals cities several times its population. A fundamental component of the policy shift was to guide the quality of development through a design review process.

There is no board or commission. All design review is done by a staff of eight to 10 professionals with backgrounds in various aspects of design. Their sole charge is to review projects with no other planning responsibilities. The staff is well managed and provided with continuing education. They are expert in dealing with both the development sector and the public. The ultimate decision maker is the director of the department of development services, who considers thorough analyses and recommendations by the design review staff.

The Bellevue land-use code confers responsibility for design review to staff (§20.30F.170). The staff uses a comprehensive set of design standards and guidelines, and receives and incorporate comments submitted by the public. Notice of impending design review decisions is made by through mailings and large on-site signs. Appeals are to the city’s hearing examiner, with a decision by the city council. The examiner creates a record of facts and testimony, with a recommendation to the city council, which holds a hearing only on the record.

Initially, when the most dramatic code changes were adopted that gave the green light to high-rises in the range of 200 to 300 feet, there was a major backlash by residents, particularly those living just outside of downtown. Subsequent code changes were made to mitigate the impact of redevelopment, such as reducing allowable building height around the perimeter of downtown. Still there were numerous appeals in the early years. Since the early 2000s, downtown has attracted several thousand residents who view a dense and diverse downtown as desirable. Much of the opposition has moved on.

In a matter of a few decades, Bellevue has changed dramatically from being the classic suburban model of single-family houses and strip shopping centers to an intense, urban, and socially diverse city. Once dominated by accommodations for the movement and storage of cars, the downtown now attracts people on foot and using transit; construction has begun on a new rail line that will connect the city to the regional light-rail system. Design standards and guidelines played a central role in this transformation, emphasizing ground-level activity, increasing the width of sidewalks, and requiring public spaces. This complemented other public investments in parks, libraries, a new city hall, a convention center, public art, and pedestrian amenities.

In 2009 the city adopted the Bel-Red Subarea Plan and zoning and code changes for a 900-acre light industrial area (Bellevue 2015). With the implementation of 12 new zoning districts and design guidelines, the area will accommodate two transit-centered nodes, comprising one of the largest redevelopment opportunity sites in the Seattle region. Plans for the area call for 5,000 new housing units as well as new parks, bike paths, and an ecological restoration zone.

Design guidelines were adopted as part of the city’s land-use code to “support and complement the community vision described in the Bel-Red Subarea Plan that is part of the City’s adopted Comprehensive Plan” as a “flexible tool for quality and innovation” offering “a descriptive template for promoting and improving the urban character of the area without dictating or prescribing a specific style or theme” (§20.25D.150.A). Each guideline includes an intent statement for the guideline, the explanatory text of the guideline itself, text and photographic examples of recommended development consistent with the guideline’s intent, and text and photographic examples of recommended development that are not consistent with the guideline’s intent. The guidelines are organized into five categories that address character and site, pedestrian emphasis, architecture, lighting, and signage.
They are framed as directives, such as, “Integrate the natural environment,” “Promote welcoming residential entries,” and “Orient hanging signs to pedestrians.” They provide a good example of clear but flexible guideposts to achieve planning goals for a special area, such as a downtown or, in this case, a transit corridor.

In October 2017, the Bellevue City Council adopted a set of revisions to the design standards and guidelines for downtown. These changes were the culmination of a multi-year Downtown Livability Initiative that updated the city’s policies from the 1990s for development density and intensity in the six zoning districts that are in place for downtown as well as two perimeter districts that provide a buffer between downtown and the surrounding neighborhoods (Bellevue PCD 2017).

CHAPEL HILL, NORTH CAROLINA

Population: 59,246 (2016)
Process: Community Design Commission for town center and neighborhood conservation districts; development agreements

Criteria: Design standards and guidelines
Documentation:
• Chapel Hill Land Use Management Ordinance
  • Article 8, Administrative Mechanisms; Part 8.5, Community Design Commission
  • Appendix B, Neighborhood Conservation Districts

Chapel Hill applies design review in three town center zoning districts, 12 neighborhood conservation districts, and to all projects citywide that exceed certain size thresholds. Each conservation district has its own design standards, guidelines, or combination of the two.

All design standards are incorporated directly or by reference in the town’s land-use management ordinance. The design guidelines for each district are adopted separately as parts of subarea plans within the town’s comprehensive plan. The city also uses development agreements to formalize zoning and development standards and design standards and guidelines for large-scale projects, in-
including the Glen Lennox neighborhood redevelopment, described below.

The town has a community design commission made up of nine members, which conducts the entirety of the review after it receives a complete application from staff. The commission has 35 days to make recommendations on the proposal in writing to the applicant and the town council (Chapel Hill 2017b).

A notable application of the neighborhood conservation district concept, coupled with design standards and guidelines, has unfolded between 2007 and 2018 in the Glen Lennox neighborhood. The neighborhood was a master-planned community, completed in 1953, of 78 one-story multifamily buildings containing a total of 440 rental units. There is also a commercial center, which was a state-of-the-art, auto-oriented shopping center when it opened in the 1950s. The neighborhood retains many positive physical attributes, including an extensive tree canopy, wide sidewalks, and winding streets. Many of the buildings, however, have outlived their useful life.

The Glen Lennox Area Neighborhood Conservation District Plan calls for retaining some of the existing structures while redeveloping much of the site with higher-density residential and commercial development (Chapel Hill 2012). After an extensive public process, the town enacted the Glen Lennox Neighborhood Conservation District in 2008. It comprises a trio of districts, each tailored to goals for future development in the area.

In 2014, Chapel Hill and Grubb Properties, the property owner and redeveloper, signed a development agreement that specifies a new zoning district, infrastructure and street standards, tree preservation, density requirements, design standards, and design guidelines that will be applied to the redevelopment of the site. The development agreement incorporates the design standards and guidelines that were adopted as part of the conservation district in 2008 (Chapel Hill 2017a).

There are 11 guiding principles for redevelopment of Glen Lennox, which can be found along with detailed and illustrated design standards and guidelines in the Glen Lennox Neighborhood Conservation District Plan:

1. Value the history of the neighborhood and the Glen Lennox apartment and commercial property.
2. Preserve the street network.
3. Create and maintain public open space.
4. Balance the new development with preservation of the trees and tree canopy.
5. Keep a portion of the buildings.
6. Transition and vary density and heights of the buildings.
7. Provide landscaped buffers for sensitive neighbors.
8. Preserve the Church of the Holy Family’s visibility and accessibility.
9. Create an effective transportation strategy.
10. Encourage community sustainability.
11. Encourage and support community diversity.

The Glen Lennox Neighborhood Conservation District Plan provides an excellent example of how a city can use design standards and guidelines to shape redevelopment of existing neighborhoods.

LENEXA, KANSAS

Population 52,903 (2016)

Process: The city applies design review through a professional staff; design standards apply to many areas of the city, including the new city center

Criteria: Design standards and guidelines

Documentation:

- Lenexa Unified Development Code, Chapter 4-1, Zoning.
- §4-1-B-28, CC, Planned City Center District
- §4-1-C-5, Architectural Design Standards
- §4-1-C-7, Pedestrian Oriented Design Standards
- Lenexa City Center Design Standards and Guidelines. Adopted 2007; revised 2015.

Lenexa is a city in fast-growing Johnson County, southwest of Kansas City, Missouri. The city’s unified development code includes architectural and pedestrian-oriented design standards that apply to all new development, but it is the new City Center that has received the greatest attention over the last decade. Design review has been focused on this area as it has received a substantial amount of public investment in infrastructure, parks, and civic buildings.

In the mid-1990s, the city put together a plan to relocate its city center from a nondescript, auto-oriented commercial arte-
rior to a new location approximately two miles west. The concept was to have a mixed use, walkable, multi-story urban center, with a concentrated collection of civic buildings and spaces.

The city purchased 100 acres and rezoned an area at least double that size for coordinating higher-intensity development on both the public property and adjacent private properties. The plan called for new streets and major parks. The city used tax increment financing to help pay for streets and parking structures. Design review was seen as a technique for guiding the quality of this form of development, which was new for Lenexa.

The design review process involves frequent meetings with various development teams. All projects go through two to five phases of design review, depending on the complexity. The city retains a consultant on a modest time-and-expenses basis as a design advisor for more complicated projects. The design concepts for each increment of development are discussed, with critiques given at each phase. This is an unusual form of design review in that it does not involve the public. (Since the city center was on vacant land, there were no residents.)

The staff applies a set of architectural design standards and guidelines on a citywide basis that were adopted by the city council in 2007 and revised in 2015 (Lenexa 2015). Developers are encouraged to meet with city staff early in the design process to discuss applicable criteria. Guidance documentation notes which criteria are mandatory “standards” and which are advisory but recommended “guidelines.” These design standards and guidelines address site design, building design, and sign design.

The applicant and city development review staff decide in preliminary meetings whether the architectural standards will apply to a proposal. The intent of the design criteria is to assist in the review and evaluation of building design during preliminary and final plans. The architectural standards are used in conjunction with the Urban Design Guidelines (2007) and more recent City Standards and Guidelines (2015).

Although not fitting the typical model of design review, the Lenexa case demonstrates the range of options available to communities. It has been very effective in creating a distinct and distinctive new city center.

COEUR D’ALENE, IDAHO

Process: Design review commission for downtown and commercial districts
Criteria: Design standards and guidelines
Documentation:
• Coeur d’Alene City Code, Chapter 2.98, Design Review Commission
• Downtown Design Guidelines. City of Coeur d’Alene, n.d.
• Infill Development Regulations and Design Standards. City of Coeur d’Alene, n.d.
• Website: “Design Review Commission,” www.cdaid.org/199/committees/design-review-commission

Coeur d’Alene has been building a reputation as a desirable recreational community in Northern Idaho, with charming older neighborhoods, a verdant landscape, and adjacency to the beautiful Lake Coeur d’Alene. In the 1990s,
its downtown Main Street was revived using the Main Street techniques developed by the National Trust for Historic Preservation. As Main Street was becoming more vibrant, the city was beginning to see development occurring in the residential and mixed use districts surrounding downtown. There was a renewed demand for people to live near a dynamic core.

The city created a design review commission in 2003 composed of eight citizens appointed by the city council. Two members come from the planning commission, another must be a licensed architect, one must be from the real estate or development industry, one must be a resident of a district where design review is required, one must be a resident from anywhere in the city, and one must be a building designer or landscape architect. The commission meets twice a month and reviews all downtown development and projects larger than 50,000 square feet in several commercial districts.

The commission meets with applicants three times. As the review meeting progress, more detail is requested. A pre-application meeting between the applicant and the planning department sets the stage for review by the commission.

Over the years, the city has adopted a number of design standards and guidelines applied to specified districts. There are sets for downtown, for several districts surrounding downtown that encourage infill, and for other commercial areas.

Over the past 20 years, downtown Coeur d’Alene has experienced a shift in scale. For most of its history, the downtown was composed of buildings two to four stories in height. Because there was no height limit, a few developers began to build residential towers that were well received by buyers, both seasonal and year-round residents. (One hotel tower had been built in the early 1990s.) This change in height and intensity led to desire by the city council for design standards and guidelines to address pedestrian activity, public spaces, and active sidewalks. A new downtown ordinance adopted in 2006 added height limits, floor area limits, and a bonus system to encourage public amenities, as well as design standards and guidelines (Coeur d’Alene n.d.).

The city sees the design review tool as being one important part of its strategies for directing the location, quality and character of new development. Design review is used together with tax increment financing and public investments in enhanced streets.

BOZEMAN, MONTANA

Population 45,250 (2016)
Process: Design board review, with final decision made by
director of community development; conservation districts; below certain thresholds, design review is done by professional staff

Criteria: Design standards and guidelines

Documentation:
- City of Bozeman City Code
  - Chapter 2, Administration; Article 5, Boards and Commissions; Division 18, Design Review Board
  - Chapter 38, Unified Development Code (UDC)
    - Article 2, Permits, Legislative Actions & Procedures; §38.210, Development Review Committee, Design Review Board (DRB), Administrative Design Review Staff, Wetlands Review Board, Board of Adjustment Jurisdiction & Scope of Authority
  - Article 2, §38.230.040, Plan Review—DRB review thresholds
  - Article 4, Community Design; §38.410, Community Design & Elements
  - Article 5, Project Design

During the 1980s the city of Bozeman undertook a series of actions to reinvigorate its downtown. The result was so successful that major investors were coming in from outside the state to renovate buildings and operate businesses.

By the early 1990s, the downtown eight-block Main Street was thriving with shops and restaurants, coffee bars, bakeries, art galleries, and other businesses. However, every street that led into downtown was lined with strip commercial development, huge signs, used car lots, and massive parking lots.

In order to protect its investment in downtown, the city created design overlay districts for seven corridors (Bozeman 2005). Design guidelines were adopted to enhance site design, reduce large signs, add pedestrian connectivity, and require better building design. The guidelines were adopted just in time to cause a proposed Walmart to redesign its standard building type and create one that was specific to Bozeman.

Over the subsequent decade, the corridors were transformed. Big signs were eventually all removed. New development was of markedly high quality. Guidelines required development to exhibit a character reflecting the community’s location and heritage. In the mid-2000s the city revised its guidelines and made them applicable to all commercial development. So successful has this 25-year effort been that the city folded the overlay districts into the general land-use code.
This program was revised, updated, and expanded in 2005 to reflect the changes and incorporate other areas. Subsequently, a January 2018 update and reorganization of Bozeman’s unified development code has eliminated the Entryway Corridor Overlay District and created articles on community design and project design that are universally applicable (Bozeman 2018). After seeing the success of using standards in those corridors, the idea of expanding the approach to cover even more development had solid political support.

The city’s design review board (DRB) is comprised of eight members. Three must be licensed architects, at least one must be a landscape architect, and one must be an architectural historian. At least one of the professional members must have expertise in urban design. Two nonprofessional members must demonstrate an interest in urban design or historic preservation. No member can concurrently serve on other commissions.

The DRB reviews all development proposed within the Neighborhood Conservation Overlay District, planned unit developments, and large-scale retail development. The DRB also reviews projects meeting one or more of several thresholds: 45 or more dwelling units; 30,000 or more square feet of office, commercial, or industrial space; four or more stories; 20,000 or more square feet of exterior storage; and parking for more than 90 vehicles ($38,230.040). In addition, the DRB hears appeals of design review decisions by the professional staff. The board reviews about 160 projects per year—a large number, given the city’s size.

CONCLUSION

These varied examples demonstrate a number of lessons that can be useful to jurisdictions either adding design review to their regulatory toolkit or amending an existing design review process:

• The design review process can involve either an appointed body or professional staff and work equally well. Several cities use a hybrid approach with success.
• The composition of appointed boards benefits from a mixture of both professionals with backgrounds in design and nonprofessionals.
• Public engagement is important but should be focused to provide useful input to decision makers.
• Early design guidance to applicants is useful—both through preapplication steps and thorough initial meetings with a board before major design elements are locked in.
• It is essential to have good, clear sets of design standards and design guidelines for use by applicants and reviewers.
• Both standards and guidelines are important to allow for both predictability and flexibility.
• From time to time it is useful for jurisdictions using design review to evaluate both the process and decision criteria to ensure that they continue to reflect policies and desired outcomes.
• Design review is most effective when used in combination with other urban design programs and public investments.

Finally, in these examples, it is clear that design review has contributed to strengthening community character and has been accepted by the public as having added value.
In the decades since design review was first used by local governments, a number of important lessons have been learned, both from court cases and from experience.

It is clear that design review is a permissible application of zoning authority but that jurisdictions using it must be mindful of due process and have clear and specific decision criteria. Courts will not tolerate review criteria that are vague, overly discretionary, or arbitrary. The initial era of an appointed board of citizens expressing their individual, personal opinions about a project is long gone. As a quasi-judicial process, design review is subject to limitations on ex parte communication. It must involve the creation of a public record that includes findings and conclusions based on design standards and guidelines that have been adopted by the local legislative body.

This report has described in detail how design review, when thoughtfully crafted, can be a useful method of guiding development and enhancing the quality of buildings, sites, and the public realm. It is an evolving regulatory technique that has become more established, more broadly applied, and more effective with time. Further, it is a method now grounded in a body of judicial decisions. Methods of administering it are widely varied, ranging from professional staff review to citizen-appointed boards to hybrids of the two. Adopting a fair, transparent, and legally defensible process is as important as having clear and usable decision criteria. These decision criteria include both design standards and design guidelines and most design review procedures use a mixture of both. Finally, there are numerous cities and towns that have a long track record of applying design review; there are successful examples in places of all sizes.

However, design review as a regulatory technique is only one of many ways of elevating the issue of good design in communities. Indeed, most cities and towns with reputations for good design employ more than one method. While this report focuses on design review, it is useful to recognize these other techniques.

OTHER METHODS OF ENCOURAGING GOOD DESIGN

Design review is only one tool in a toolkit that cities and towns can use to encourage better design. Indeed, relying solely upon a regulatory device is a kind of blunt instrument. The following are other techniques that can bring about improved design in both the public and private sectors.

Additional Design Objectives

In the arena of development standards, there are a host of other tools, techniques, and metrics for evaluating the performance of development, many of which address design. These include the U.S. Green Building Council’s Leadership in Energy and Environmental Design, commonly known as LEED, and other green building standards, as well as healthy community standards such as New York City’s Active Design Guidelines (2010).

Some of these additional objectives could be incorporated into design standards; alternatively, they could be referenced. Some, however, are more difficult to blend into the design review process as they deal with subjects other than design. It is not uncommon for another agency or department to administer such tools. Generally, these kinds of standards are promoted and monitored by professionals with specific training in their suitable application.

Local Awards Programs

Several cities have established annual or biannual awards programs for design excellence.

Such programs can take several forms. The organizing entity for an awards program can be the mayor’s office, the city council, the local chamber of commerce, or any other public or civic group seeking to raise the bar for urban design excellence in their community. Organizers may create
a nomination process or can simply select built examples to commend. Only projects that have completed construction should be eligible for such programs. Organizers must also decide on award categories.

A newly launched awards program should expect to undergo some trial and error over the first several rounds, as organizers will see what works as far as the categories and what does not. If there is a call for nominations, the entity managing the awards program should create a sustained public outreach campaign to ensure that enough nominations will be received. They will also have to name three to five design professionals from outside the community to serve on the awards jury.

Once winners have been chosen, awards can be presented at city council meetings or at meetings of a local civic organization. This approach rewards good work in a highly public manner and can set a bar that other people can aspire to. Corporate sponsorship can be key to publicizing the awards program, providing or covering the cost of renting an event space and paying for catering, and heightening the business community’s interest in good planning.

Three examples of this tool are found in Hamilton, Ontario; Hillsborough County, Florida; and Seattle, all of which have long-standing design awards programs that have received much publicity.

Hamilton, Ontario, a city of approximately one-half million people located at the westernmost edge of Lake Ontario, launched a biennial urban design and architecture awards program in 2005. Until 2017 the award categories varied somewhat from one biennial to the next, but were drawn from a list that included architecture, adaptive reuse, civic generosity, community planning, contextual architecture, heritage restoration, landscape architecture, placemaking, precinct planning, streetscape environmental design, urban design, and urban regeneration.

In 2017 the city reorganized the categories and nominees were placed in nine groups: student projects, civic achievement, urban elements, buildings in context, private buildings, vision and master plans, landscape architecture, public spaces, and green infrastructure. The city appoints a new jury for each competition. The six members have background expertise in urban design, architecture, landscape architecture, journalism, academia, and, of course, planning. Although the criteria may vary depending on the categories each year, the fundamental guideposts the jury uses to evaluate each project include excellence in site design, architectural design, and landscape architecture; appropriateness of built form; sustainability; innovation; and quality of execution (Hamilton 2017).

Since 1983 the Hillsborough County Planning Commission in Florida, along with several corporate partners, has hosted an awards program for excellence in planning. A jury of planners from outside the county select winners in approximately 20 categories, many of which have a design component. The awards are presented each October to align the program with Tampa Bay Design Week, National Community Planning Month, and APA’s Great Places in America recognitions. The program’s sponsors host a dinner each year at which the awards are announced and presented to winners. Projects are awarded for excellence or merit in the categories of planning, investment, housing, redevelopment, entertainment, historic preservation, environment, and lighting (Hillsborough 2017).

Every two years, the Seattle Design Commission selects projects from those that it has reviewed and confers a recognition of excellence. Projects under its purview, which are initiated by the public sector, are judged on the basis of design, integration with context, sustainability, inclusiveness, partnering, and execution (Seattle Design Commission 2016). The awards are announced at a city council meeting and plaques indicating the award are mounted at the sites of the recognized projects.

**National, Regional, and State Awards Programs**

All of the major professional design and planning organizations have awards programs that recognize outstanding examples of development. The American Planning Association recognizes plans, including those emphasizing urban design. The American Society of Landscape Architects recognizes designs and plans for specific sites and areas. The American Institute of Architects recognizes buildings of exemplary design and includes urban design plans and master development plans. Projects highlighted by these programs can serve as models for communities wishing to raise the bar for quality of development.

**Design Competitions**

Many cities, even midsized ones, now set up design competitions for certain high-profile civic projects, such as city halls or major parks. This approach should be used sparingly, and organizers should carefully manage such competitions to keep the playing field level for all designers, whether local or from other areas, and to set clear and consistent parameters for participation.

All professional design organizations have recommended methods for creating and managing fair and open (and blind) design competitions. A city need not reinvent
the process. There are also design competition advisors all over the country who are well practiced at managing the competition process, publicity, jurying, and logistics. The American Institute of Architects is a good source of information on both how to appropriately run a design competition and who has served as competition advisors; it publishes a handbook on architectural design competitions (AIA 2010). Cities should avail themselves of expertise and experience of people who know how to make competitions work well.

One caveat about design competitions: For major civic projects, the city should be prepared to follow through and award the design contract to the winning team. Design competitions have, unfortunately, acquired a negative reputation. In a competition, there is little opportunity for an ongoing dialogue between a design team and the client, so the result can be disappointing to some. Some cities have used competitions to garner free ideas and then award the project to another firm. Cities desiring to make use of a design competition would be wise to retain the services of an experienced competition advisor to ensure a fair and open process.

Public Projects
Whether or not a public project involves a design competition, it can elevate the bar for design. American cities have had a long tradition of retaining excellent architects and landscape architects for civic works. This is not the place to look for prefabricated solutions or standard templates.

Public buildings last for a very long time and represent the soul of a community. Intentionally or not, their quality conveys a lot about shared values. Not only city halls but schools, fire stations, police stations, community centers, and libraries can and should set examples for thoughtful, creative design. As explained in Chapter 1, good design is worth the extra two to three percent in project costs—for both the private and public sectors.

“Design/build” is a technique that has become popular in recent years, in contrast to the conventional “design/bid/build.” With design/build, a city selects an entire development team, including architects, contractors, and construction managers. While the city gives the developer with the successful award a list of desires, it is the developer who calls the shots and makes decisions about materials, costs, and other project specifics. Design/build can result in lower costs, but if a city chooses this route, they are going to give up some measure of control, as will the architect. By contrast, in the design/bid/build model, the city is firmly in charge of all cost allocation decisions and directing design quality.

The design/build method is most appropriate when there is a private component to a civic project, such as housing or commercial space. Any developer is going to want to earn a profit, and it is much more difficult to do that with a purely public project.

Monetary Incentives
There are several ways that cities can offer monetary incentives to promote better design. Some cities have funds available through tax increment financing or block grant funds. In some states, these funds can be used on private property, if the result has a public benefit.

One tool is facade improvement programs. Cleveland has a robust Storefront Renovation Program that provides rebates to eligible commercial properties that rehabilitate their storefronts or signage (Cleveland DCD 2018). The city and neighborhood-level community development programs run the program jointly. Applicants can receive rebates of 40 percent of construction costs (up to $25,000) for eligible improvements to the building exterior. The program offers a 40 percent rebate (up to $3,000) on eligible signage expenses for businesses that meet eligibility requirements. Eligible improvements are limited to rehabilitation costs for work done to a building’s main elevations and areas most visible to the general public, including storefront display windows, exterior security systems, upper-floor windows, awnings, doors, and business signage. The city makes design experts on staff available to property owners to ensure that the project is completed meets the goals of the program.

Such programs can also offer grants or revolving loans to participants to incentive property improvements. The city of Tacoma, Washington, issues low-interest loans to businesses that hire an architect and upgrade their facades (Tacoma n.d.). This program has been widely successful; the cost has been low and a number of districts have been reinvigorated with small new investments. The city does a modest form of design review to ensure that the proposals are of a consistently high quality. This is a way to make a significant difference with minimal expenditures and as a loan, the money comes back to replenish the source.

Another way is for a jurisdiction to become a partner in a project that has public benefits, such as one that combines a civic use with housing. For example, in Portland, Oregon, the county library system rebuilt its Hollywood branch library to include mixed-income apartments on three floors above the street-level library in a partnership with a developer (Hacker Architects n.d.). The resulting mixed use development exhibits an elevated quality of design.
Walking Tours
Sometimes there is nothing like “kicking the tires” to make you see things that you did not know. Plus, everyone likes to take a field trip. Over the years, one of the authors has taken many busloads of elected and appointed officials, city staff, and even citizens to visit other communities. As long as it can be done in a day including travel, there is never a shortage of people who are interested. Indeed, people typically sign up immediately and fill the available slots.

A good itinerary comprises visits to two or three towns or neighborhoods that have exemplary development and design practices. Arrange to have local staff or elected officials (i.e., peers) tell their stories and answer questions. This can show skeptics that another community has raised the bar without adverse consequences. On one tour, a resident came out, unplanned, and extolled the virtues of her city government. One could see the eyes of the visiting officials light up. The reward was to see how quickly, upon their return, the visiting delegation took action. They saw how design could be enhanced with their own eyes.

Another type of tour is the “walking audit,” pioneered by Dan Burden in the mid-1980s in Florida. A walking audit involves taking a walk with a group of local people along streets in their city. Burden asks people to note elements that either support or frustrate walking. William “Holly” Whyte laid down the foundation for this visceral, observational mode in the mid-1970s (Whyte 1980). He used stop-action filming to observe behavior and see patterns in people’s use of public spaces. AARP has developed a walk audit tool kit that can be used by community members (AARP 2016).

Websites
Virtually every city now has its own website divided into multiple sections by topic or department. Planners could create a section dedicated to current projects, with visual renderings or photos to highlight them. Such a website can help explain the design review process and its results. It can make people more aware of impending changes in their community, and it can highlight commendable examples of good urban design.

In some places, this kind of educational initiative has come out of the community itself. There are people who act as “development mavens,” compiling public records into an ongoing catalog of physical changes. In Seattle, Ethan Phelps-Goodman maintains an extremely useful “Seattle in Progress” site (www.seattleinprogress.com) that has a wide following. Portland, Oregon, has a similar site called “Next Portland” (www.nextportland.com) maintained by Iain MacKenzie. Both sites simply draw from available city files and present the information is a user-friendly manner. The information is clear, organized, and easily accessed. While local governments could also take this effort on, consistently updating the information provided is a labor-intensive endeavor.

Citizen Education
Even without a formal Civics 101 program, planners and the appointed and elected officials that oversee planning and development review have the responsibility to continually educate and inform residents on the channels available to provide input on plans and projects. It is easy to imagine how confusing it can be for residents to recognize which projects are approved administratively and which must go before a design review board, and where the opportunities to provide comments exist in either of those processes.

To help encourage a better understanding by the public of government actions, Bellingham, Washington, held several “Planning Academies” for citizens regarding land use (Bellingham 2008). The events covered planning processes, permitting, special reviews, neighborhood planning, and a host of other subjects. The academy attracted hundreds of citizens. An added benefit is that such programs can then become a source of appointees to boards and candidates for office.

Organizational Resources
Within metropolitan regions there are often resources that are available to cities to research design review approaches and exchange information with peer communities. Some universities have planning programs with good libraries. Professional associations, such as local units of the Urban Land Institute, as well as APA Chapters, sponsor forums and workshops for both government officials and the development sector. There are also nongovernmental organizations that sometimes perform this role, such as the Municipal Resources Service Center in Washington state. The sidebar on p. 77 describes a regional networking service available in the Chicago metropolitan area.

FUTURE DIRECTIONS
Moving into the future, design review will likely be affected by several factors.

First, as more professionals are trained in urban design and other allied design professions, the level of design expertise in planning agencies will increase. The interest in addressing issues of site design and building design has been elevated since the time when planners primarily dealt with
In metropolitan Chicago, the Municipal Design Review Network (MDRN) provides a unique forum for collaboration to share best practices and improve the capacity of local design review professionals. Through ongoing MDRN meetings, elected officials, commission members, planners, and designers now regularly discuss current issues affecting local appearance and architectural review. The success of this network suggests that it can serve as a model for other metropolitan areas.

Ideally, all design review methods should emphasize consistency to help assure fairness in the approval of new development on both a local and intergovernmental basis. Yet in many regions, architectural design review has traditionally been viewed as a local community matter and potential competitive distinction. The ebb and flow of real estate development has magnified these interests and challenges.

In the Chicago metropolitan area, the use of discretionary review in individual suburbs has varied significantly with local history and culture. Generally, design review was first institutionalized through “appearance codes” adopted in the 1970s. Today, with hundreds of separate governmental units in the Chicago area, local character and interests vary widely. These factors and other changes—including rapid suburban development, urban design aspirations from the city core, and new legal challenges prompting remedial legislation—led to the formation of MDRN in the mid-2000s.

As often noted, successful movements and organizations begin with a few individuals. As chair of the Glenview Appearance Commission and founder of an affiliate of the Scenic America organization, I initiated these efforts. Early participants worked with other planning and professional organization contacts (including the Chicago Metro Section of APA’s Illinois Chapter) to bring together individuals who focused on the architecture and design aspects of municipal development and regulation. The overall concept was to complement and supplement other professional associations and programs by providing updates for this multidisciplinary audience. As of 2018, approximately 100 municipalities have been connected, and more than 1,000 individual government officials, staff, and professionals have participated in MDRN programming.

A partner in these efforts has been the Chaddick Institute, located at DePaul University in Chicago, which has a mission to provide planners and developers a venue for education on land-use issues. The Institute served as a resource for the advisors who set out to create the new network. As MDRN’s current sponsor, the Chaddick Institute provides meeting facilities and administrative support, including an annual schedule of events divided between downtown and suburban locations. In other cities, university-based design centers or regional planning organizations may be able to serve such a role.

The MDRN is guided by an advisory committee made up of municipal planners and other experts that collaborates with the Chaddick Institute in assessing plans and topics for MDRN programs. The members have also volunteered their professional skills and experience to present topics and facilitate discussions. MDRN events include a spring symposium for informal, in-depth discussion of design issues; summer on-site events that feature local planning and architecture of suburban downtown re-development projects; and fall programming for technical workshops—often cosponsored with the local APA chapters and chapters of the Congress for the New Urbanism or American Institute of Architects.

MDRN has also developed and is maintaining an online library of design guidelines as a resource for professionals (MDRN n.d.). This allows elected officials and their staffs to locate and compare the different approaches employed by communities. The Chaddick Institute and MDRN intend to use and expand this vehicle to compile further surveys, assess best practices, and develop model guidelines.

With recent economic and potential legal challenges, many communities have also been reassessing their municipal governance processes for design review. Volunteers from the network made presentations to municipal boards—who may be reviewing their commitments to design review in light of pressing economic interests—and helped shape plans for “benchmarking” initiatives for their full-town councils. Proactively, MDRN has recently published a brochure on the value of design review to support the efforts of local communities and commissions (MDRN 2016).

Improved design review processes promote local economic development, avoid unnecessary border disputes, and enhance the quality of the surrounding areas. Experience at MDRN shows how intergovernmental communication can also be professionally rewarding for all involved.

For more information on MDRN, see https://las.depaul.edu/centers-and-institutes/chaddick-institute-for-metropolitan-development/programs/mdrn/Pages/default.aspx.
longer-range policies and zoning approvals. There are now many more people who want to engage in the process of reviewing development and are willing to acquire the necessary skills. As this occurs, some of the past friction between planning agencies and the development community should be diminished.

Second, computer technology is allowing the depictions of proposed development to be considerably more accurate. Many programs allow for the insertion of a proposed building into its context. And they allow for changes to be made more easily as the review proceeds. This should give reviewers—whether they are staff or members of a board—much more and clearer information about a project. Sophisticated graphic programs that used to be costly and difficult to use have now become standard in the offices of most design firms. These tools should improve the speed and depth of review.

Third, some local governments engaged in design review are discovering that a good part of design review involves public education—about both the process and the decision-making criteria. It is useful to have forums for the design and development community to explain the process, timelines, and required submittals, as well as the design standards and guidelines. It is also useful to inform the public how and when they can provide comments, as well as what appropriate subjects for comment are. It is better to be proactive in providing information than to be mired in project-specific contention.

Finally, local jurisdictions should make sure they are not overburdening the process with long lists of design standards and guidelines. There was an earlier notion of “more is better.” Frequently this resulted in redundancy and voluminous documents to wade through. Communities are beginning to understand that design review can be more effective when they are focused on a smaller number of truly key subjects.

CONCLUSION

Design review will likely continue to evolve as a regulatory technique. Its core purpose of producing higher quality urban design through a transparent public process will be refined. As more cities make use of it, planning departments will need to staff accordingly with people having design education and experience. Information technology can also be employed to help citizens become more aware of how places change and how they can influence those changes.

If crafted with care and thoughtfulness, design review can be a very effective way to direct the quality and character of development in neighborhoods, districts, and corridors.
ESTABLISHMENT, COMPOSITION, AND POWERS AND DUTIES OF DESIGN REVIEW COMMISSIONS

**Austin, TX**
MUNICIPAL CODE (2018)
TITLE 2 – ADMINISTRATION
CHAPTER 2-1 – CITY BOARDS
ARTICLE 2 – BOARDS
§ 2-1-130. Design Commission
A. The Design Commission membership should include a diverse group of persons having expertise in urban design, architecture, landscape architecture, historic preservation, civic art, real property development, construction, and economic development.
B. The commission shall provide advisory recommendations to the city council as requested by the city council to assist in developing public policy and to promote excellence in the design and development of the urban environment.
C. The commission shall:
   1. offer policy recommendations regarding specific issues of urban design;
   2. participate in developing design guidelines;
   3. unless otherwise directed by the city council, for projects that require the approval of the Planning Commission or the Zoning and Platting Commission: (a) review a project only after a formal request by the project sponsor or applicant; and (b) complete the review before the respective Planning or Zoning and Platting Commission takes final action;
   4. provide citizen education and outreach regarding quality urban design;
   5. provide a venue for citizen input on the design and development of the urban environment;
   6. maintain liaison relationships with city staff and other boards and commissions; and
   7. perform other activities as directed by the city council.
D. The commission may appoint one or more of its members to serve as liaison to a project-specific community advisory group addressing urban design and planning issues at the formal request of the project sponsor.

**Seattle**
MUNICIPAL CODE (2018)
TITLE 23 – LAND USE CODE
CHAPTER 23.41 – DESIGN REVIEW
§23.41.002. Purpose
The purpose of Design Review is to:
A. Encourage better design and site planning to help ensure that new development enhances the character of the city and sensitively fits into neighborhoods, while allowing for diversity and creativity; and
B. Provide flexibility in the application of development standards to better meet the intent of the Land Use Code as established by City policy, to meet neighborhood objectives, and to provide for effective mitigation of a proposed project’s impact and influence on a neighborhood; and
C. Improve communication and mutual understanding among developers, neighborhoods, and the City early and throughout the development review process.

A. Role of the Design Review Board. The Design Review Board shall be convened for the purpose of reviewing all development subject to design review, except development subject to administrative or streamlined design review pursuant to this Chapter 23.41, Design Review. To accomplish this purpose, the Design Review Board shall:
   1. Synthesize community input on design concerns and provide early design guidance to the development team and community; and
B. Design Review Board Membership Criteria

1. Members shall reside in Seattle; and
2. Members should possess experience in neighborhood land use issues and demonstrate, by their experience, sensitivity in understanding the effect of design decisions on neighborhoods and the development process; and
3. Members should possess a familiarity with land use processes and standards as applied in Seattle; and
4. Consistent with the City's Code of Ethics, Section 4.16.070, no member of the Design Review Board shall have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, in a project under review by the Design Review Board on which that member sits.

C. Design Review Board Composition

1. The Design Review Board shall be composed as follows: [See Table A]
2. Term. Members of the Design Review Board shall be appointed to two-year terms. A member may be re-appointed to subsequent terms pursuant to the selection and confirmation process in subsection 23.41.008.C.1. The Director may extend the existing term of a serving member by up to one year in order to avoid more than two vacancies at any time. This subsection 23.41.008.C.2 does not apply to Get Engaged members, whose terms are governed by Chapter 3.51.
3. Members may be removed by the Director for cause, including but not limited to:
   a. Failing to attend the Design Review orientation session offered by SDCI and an onboarding session offered by the City; and
   b. Failing to attend at least 90 percent of all regularly scheduled meetings that have occurred in the term.
4. Any vacancy in an unexpired term shall be filled in the same manner as the original appointment. A member whose term is ending may continue on an interim basis as a member with voting rights until such time as a successor for that position has been appointed by the City Council or confirmed by the City Council.

D. Design Review Board Assignment

1. Each design review district shall be assigned a Design Review Board consisting of members as follows:
   a. One member representing development-related interests;
   b. One member representing the design professions;
   c. Two members representing local residential/community interests;
   d. One member representing general business interests or landscape professions

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**TABLE A. DESIGN REVIEW BOARD COMPOSITION**

<table>
<thead>
<tr>
<th>Representation</th>
<th>Development interests</th>
<th>Design professions</th>
<th>Get Engaged</th>
<th>Local residential/ community interests</th>
<th>General business interests or landscape professions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>7</td>
<td>7</td>
<td>1 or more</td>
<td>14 (2/district)</td>
<td>7</td>
</tr>
<tr>
<td>Selection process</td>
<td>3 appointed by Mayor, 4 by Council</td>
<td>3 appointed by Mayor, 4 by Council</td>
<td>1 or more pursuant to Chapter 3.51</td>
<td>3 appointed by Mayor, 4 appointed by Council, 7 jointly appointed by Mayor and Council</td>
<td>Jointly appointed by Mayor and Council</td>
</tr>
</tbody>
</table>

 Confirmation process: All appointments made solely by the Mayor are subject to confirmation by Council

Footnotes to Table A for 23.41.008

1 One or more designated young adult positions are added to the Design Review Board pursuant to the Get Engaged Program, Chapter 3.51. The selection process and term of service related to these young adult positions are set forth in Chapter 3.51.
terests or landscape professions; and

e. No more than one young adult member from
the Get Engaged program.

2. Three Design Review Board members shall be a
quorum of each District Design Review Board.

3. The Design Review Board members assigned to each
project as described in subsection 23.41.008.D.1
shall be known collectively as the District Design
Review Board. All members of the District Design
Review Board shall be voting members.

4. Substitutions
a. In the event that more projects are undergoing
simultaneous design review than a District De-
sign Review Board can review in a timely man-
ner, the Director may assign such projects to a
geographically unassigned Substitute Design
Review Board, whose five members the Direc-
tor may select from the Substitute Design Re-
view Board membership described in subsection
23.41.008.D.5, so long as the five members
represent each of the five interests required by
subsection 23.41.008.D.1.

b. If an individual District Design Review Board
member is unable to serve, the Director may
either appoint an individual from another Dis-
trict Design Review Board or may appoint a
Substitute Design Review Board member from
the Substitute Design Review Board member-
ship described in subsection 23.41.008.D.5 to
serve in the member’s absence.

c. The Director may assign a Design Review Board
to review a project outside of its designated dis-
trict in order to expedite review, provided that
the local residential/community representa-
tives shall review development only within
their district. In such a case, the Director shall
appoint the local residential/community repre-
sentatives from the District Board from which
the project originated, or the local residential/
community representative from the Substitute
Design Review Board provided in subsection
23.41.008.D.5, or any combination thereof, to
review the project, so long as the local residen-
tial/community representatives appointed are
from the same geographic district as the project
to be reviewed.

5. Substitute Design Review Board membership
a. Membership criteria:

i. A person must have been a member of the
Design Review Board whose term has ex-
pired;

ii. A person must indicate a willingness to
continue participation on the Board; and

iii. A person must have, in the opinion of the
Director, demonstrated a commitment to
Design Review through exemplary atten-
dance and Board participation.

b. The term of service for Substitute Design Re-
view Board members is indefinite.

E. Meetings of the Design Review Board.

1. Project-specific early design guidance public meet-
ings shall be held as required in Section 23.41.014.B.
Notice of meetings of the Design Review Board shall
be provided as described in Chapter 23.76, Proce-
dures for Master Use Permits and Council Land Use
Decisions.

2. All meetings of the Design Review Board shall be
held in the evening in a location which is accessible
and conveniently located in the same design review
district as the proposed project. Board meetings are
open to the general public. The actions of the Board
are not quasi-judicial in nature.

Portland, OR
CITY CODE (2018)
TITLE 33 – PLANNING AND ZONING
700s – ADMINISTRATION AND PROCEDURES
33.710 – REVIEW BODIES
§33.710.050. Design Commission

A. Purpose. The Design Commission provides leadership
and expertise on urban design and architecture and on
maintaining and enhancing Portland’s historical and
architectural heritage.

B. Membership. The Design Commission consists of seven
members, none of whom may hold public elective of-
foice. The Commission must include a representative of
the Regional Arts and Culture Council, one person repre-
senting the public at-large, and five members experi-
enced in either design, engineering, financing, construc-
tion or management of buildings, and land development.
No more than two members may be appointed from any
one of these areas of expertise. The Regional Arts and
Culture Council member is nominated by the Regional
Arts and Culture Council chair and approved by the
Mayor. The other members are appointed by the Mayor
and confirmed by the City Council.
C. Meetings, Officers, and Subcommittees.
   1. The Design Commission meets at least once a month and as necessary to act on reviews assigned to them by this Title. Meetings are conducted in accordance with adopted rules of procedure. Four members constitute a quorum at a meeting. The election of officers takes place at the first meeting of each calendar year.
   2. The Design Commission may divide its membership into special subcommittees which are authorized to act on behalf of the Commission for an assigned purpose. Three members of the Commission constitute a quorum on such subcommittees. Subcommittee actions require the affirmative vote of at least three members.

D. Powers and Duties. The Design Commission has all of the powers and duties which are assigned to it by this Title or by City Council. The Commission powers and duties include:
   1. Recommending the establishment, amendment, or removal of a design district to the Planning and Sustainability Commission and City Council;
   2. Developing design guidelines for adoption by City Council for all design districts except Historic Districts and Conservation Districts;
   3. Reviewing major developments within design districts, except those projects involving or located within the following:
      a. Historic Districts;
      b. Conservation Districts;
      c. Historic Landmarks; and
      d. Conservation Landmarks.
   4. Reviewing other land use requests assigned to the Design Commission; and
   5. Providing advice on design matters to the Hearings Officer, Planning and Sustainability Commission, Historic Landmarks Commission, Portland Development Commission, and City Council.

E. Annual Report. The Commission must make an annual report of its actions and accomplishments for each fiscal year. The report must be filed with the Director of BDS by the first working day of September. The Director of BDS may combine the report with annual reports of other bodies for transmission to City Council.

Cleveland, OH
CODE OF ORDINANCES (2018)
PART III – LAND USE CODE
TITLE VII – ZONING CODE
CHAPTER 341 – DESIGN REVIEW
§341.06. Local Design Review Committees. The City Planning Commission shall establish Local Design Review Advisory Committees to advise the Commission on applications received pursuant to the regulations of this Chapter. The following provisions shall govern the establishment and operation of each such committee.

A. Appointment of Members. The City Planning Commission shall appoint the members of each Local Design Review Advisory Committee. In making these appointments, the City Planning Commission shall solicit nominations from Community Development Corporations operating within each committee’s geographic area of jurisdiction and the Council members representing each such area. Each Advisory Committee shall be composed of not less than five (5) and not more than eleven (11) members, except that the City Planning Commission may increase membership on a particular committee if necessary to incorporate relevant perspectives and areas of expertise. A maximum of three (3) alternate members may be appointed to each committee. The alternate members may vote in place of members not in attendance at a particular meeting, as determined by the Committee’s chairperson.

B. Committee Composition. A majority of the members appointed to each Advisory Committee shall be architects or other recognized design professionals, with the remaining members representing businesses or other organizations with operations in the local area or being residents of the local area. The term “recognized design professionals” shall refer to individuals with documented expertise in such fields as architecture, landscape architecture, urban design, graphic design, or historic preservation.

C. Committee Jurisdiction and Name. Each Local Design Review Advisory Committee shall review applications received pursuant to this Chapter for properties located within the boundaries of its area of jurisdiction, as established by the City Planning Commission. All areas of the City shall be included in the jurisdiction of an Advisory Committee. The City Planning Director shall assign each Local Design Review Advisory Committee a name identified with the area of the City served by the Committee.
D. Term of Appointment. Each member of an Advisory Committee shall be appointed for an initial term of one (1) year and thereafter a term of two (2) years. After expiration of the initial one-year term, an individual’s membership shall continue until the City Planning Commission takes action to replace the member with a new appointment or until the member resigns. The City Planning Commission shall replace members whose attendance is poor or who fail to act in accordance with the regulations of this Chapter.

E. Quorum and Voting. A majority of the Advisory Committee’s membership shall constitute a quorum, without which no votes may be taken. Approval of an application shall require the affirmative vote of a majority of the members present at a meeting.

F. Meetings and Records. The Advisory Committee shall meet at least twice monthly unless there is no business to conduct. The staff representative of the City Planning Commission shall be designated as the Advisory Committee’s Secretary and shall be responsible for prompt preparation of minutes, which shall be retained by the City Planning Commission.

Chapel Hill, NC
LAND USE MANAGEMENT (2018)
ARTICLE 8 – ADMINISTRATIVE MECHANISMS
§8.5. Community Design Commission.

§8.5.1. Establishment of the Commission; Charge. A Community Design Commission, consisting of nine (9) members appointed in accordance with the council’s advisory board membership policy, is hereby established. The charge of the commission is to assist the council in guiding the town’s vision on aesthetics, character and function to focus community growth through advice, advocacy, and implementation of the council’s policies and review of proposed development in key areas of the community.

§8.5.2. Qualifications. Members shall be appointed in accordance with the council’s advisory board membership policy and shall reside within the planning jurisdiction of Chapel Hill. Members shall serve without compensation, but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the commission.

§8.5.3. Tenure. Members of the commission shall be appointed in accordance with the council’s advisory board membership policy.

§8.5.4. Officers. Officers and terms of officers shall be in accordance with the council’s advisory board membership policy.

§8.5.5. Powers of the Commission. The commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this appendix, in Chapter 160A, Article 19, Part 7 of the N.C. General Statutes, and in Chapter 278 of the N.C. Session Laws of 1965, including but not limited to the following:

A. To review site analysis data and conceptual development plans, and offer recommendations to the applicant.

B. To initiate, promote, and assist in the implementation of programs of general community beautification in the Chapel Hill community;

C. To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the appearance of the community;

D. To provide leadership and guidance in matters of community design and appearance to individuals and public or private agencies and organizations;

E. To make studies of the visual characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;

F. To prepare both general and specific plans for the improved appearance of the entire community or any portion thereof, including public as well as public property. Such plans shall set forth desirable standards and goals for the aesthetic enhancement of the community or any portion thereof, including public ways and areas, open spaces, and public and private buildings and projects;

G. To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the town’s jurisdiction, and to review such plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or body, or to the council. The commission shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the council;
H. To formulate and recommend to the planning commission and council the adoption or amendment of ordinances that, in the opinion of the commission, will serve to enhance the appearance of the community and/or strengthen design standards for development within the town’s jurisdiction;

I. To direct the attention of appropriate town officials to needed enforcement of any ordinance that may affect the appearance of the community;

J. To seek voluntary adherence to the standards and policies of its plans;

K. To enter, at reasonable times, upon private lands and make examinations or surveys as necessary in the performance of its official duties;

L. To promote public interest in and understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the commission, will advance the cause of improved community appearance;

M. To conduct public meetings and hearings, giving reasonable notice to the public thereof;

N. To conduct an annual meeting at which the programs, problems, and policies of the commission shall be presented, and at which the public at large shall be invited to express itself on matters relating to the appearance and adopted design standards of the community;

O. To recommend to the council suitable arrangement for the procurement or provision of staff or technical services for the commission;

P. To establish an advisory council or other committees within its membership as it may deem necessary;

Q. To accept funds from private agencies, foundations, organizations, individuals, the state or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority;

R. To review all schematic building designs for special use permits or special use permit modifications, and forward comments and recommendations for consideration at council public hearings;

S. To review lighting plans and building elevations filed as part of an application for development;

T. To review alternative landscape bufferyards in accordance with subsection 5.6.6 of this appendix; and

U. To hear and decide applications for certificates of appropriateness in the Blue Hill District in accord with Section 3.11 of this appendix.

§8.5.6. Meetings. The commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require. All meetings of the commission shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes. The commission shall keep a record of its meetings, including attendance of its members, and its resolutions, findings, recommendations, and actions.

§8.5.7. Attendance at Meetings. Attendance at meetings shall be in accordance with the council’s advisory board membership policy.

§8.5.8. Quorum and Voting. A quorum of the commission, necessary to take any official action, shall consist of five (5) members. The concurring vote of a simple majority of those members present shall be necessary to take any official action.

Coeur d’Alene, ID
CITY CODE (2017)
TITLE 2 – ADMINISTRATION AND PERSONNEL
CHAPTER 2.98 – DESIGN REVIEW COMMISSION
§2.98.010. Established. There is established a design review commission.

§2.98.020. Membership; Terms; Vacancies; Compensation.
A. The design review commission of the city shall consist of seven (7) members. The members shall be appointed by the mayor and confirmed by the city council. The commission membership shall be made up of:

1. Two (2) members of the planning commission;
2. One person who resides within any of the districts under the purview of the design review commission;
3. One resident of Coeur d’Alene;
4. One person licensed in building or site design (i.e., landscape architecture);
5. One person licensed in building or site design (i.e., landscape architecture);
6. One person employed in the real estate or development industry.

In addition, there shall be at least two (2) “standing alternates”, possessing any of the attributes above, who are available in the event that one of the regular members is absent or is recused from the review process due to a conflict of interest. The term of office for each member shall be for four (4) years or until his successor is appointed and qualified. The terms
shall be staggered so that no more than three (3) terms shall expire on May 1, every two (2) years.

B. Vacancies occurring otherwise than through the expiration of terms shall be filled by the mayor and confirmed by the city council and members may, in like manner, be removed.

C. Members of the commission shall be selected without respect to political affiliations and shall serve without compensation.

§2.98.030: Duties and Authority of Commission. It shall be the duty of the design review commission:
A. To protect property rights and values;
B. To enhance the built environment, make reports, hold public meetings/hearings and perform all other duties as may be prescribed by the Idaho Code and this code;
C. To review development proposals as required by this code; and
D. To provide recommendations to the city council on issues that the city council may refer to the commission. Commission members shall comply with all city policies, procedures, and regulations.

§2.98.040. Cooperation with City Planning Commission. The design review commission is granted full authority to cooperate with and/or to join with the city planning commission in setting up or establishing such coordinating commission or overall commission as the two (2) commissions may determine.

§2.98.050. Quorum and Meetings.
A. Quorum Requirement. A quorum of four (4) members, which may include one or more of the “standing alternates”, is required to render any decision.
B. Meeting Schedule. The commission shall have a standing meeting twice a month, but meetings may be canceled if there is no subject matter to discuss.
C. Conduct of Meetings. For any given project in any given meeting, the commission shall strive to maintain meetings that are expeditious and orderly, with an objective of conducting its review of any individual project within ninety (90) minutes, including both presentation by the applicant and public comment. The chair of the commission is empowered to keep the meeting progressing expeditiously, including cutting off debate, determining appropriate comments by either the applicant or the public, and ensuring that all direction from the commission is arrived at collectively, rather than from individual members.

Bozeman, MT

CODE OF ORDINANCES (2018)
CHAPTER 2 – ADMINISTRATION
ARTICLE 5 – BOARDS AND COMMISSIONS
DIVISION 18 – DESIGN REVIEW BOARD
§2.05.3000. Established—Powers and duties.
A. The design review board (DRB) is established to evaluate aesthetic considerations of larger and more complex proposals which are likely to produce significant community impact and to provide recommendations regarding such proposals to the review authority, subject to the provisions of chapter 38.
B. The DRB shall act as an advisory body to the review authority for:
1. Development applications located within overlay districts meeting one or more of the thresholds of 38.19.040.C;
2. Conditional use permits located within overlay districts, but excluding conditional use permits for the purpose of accessory dwelling units and conditional use permits which do not create additional building area;
3. Planned unit developments;
4. Appeals from ADR decisions; and
5. Review of applications for large scale retail;
C. The DRB may develop, and after adoption by the city commission, apply specific guidelines related to such concerns as architectural appearance, landscape design and signage for the construction and/or alteration of structures, sites or areas;
D. The DRB may review applicable development proposal applications for zoning text amendments, or applications for moving, demolition or any other kind of permit that may affect properties located within entryway corridors;
E. The DRB has responsibility for projects subject to 38.19.040.C.

§2.05.3010. Composition.
A. The DRB shall consist of six professional and two non-professional members. Professional members shall be degreed in their respective disciplines and/or otherwise licensed or certified by their respective professional authorities. An appointment to a term of service on the DRB is for two years. The professional contingent shall consist of three architects and at least one architectural historian, and at least one landscape architect or landscape designer. At least one of the professional members
shall have demonstrated expertise in urban design. Non-professional members shall be individuals with an interest in, or knowledge of, urban design or historic preservation. No member of the DRB shall serve concurrently as a member of the planning board or zoning commission. A quorum of the DRB shall be four voting members and one of the members constituting the quorum must be an architect. In the event a quorum of the DRB may not otherwise be attained, the ADR staff may serve as alternates to prevent delay in project reviews.

B. In selecting the members, the city commission shall give preference to residents of the city. However, where a qualified professional resident is not available to serve, the city commission may appoint a professional member who practices professionally, owns property or owns a business within the city. Where a nonprofessional resident is not available to serve, the city commission may appoint a nonprofessional member who works, owns property or owns a business within the city.

§2.05.3020. Procedures.
To implement the purpose of the DRB, certain procedures shall be adopted to include, but not be limited to, a regularly scheduled weekly or biweekly meeting attended by members of the DRB. Written meeting reviews setting forth decisions and findings shall be made. These records shall be preserved as part of the official proceedings for each developmental proposal. Lastly, the DRB shall generally follow “Robert’s Rules of Order” and may prepare and adopt supplemental procedural rules, subject to the approval of the city commission, that will ensure the accomplishment of the stated purpose and promote the efficiency and effectiveness of the design review process.

CHAPTER 38 – UNIFIED DEVELOPMENT CODE
ARTICLE 2 – PERMITS, LEGISLATIVE ACTIONS & PROCEDURES
38.210 – DEVELOPMENT REVIEW COMMITTEE (DRC), DESIGN REVIEW BOARD (DRB), ADMINISTRATIVE DESIGN REVIEW STAFF (ADR), WETLANDS REVIEW BOARD (WRB), BOARD OF ADJUSTMENT (BOA) JURISDICTION & SCOPE OF AUTHORITY

§38.210.010. Purpose of DRC, DRB, ADR, WRB, and BOA.
A. Purpose. The development review committee (DRC), design review board (DRB), administrative design review staff (ADR) and wetlands review board (WRB), if established, coordinate, expedite and ensure fair and equitable implementation of this chapter. The objective, to be implemented through their procedures and deliberations, is to encourage development quality that will enhance both the natural and built environments, with consideration to present and future property values, and to carry out the purposes of this chapter. All bodies authorized or referenced under this division 38.210 may call upon any city staff or other persons with technical expertise, and may testify before any board, commission or other body upon the subjects for which they have responsibility.

B. DRB. The DRB has the duties and responsibilities established by 2.05.3000.

C. Design Review Board Procedures Established. The DRB will be convened as necessary and must follow procedures as set forth in 2.05.3020.

D. Waiver of Design Review. In the event that the DRB is unable to convene a quorum or does not have the necessary personnel to conduct the reviews required by this chapter, the requirement for review by DRB is waived. Nothing in this section constitutes a waiver of the required review criteria established in divisions 38.340, 38.430, and 38.600 of this chapter.

THRESHOLDS AND APPLICABILITY OF DESIGN REVIEW

Seattle
MUNICIPAL CODE (2018)
TITLE 23 – LAND USE CODE
CHAPTER 23.41 – DESIGN REVIEW
§23.41.004. Applicability
A. Design Review Required
1. Design review is required for any new multifamily, commercial, or industrial development proposal that exceeds one of the following thresholds in Table A for 23.41.004: [See Table A for §23.41.004, p. 88]
2. Design review is required for all new Major Institution development proposals that exceed any applicable threshold listed in this subsection 23.41.004.A, unless the structure is located within a Major Institution Overlay (MIO) district.
3. Design review is required for all new development proposals located in the Downtown zones listed in
### TABLE A FOR §23.41.004, THRESHOLDS FOR DESIGN REVIEW

<table>
<thead>
<tr>
<th>Zone</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lowrise 2 (LR2) and Lowrise 3 (LR3)</td>
<td>8 dwelling units or 4,000 square feet of non-residential gross floor area</td>
</tr>
<tr>
<td>Midrise (MR)</td>
<td>20 dwelling units or 4,000 square feet of non-residential gross floor area</td>
</tr>
<tr>
<td>Highrise (HR)</td>
<td>20 dwelling units or 4,000 square feet of non-residential gross floor area</td>
</tr>
<tr>
<td>Neighborhood Commercial (NC1, NC2, NC3)</td>
<td>4 dwelling units or 4,000 square feet of non-residential gross floor area</td>
</tr>
<tr>
<td>Commercial (C1, C2)</td>
<td>4 dwelling units or 12,000 square feet of non-residential gross floor area, located on a lot in an urban center or urban village, or on a lot that abuts or is across a street or alley from a lot zoned single-family, or on a lot located in the area bounded by NE 95th St., NE 145th St., 15th Ave. NE, and Lake Washington</td>
</tr>
<tr>
<td>Seattle Mixed (SM)</td>
<td>20 dwelling units or 12,000 square feet of non-residential gross floor area</td>
</tr>
<tr>
<td>Industrial Commercial (IC) zone within all designated urban villages and urban centers</td>
<td>12,000 square feet of non-residential gross floor area</td>
</tr>
<tr>
<td>Master Planned Community (MPC) ²</td>
<td>20 dwelling units or 12,000 square feet of non-residential gross floor area</td>
</tr>
<tr>
<td>All zones – congregate residences, and residential uses in which more than 50 percent of dwelling units are small efficiency dwelling units ³</td>
<td>Developments containing at least 5,000 but less than 12,000 square feet of gross floor area are subject to Streamlined Design Review (SDR) pursuant to Section 23.41.018. Developments containing at least 12,000 but less than 20,000 square feet of gross floor area are subject to Administrative Design Review (ADR) pursuant to Section 23.41.016. Developments containing 20,000 square feet or more of gross floor area are subject to Design Review pursuant to Chapter 23.41.</td>
</tr>
</tbody>
</table>

Footnotes to Table A

1 Urban centers and urban villages are identified in the Seattle Comprehensive Plan.

2 If an application in a Master Planned Community zone does not include a request for departures, the applicable design review procedures are in Section 23.41.020. If an application in a Master Planned Community zone includes a request for departures, then the applicable design review procedures are in Section 23.41.014.

3 When a congregate residence or development in which more than 50 percent of dwelling units are small efficiency dwelling units is subject to more than one design review threshold, the gross square footage threshold on line 1 shall apply.

### TABLE B FOR §23.41.004, THRESHOLDS FOR DESIGN REVIEW

<table>
<thead>
<tr>
<th>DOC1, DOC2, or DMC zones</th>
<th>Use</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-residential</td>
<td>50,000 square feet of gross floor area</td>
</tr>
<tr>
<td></td>
<td>Residential</td>
<td>20 dwelling units</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DRC, DMR, DH1 or DH2 zones, or PMM zone outside the Pike Place Market Historical District</th>
<th>Use</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-residential</td>
<td>20,000 square feet of gross floor area</td>
</tr>
<tr>
<td></td>
<td>Residential</td>
<td>20 dwelling units</td>
</tr>
</tbody>
</table>
Table B for 23.41.004 that exceed any of the following thresholds in Table B for 23.41.004: [see Table B for §23.41.004, p. 88]

4. Design review is required for all new development proposals exceeding 120 feet in width on any single street frontage in the Stadium Transition Area Overlay District as shown in Map A for 23.74.004, and all new development proposals exceeding 12,000 square feet of non-residential gross floor area and electing to add extra floor area above the base FAR that are located in an IC 85-160 zone.

5. Streamlined Administrative Design Review (SDR) To Protect Trees. As provided in Sections 25.11.070 and 25.11.080, SDR pursuant to Section 23.41.018 is required for any new development proposals in LR, MR, and commercial zones if an exceptional tree, as defined in Section 25.11.020, is located on the lot and is not proposed to be preserved, if design review would not otherwise be required by this subsection 23.41.004.A.

6. Design review pursuant to Section 23.41.014 is required for projects that are eligible for design review under any provision of this Section 23.41.004 and that are participating in the Living Building Pilot Program authorized by Section 23.40.060.

7. SDR pursuant to Section 23.41.018 is required for all new developments that include at least three townhouse units, if design review is not otherwise required by this subsection 23.41.004.A.

8. Design review pursuant to Section 23.41.014 is required for any project seeking to participate in the Living Building Pilot Program, including a development proposal for an existing structure.

B. Design Review – Optional

1. Full design review is optional to any applicant for a new multifamily, commercial, or Major Institution development proposal not otherwise subject to this Chapter 23.41, if the new development proposal not otherwise subject to this Chapter 23.41 is in the Stadium Transition Area Overlay District or if the new development proposal is in any multifamily, commercial, or downtown zone.

2. Administrative design review is optional for any applicant for new multifamily or commercial development proposals if the new multifamily or commercial development proposal does not exceed the thresholds provided in Table A for 23.41.004 and is not otherwise subject to this Chapter 23.41 if the proposal is in the Stadium Transition Area Overlay District, or is in any multifamily, commercial, or downtown zone, according to the process described in Section 23.41.016. Projects that are not otherwise subject to this Chapter 23.41 and are in any multifamily zone not listed in Table A for 23.41.004 are eligible only for optional full design review under subsection 23.41.004.B.1 if the number of dwelling units exceeds 20. If the project contains 20 dwelling units or fewer, then the project applicant may pursue either full or administrative design review.

3. Streamlined administrative design review is an option for:
   a. An applicant for a multifamily residential use in an LR zone for which design review is not otherwise required by subsection 23.41.004.A; and
   b. An applicant for a new multifamily and commercial development proposal in a Lowrise, Midrise, and Commercial zone to protect a tree over 2 feet in diameter measured 4.5 feet above the ground, if design review would not otherwise be required by subsection 23.41.004.A.5.

C. Exemptions. The following structures are exempt from design review:

1. New structures located in special review districts, regulated by Chapter 23.66; design review is not available for an applicant applying for additional building height under the provisions of Section 23.49.180;

2. New structures in Landmark districts regulated by Title 25, Environmental Protection and Historic Preservation;

3. New structures that are within the historic character area of the Downtown Harborfront 1 zone, or that are otherwise required to undergo shoreline design review pursuant to Chapter 23.60A; and

4. New light rail transit facilities that have been subject to review by the Seattle Design Commission.

Bellevue, WA

LAND USE CODE (2018)

CHAPTER 20.30 – PERMITS AND DECISIONS

Part 20.30F – DESIGN REVIEW

§20.30F.110. Scope. This Part 20.30F establishes the procedure and criteria that the City will use in making a decision upon an application for Design Review.
§20.30F.115 Applicability. This Part 20.30F applies to each application for Design Review, except as provided in LUC 20.30F.116.

§20.30F.116 City Council Design Review. Notwithstanding any provisions of the Code requiring that Design Review be conducted under this Part 20.30F, all projects for which a City Council approval is required and an opportunity for public comment has been provided shall be exempt from the Design Review process, but must comply with the applicable Design Review criteria and standards of this Code.

§20.30F.120 Purpose. Design Review is a mechanism by which the City can ensure that site development and structures in specific zoning districts or in specific locations are of high design quality and conform to the requirements of the Land Use Code and the requirements of an applicable concomitant agreement.

§20.30F.125 Who May Apply. The property owner may apply for a Design Review.

§20.30F.145 Decision Criteria. The Director may approve or approve with modifications an application for Design Review if:
A. The proposal is consistent with the Comprehensive Plan; and
B. The proposal complies with the applicable requirements of this Code; and
C. The proposal addresses all applicable design guidelines or criteria of this Code in a manner which fulfills their purpose and intent; and
D. The proposal is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
E. The proposal will be served by adequate public facilities including streets, fire protection, and utilities; and
F. The proposal is consistent with any required Master Development Plan approved pursuant to Part 20.30V LUC or other applicable code section.

§20.30F.165 Merger with Binding Site Plan.
A. General. The applicant may request that the site plan approved with the Design Review constitute a Binding Site Plan pursuant to Chapter 58.17 RCW.
B. Survey and Recording Required. If a site plan is approved as a Binding Site Plan, the applicant shall provide a record-
ed survey depicting all lot lines and shall record that site plan and survey with the King County Department of Records and Elections. No document may be recorded without the signature of each owner of the subject property.
C. Effect of Binding Site Plan. Upon the approval and recording of a Binding Site Plan the applicant may develop the subject property in conformance with that Binding Site Plan and without regard to lot lines internal to the subject property. The applicant may sell or lease parcels subject to the Binding Site Plan.

§20.30F.170 Planning Commission Design Review. The authority designated in a land use approval or concomitant agreement for the Bellevue Planning Commission to review a Design Review proposal is transferred to the Director to review said Design Review proposal under this Part 20.30F.

20.30F.175 Modification or Addition to an Approved Design Review Project or Decision.
A. There are two ways to modify or add to an approved project or decision: process as a new decision, or process as a Land Use Exemption.
B. General. Except as provided in subsection C of this section, an amendment of a previously approved project or decision is treated as a new application.
C. Land Use Exemption for Design Review Approval.
1. The Director may determine that an addition or modification to a previously approved project or decision is exempt from further review or review as a new application, provided the following criteria are met:
   a. The proposal does not result in any significant adverse impact beyond the site; and
   b. The proposal is within the general scope of the purpose and intent of the original approval; and
   c. The proposal complies with applicable Land Use Code requirements, and all applicable development standards, and is compatible with all applicable design criteria; and
   d. The proposal does not add square footage that is more than 20 percent of existing gross square footage; and
   e. If an addition or expansion has been approved within the preceding 24-month period, the combined additions will not add square footage that exceeds 20 percent of existing gross square footage.
2. The Director may determine that a new development outside the Downtown is exempt from review as a new application; provided, that the building form and scale of the new building or addition, regardless of size, is not visible from the right-of-way, a public park or zoned and developed single-family residential property.

D. Conditions. The Director may impose conditions on a Land Use Exemption to ensure that the applicable decision criteria and any conditions of the original approval are met.

§20.30F.180 Recording Required. Following approval of a Design Review and any subsequent modifications there-to, the applicant shall record the plans and conditions that constitute the approval with the King County Division of Records and Elections or its successor agency. Components of the approval required to be recorded include but are not limited to the applicable decision criteria, total amount (square footage) of floor area earned through the FAR Amenity Incentive System, or floor area earned through the special dedication of right-of-way, parks, or open space. A copy of the recorded document shall be provided to the city for inclusion in the project file.

Coeur d’Alene, ID
CITY CODE (2017)
TITLE 17 – ZONING
CHAPTER 17.09 – PROCEDURES; REZONE; SPECIAL USE; PLANNED UNIT DEVELOPMENT; VARIANCES; APPEALS
A. Projects Subject to Design Review Commission Review. Design review commission review is required as follows:
B. Planning Director’s Determination of Commission Review. The planning director, or his or her designee, is authorized to require commission review of other projects subject to design review requirements in the DC, C-17 or C-17L districts or the DO-N, DO-E and MO overlay districts, where the location, size, layout or design of the project creates unusual sensitivity or context issues.

Bozeman, MT
CODE OF ORDINANCES (2018)
CHAPTER 38 - UNIFIED DEVELOPMENT CODE
ARTICLE 2 – PERMITS, LEGISLATIVE ACTIONS & PROCEDURES
38.230 – PLAN REVIEW
§38.230.040. DRB Review Thresholds.
A. The review authorities are established in 38.200.010 and as may be specified elsewhere in this chapter.
B. The development review committee, design review board, and wetlands review board have the advisory authority established in division 38.200 of this chapter.
C. Plan Design Review Thresholds. When a development is subject to design review and meets one or more of the following thresholds the design review board must conduct the design review:
1. Forty five or more dwelling units;
2. Thirty thousand or more square feet of office space, retail commercial space, service commercial space or industrial space;
3. Four (4) stories or more;

### AREAS WHERE DESIGN GUIDELINES AND STANDARDS EXIST WITH TRIGGER POINTS FOR DRC REVIEW

<table>
<thead>
<tr>
<th>District</th>
<th>New Construction</th>
<th>Street Facade Alterations</th>
</tr>
</thead>
<tbody>
<tr>
<td>DC district downtown core</td>
<td>All exterior projects south of midblock Lakeside/Coeur d’Alene</td>
<td>All</td>
</tr>
<tr>
<td>Infill overlay</td>
<td>Any project lot over 2 stories and/or 4 dwelling units</td>
<td>No</td>
</tr>
<tr>
<td>C-17 and C-17L districts</td>
<td>Any project larger than 50,000 square feet or located on a site 5 acres or larger or with more than 2 departures</td>
<td>Any project with more than 2 departures</td>
</tr>
</tbody>
</table>
4. Twenty thousand or more square feet of exterior storage of materials or goods;
5. Parking for more than 90 vehicles.
REFERENCES


Hillsborough (Florida), County of, City-County Planning Commission. 2017. "35th Annual Planning and Design Awards.” Available at http://events.r20.constantcontact.com/register/event?oeidk=a07ee82s1p508e8c41c&llr=azeyaadab.


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