The Planning Commissioner Handbook

Chapter 4

Application Review

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TABLE OF CONTENTS

Reviewing Project Applications

Reviewing project applications is one of a planning commissioner's key duties. Your local ordinances will specify certain projects that are allowed "by right," and require no review at all, others that may be reviewed and approved by staff in an administrative process (also called "ministerial review") and still others that require review and approval by a public body.

In most cases, the planning commission is the body that conducts public review when it is required. In some jurisdictions, there may be other bodies that also have review authority, either prior to or parallel with planning commission review. In some cases, planning commission review may be a precursor to final review and approval by the city council or board of supervisors, but in many cases the planning commissioner is the final review body, either with or without the possibility of appeal to the city council or board of supervisors.

Application review is an evaluation of a development proposal against established community goals, objectives and defined criteria such as the zoning code, other development standards and design standards and guidelines. When the application review process occurs in public through the planning commission, it is, by definition, a discretionary process in which commissioners use their judgement to apply requirements in the code to a project, so as to either make findings of conformance or place conditions on the project while approving it, or to make findings of non-conformance and to therefore deny the project.

As you review project applications, you will be evaluating the project's overall planning and design and the extent to which the project is consistent with adopted development regulations and design standards and guidelines. Thought of in this way, application review is more than just subjectively determining whether a particular building is aesthetically attractive. It is often an iterative process that includes community interests, professional planning staff and local officials, and culminates in the approval of a specific design for a project.
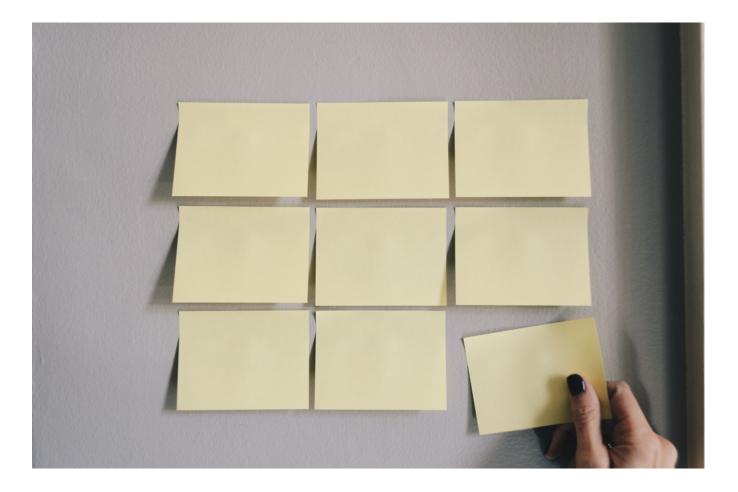
As a planning commissioner, your role is to ensure that long-term community needs are addressed, and that a project is consistent with the community's objectives, as set forth in the general plan, zoning code, design standards and guidelines and other applicable regulatory documents. The needs and desires of owners, architects, builders and neighbors must be balanced with long-term community goals, and you must balance the needs of all involved parties to the best of your ability, based on established criteria.

Ultimately, application review is one tool to guide the quality and character of development. Jurisdictions reap tangible benefits from having rules and standards to guide community character. Through the application review process, communities improve both the consistency and the predictability of the development evaluation process. Communities – and planning commissioners – should also seek to minimize the length of time necessary for project approval by streamlining decision-making processes while maintaining a community's quality standards.

What Application Review is Not

Application review is not a process by which the planning commission or other decision-making groups should seek to redesign a private development project. Decision-makers are tasked with evaluating the project fairly against applicable regulations, including zoning and design standards.

Application review is also not a process for mediating disputes about land use policy, nor a tool for stopping development by neighborhood activists. An application review decision should be based on legislatively adopted design standards and regulations, and not on subjective opinion or design preference. Individuals opposing a development that conforms with an established density or height requirement, for example, should focus their efforts on influencing plans, ordinances and standards prior to their adoption. Once plans, ordinances and standards are adopted, planning commissioners should approve projects that conform with them, regardless of personal preferences.

Design Review

Design review is one aspect of project review, generally with the intent to enhance the aesthetic character of a project. A community may prohibit uses detrimental to the general welfare, as well as developments that are "monotonous" in design and external appearance. As one court put it: "Mental health is certainly included in the public health." Whereas the zoning code usually focuses on the type and intensity of a use, design review focuses on aesthetic and architectural standards. Design standards can specify a wide variety of design requirements such as roof material and pitch, façade materials, architectural projections, etc. Design review procedures usually rely on deeply held values and beliefs about what is beautiful and what is ordinary. Design standards provide flexibility by providing options to the developer, who can choose which option fits best in a given situation. For example, a design may incorporate balconies in lieu of a certain ratio of windows on a given building façade. By including options by-right in the development code, designs can be adjusted for the wide variety of development sites in the community.

Design review may be conducted by staff or by an appointed committee. In larger communities, this is usually a separate "design review board" or an "architectural review committee." In some communities, the planning commission functions as the design review board.

Recent legislation requires objective design standards in some instances. To address the housing shortage, Senate Bill (SB) 35 and SB 330 require projects to be reviewed against objective design standards. All communities interested in regulating aesthetics should consider initiating a community planning process to establish objective design standards. For example, a community that takes pride in its mission style architecture could require red tile roofs of a certain pitch in some areas. Existing design guidelines can often be converted into design standards relatively easily. The new design standards can carry forward important elements from the design guidelines. The adoption of design standards also presents an opportunity to exempt projects from review by a Design Review Commission – and powerful Prohousing gesture likely to inspire confidence in developers. For more information on object design standards, see the Department of Housing and Community Development's (HCD) technical assistance document "Approaches and Considerations for Objective Design Standards".[1]
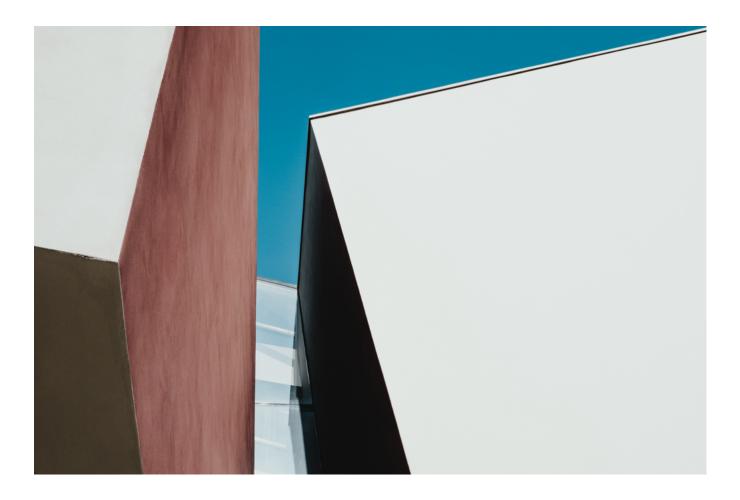
Local design review ordinances are usually folded into the zoning process in some way. The amount of information included in a design review application will vary. An application for a small addition, for example, will probably not have as much information as an application for a large subdivision. Here is a list of some of the information likely to be presented as part of a design review application:

• Color boards showing the site plan, including the shape and size of the building or buildings, their relationship to the site, landscaping and parking.

• Conceptual color elevations of each wall of the building(s), especially those seen by the public or from off-site.

• Models sufficient to show building mass, form, relationship to the landscape and effects caused by grading. These can range from simple hand-built models to sophisticated computer-generated analyses.

• Design details, such as plazas, pavement design, window treatments (sills, awnings, etc.), entry gateways, building top (molding) and base treatment, screening details, pedestrian walkways and lighting.

• Colored landscape plans sufficient to illustrate how landscaping will be used to soften the building's impact on its environment.

• Controls to ensure that signage will fit in with the rest of the development.

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1   https://ascentenv.com/files/7516/3476/8856/Objective_Design_Standards_Toolkit-_2021.pdf

- Summary data, including facts on adjacent properties and sight lines.

Design review has some drawbacks. First, it makes it more difficult from the landowner's or developer's perspective to determine what will be an acceptable level of development. Accordingly, the more specific the design standards, the greater the certainty from the developer's perspective. Second, design review can breed monotony (or even mediocrity) to the extent that all buildings must conform to a narrow set of guidelines. The trick is to develop design guidelines that leave enough room for creativity. Finally, in some instances, the design review process may be abused by those who are looking for an opportunity to stop a development.

New Guiding Legislation for Application and Design Review

To address the housing crisis, recent state legislation, including SB Senate Bill (SB) 35 and SB 330 have been enacted to place limits on the application and design review process.

- **Affordable Housing Streamlined Approval Process (SB 35, 2017).** SB 35 creates an opt-in program for developers that allows a streamlined ministerial (i.e., staff-level) approval process for developments in localities that have not yet made sufficient progress toward meeting their regional housing need allocation (RHNA). Eligible developments must include a specified level of affordability; be on an infill site; comply with existing residential and mixed-use general plan or zoning provisions; and comply with other requirements such as, locational and demolition restrictions. The streamlined, ministerial entitlement process created by SB 35 relies on objective standards. Most jurisdictions in California are subject to SB 35, since most jurisdictions have not made the progress toward meeting their RHNA that is required for exemption from SB 35's requirement.

- **Housing Crisis Act (SB 330, 2019).** SB 330, known as the Housing Crisis Act of 2019, creates a variety of restrictions on how local jurisdictions review and approve housing projects. Among a host of other provisions, SB 330 requires that housing projects proposed in most jurisdictions be reviewed only against objective standards that were in place at the time that the application is deemed complete. With the signing of SB 8 in 2021, the Housing Crisis Act will sunset in January 2030, unless extended again by the legislature and governor.

These two bills have placed several important limitations on application review for housing projects, which are described below.

Objective Standards

Together, SB 35 and SB 330 generally require housing projects to be reviewed only against objective standards. Objective standards are defined in Government Code Sections 65913.4 and 66300(a)(7) as standards that:

> "involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal."

Objective standards are intended to make the requirements that apply to certain eligible residential projects more predictable and easier to interpret for all stakeholders, including decision makers, staff, applicants and members of the public. The purpose of objective standards is for applicants to know beforehand what requirements apply to a proposed development and for the applicant to be able to design a project that meets those requirements before submittal.

There can be confusion about the difference between objective standards and other forms of design and development regulations. Historically, jurisdictions have often used a combination of these tools to review and regulate new projects, varying the approach between different districts or land uses depending on a number of factors.

To better understand these distinctions, we can look at development regulations in three categories:

- **Design and Development Guidelines** are advisory rules that provide direction to applicants, staff and the planning commission when reviewing projects, but are often vague and open to interpretation, which can add uncertainty to the development process. They may include statements that projects should "match" existing development patterns or "try to achieve" a certain look or feel, sometimes without specifying exactly how this is to be done. Guidelines generally use words like "should" or "may."

- **Design and Development Standards** (as defined prior to new state regulations regarding "objective design standards") are mandatory requirements that must be implemented in order for a project to be approved. They generally use words like "shall" or "must." However, many design and development standards have historically been subjective or difficult to measure, despite being mandatory. For example, a non-objective design standard might require that a project have a steeply pitched roof, without specifying what "steep" means.

- **Objective Design and Development Standards** are a subset of the standards described above that are measurable and verifiable, without a "gray area" for interpretation. Objective standards have a predicable input: knowing what the requirements are and how they are measured. Objective standards also result in a predicable output: a determination of consistency that can be validated. The result should be the same consistency determination no matter who is reviewing the project, and there should be no dispute between applicants and staff as to whether a project is consistent.

The following table provides additional detail to distinguish among guidelines, standards and objective standards.

Design Guidelines	Non-Objective Design Standards	Objective Design Standards
Often Subjective	Often Subjective	Objective
Recommendations, which may not be enforceable or have the "teeth" of regulations	Requirements, but can still be difficult to interpret due to subjectivity	Requirements, and generally easy to interpret due to objectivity
Generally open to interpretation, difficult to measure or verify	Sometimes open to interpretation, difficult to measure or verify	Measurable and verifiable
Use words such as "should" or "may"	Use language such as "shall," "must" or "is required to," but often also include requirements that are subject to interpretation	Use language such as "shall," "must" or "is required to"
Example: New developments should include adequate sidewalks.	Example: All pathways and sidewalks must be of ample width.	Example: The paved section of sidewalks shall be at least eight feet in width.
Generally adopted by resolution	May be adopted by resolution	Adopted by ordinance

Existing zoning and land development codes generally include objective development standards, such as minimum lot size, building height, setbacks, floor area ratio and other standards that define a maximum building envelope.

Limitations on Public Hearings

SB 35 and SB 330 both place additional limitations on public hearings. SB 35 requires affected cities and counties to provide a "streamlined ministerial approval process" for eligible affordable housing projects.

SB 330 prohibits an agency from conducting more than five hearings "if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete." As described in Government Code Section 65905.5(a), an agency "shall consider and either approve or disapprove the application at any of the five hearings."

Changed Burden of Proof

One of the implications of objective standards is that there is a significant change in the burden of proof. Typically, design guidelines require an applicant to demonstrate consistency. The burden of proof rests on the applicant, who must demonstrate that the design guidelines have been applied in a manner that satisfies the planning commission or zoning administrator.

However, objective standards require an agency to provide a preponderance of evidence based upon a reasonable person standard showing that a project does not meet an objective design standard before it can deny the project. In other words, a project is assumed to be consistent unless an agency demonstrates through a preponderance of evidence in the record that the project does not meet an objective design standard. This significantly shifts the burden of proof from the applicant to the agency.[2]

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2   See Government Code Section 65589.5 for additional detail about burden of proof.

The Typical Application

As a planning commissioner, you will review development applications in many forms. planning commissioners may review tentative or parcel maps, planned unit developments, building permits, conditional use permits, certain types of variances, design review permits, development agreements and possibly other things. The agenda for any given meeting may require you to review an addition to a single-family residence one minute and a complex mixed-use or multifamily development the next. The larger the project, the more factors you will have to take into account. Even the smallest project is likely to raise a few unique issues. Your job is to make sure those issues are considered and addressed.

Planning commissioners are not usually responsible for assessing all of the technical merits of a development project. Staff will summarize the most important technical points in the staff report. Although you may not see (or need to see) all the information received by your planning staff, it may be helpful to know what type of information they use to evaluate a project. Each local agency maintains a detailed list of all information needed from a project applicant, although most require the same basic information, including:[3]

- **Signed Application.** The applicant must sign the application.

- **Vicinity Map.** The vicinity map shows the general location of the project in relation to the neighborhood. Typically, the applicant is asked to submit a map of the area within a 300-foot radius of the project and a mailing list of property owners who must receive notice of the project. With new and expanding computer technology, some agencies are taking on this function as part of their service to project applicants.

- **Existing Facilities Map.** The existing facilities map shows all existing buildings, roads, walls, landscaping, signs, utilities and easements on the property.

- **Site Plan.** The site plan provides a bird's eye view of the proposed project. The plan is drawn to scale (the same scale as the existing facilities map) and should be large enough to be easily discernable. Most agencies set a standard size for plans and may require reductions for distribution to the commission, governing body and the public.

- **Grading Plan.** A grading and drainage plan shows the proposed topography at appropriate contour intervals. This information is frequently combined on a map or survey of existing topography.

- **Architectural Elevations.** Architectural elevations show all sides of all proposed structures on the site. Elevations should be shown unobstructed by proposed landscaping materials so that you can see entire buildings as they will be constructed, not necessarily as they may look in several years with mature landscaping.

- **Materials Board.** The materials board provides samples of all proposed building materials and their colors. The board should be cross-referenced with the architectural plans to make it easy to identify where each material will be used.

- **Landscape Plan.** The landscape plan shows the proposed groundcover, shrubbery, trees and hardscape elements. It should indicate the size and types of proposed trees and show any existing trees to be retained on site.

- **Environmental Questionnaire.** The environmental questionnaire provides site-specific information necessary to assess whether or not the project could have a significant impact on the environment.

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3   Cal. Gov't Code § 65940.

Other Special Submittals

Depending on the nature of the development, additional information may be needed for the project application, including:

- Traffic analysis reports
- Biological studies (endangered species)
- Utility reports (availability of water, sewer, electrical, drainage, etc.)
- Perimeter wall plans (if not supplied as part of landscape plans)
- Cross-sections of the site or buildings (these are helpful in understanding complex structures and in determining the adequacy of proposed screening techniques for outdoor storage and mechanical equipment)
- Phasing plan for large multi-phased projects
- Renderings (colored drawings or computer-enhanced pictures showing buildings as they will appear when finished, including landscaping, special features, signs and the surrounding environment)
- Color photographs to help in visualizing the project site and the surrounding area
- Lighting plan
- Signage plan

How to Review an Application

A reviewer can get a basic understanding of a project by going through the following steps. The Review Question Checklist—found on page 95.

Note that some of the items listed below require subjective review and may therefore be outside the scope of review for certain housing projects, as described in the section on objective standards above.

- **Check the Scale of the Plans.** Understanding scale will help you get a feel for the actual size of the project. Check to see if the plans are drawn at ¼" to 1'0 scale (one quarter inch on the plan equals one foot on the site), ⅛" to 1'0, or perhaps even $\frac{1}{30}$" to 1'0 scale for very large projects. A good way to interpret plans on a human scale is to judge them in five- to six-foot increments to see how the scale matches the size of a typical person.

- **Compare to the General Plan and the Zoning Code.** Is the project consistent with the general plan and the zoning code? Look at the range of permitted uses, density, housing needs, building heights, circulation, environmental issues like habitat preservation and open space protection, etc. If the applicant seeks a zone change or general plan amendment, you may want to consider whether the project's benefits justify the change.

- **Compare the Vicinity Map and the Site Plan.** How does the proposed project fit in with the existing community? Is it compatible with surrounding properties and the street? Is there a positive relationship between adjacent buildings (both on and off the project site), such as pedestrian walks, window-to-window visual contact, noisy areas adjacent to quiet areas, or shadows cast over plaza areas? Could changes in the design address potential conflicts?

- **Determine If There Are Views Worth Protecting.** Would the project obstruct the view of a landscape or landmark? Is there a view of a feature on the site itself that should be protected? (It may help to visualize the site in various places to make this analysis). If so, does the site plan and architecture take these views into account?

- **Review Existing and Proposed Contours and the Grading Plan.** An outline of the building should be drawn on a topographical map. How much grading (if any) is proposed? Make sure that floor elevations and parking facilities will be graded to levels that are consistent with the landscaping plan. Make sure the floor elevations and parking lot grades are not so high that buffers such as landscaping would be ineffective.

- **Locate Existing Trees.** Will existing trees be removed? Can and should they be saved? Does the proposed landscaping include replacement trees?

- **Check the Circulation Pattern.** How easily can people reach the site by various modes of transportation? Check circulation elements for transit riders, cars, delivery vehicles, pedestrians and bicycles. Are there points of conflict, such as walkways that would lead pedestrians through traffic or between cars?

- **Locate Landscaped Areas.** Do landscaped areas soften buildings, break up parking areas and long, blank portions of wall? Is the selection of plants and trees appropriate for the climate? Are planters large enough to accommodate desirable amounts of landscaping? Are there areas for special landscape and hardscape treatment? Do trees have enough space to grow and remain healthy without damaging sidewalks? Is there a maintenance system, such as drip irrigation?

- **Check the Materials and Architectural Elements.** Review the materials and architectural elements of the project. Do they incorporate features that are consistent throughout the neighborhood or district? Do they create visual interest?

- **Review Conservation Practices**. Recycled and energy-efficient materials can reduce a project's impact on the environment. Does the builder intend to use recycled materials? Is the project designed to minimize runoff (particularly

from parking areas)? Are energy-efficient materials—like windows and heating and cooling systems—included in the plan? Are trees and landscaping used to minimize energy consumption and heat generation?

- **Check the Parking Layout.** Do the aisles relate well to entry-exit points? Is there a logical pattern for cars to follow? Is there sufficient landscaping to screen parking from view or to break up expanses of asphalt? If the project site fronts a pedestrian area, is the parking tucked behind the building to create a more vibrant streetscape?

- **Visit the Site.** Try to go by the location of the proposed project to get a sense of the context. It can reveal issues that don't show up in the application. This also has the benefit of giving the reviewer credibility while discussing the project in a public hearing.

- **Think About the Future.** What is likely to happen on adjacent undeveloped property? Does the project anticipate likely changes or is it adaptable? For phased projects, make sure that the first phase will stand by itself in case the next phase is never constructed.

Review Question Checklist

The answers to these questions will help you determine the overall value of a project and form the basis for your review. Of course, not all questions will apply to every project. Note also that some of the detailed questions listed below require subjective review, and may therefore be outside the scope of review for certain housing projects, as described in the section on objective standards above.

1. General Review Requirements

☐ What are the guiding regulations?

- General Plan

- Community Plan

- Specific Plan, Precise Plan or Master Plan

- Zoning, Land Development Code or Form-Based Code

- Objective Standards

- Design Guidelines

☐ What are the requirements for review time and process? Is the project subject to streamlining provisions?

☐ Is there a checklist to measure consistency or compliance? What discretion is provided in your jurisdiction's application review process?

☐ Are deviations, variances or alternative compliance measures provided to enable flexibility in application review?

2. Overall Planning and Design

☐ Does the project further the goals of the general plan?

☐ Are comfort needs—shade, seating, etc.—addressed?

☐ Do buildings interact with the street?

☐ Is the site oriented toward common areas to provide "eyes-on-the-street" security?

☐ Are there community spaces to serve as social and design focal points?

☐ Is the impact on environmentally critical areas—like steep slopes, wetlands and stream corridors—minimized?

☐ Does the project contribute to the development of complete, integrated neighborhoods?

☐ Does the project add to a desirable mix of uses in the district or neighborhood?

☐ Does the project contribute to the efficient use of existing infrastructure?

3. Layout

☐ Are buildings laid out sensibly?

☐ Is the site crowded, i.e. too much paving and building with too little landscaping?

☐ Are buildings sited to consider shadows, climate, noise and safety?

☐ How does the project affect the privacy and views of neighboring properties?

4. Buildings and Architecture

☐ Is the scale and mass of new structures compatible with (but not necessarily the same as) surrounding structures?

☐ How does the scale of the buildings relate to the street?

☐ Are the facades varied and interesting or flat and monotonous?

☐ Are building facades carefully detailed, especially at the base; along cornices, eaves and parapets; and around entries and windows?

☐ What materials will be used? Are they high-quality, long-lasting materials like tile, stone, stucco or wood?

☐ Does roof design add to buildings and conceal roof-mounted equipment?

5. Topography

☐ Does the project "work" with the existing topography? Do buildings follow the natural contours of the land?

☐ Will grading be minimized or otherwise handled wisely?

☐ Will there be drainage problems?

☐ Are there unsightly ditches, channels or swales? Can they be aesthetically treated (natural) or undergrounded?

☐ Can significant trees be saved by revising the grading around them?

6. Pedestrian Scale

☐ Is the site and building design comfortable and convenient?

☐ What type of access is there to nearby transit stops, shopping and parks?

☐ Can a pedestrian access all major activities both on and off site?

☐ Are the main entries clearly defined with covered porches or other pronounced architectural forms?

☐ Do commercial buildings abut the street with parking located behind?

☐ Do visible trash receptacles complement the architecture?

☐ Is there variety and detail from the pedestrian perspective?

☐ Are high-density areas supported by alternative forms of transportation?

☐ Do pedestrians know their options (sit and relax, enter a building, walk quickly, stop and look, cross a road, etc.)?

7. Circulation

☐ Does the project promote alternative transportation modes?

☐ Does the project help alleviate peak-hour traffic congestion?

☐ Are transit stops accessible from the site?

☐ Are entry and exit points safe with good sight distances?

☐ How will a cyclist access the site?

☐ Are street access points coordinated with median openings and access points on the opposite side of the street?

☐ Have the number of driveways onto adjacent streets been minimized?

☐ Are acceleration and deceleration lanes needed and provided on arterial streets?

☐ Does the on-site circulation system make sense for all modes?

☐ Is an adequate turning radius provided for large trucks and emergency equipment?

☐ Is auto access for corner developments on side streets or on primary arterials?

8. Conservation and Energy

☐ Does the project endanger sensitive environmental resources?

☐ Does the design of buildings and landscaping promote water conservation though choice of plants, materials and irrigation systems?

☐ Is outdoor solar lighting feasible?

☐ Does the site plan reduce erosion and minimize impervious surfaces?

☐ Does the project include energy-efficient heating and cooling systems, windows, appliances and lighting?

☐ Was selection of materials based on recyclability and durability?

☐ Is the building oriented to maximize natural heating, cooling and lighting?

☐ Have the potential shading effects on adjacent properties been considered?

9. Housing (If Applicable)

☐ Are there a variety of housing types, densities, prices and rents?

☐ Are there affordable units?

☐ If the project includes higher-density units, are they organized around usable common space?

10. Parking

☐ Are adequate spaces provided?

☐ Does the number and location of disabled spaces make sense?

☐ Do aisle widths meet standards or have they been oversized?

☐ Are there paved areas that should be landscaped?

☐ Are parking areas sited in the rear to minimize the visual impact of parked cars?

☐ Should underground parking be considered?

11. Buffering

☐ Is noise that might be created by traffic, air conditioning or other sources minimized?

☐ Are loading areas and garbage disposal areas screened from view?

☐ Will persons on surrounding properties be able to look down on storage, loading or garbage areas? Can these views be mitigated?

12. Loading

☐ What type of loading will occur?

☐ Does the plan provide adequate maneuvering, loading and drop-off areas?

☐ Does the location of loading areas assure ease of delivery service with minimal conflicts with customers and adjacent properties?

13. Landscaping

☐ How are focal areas—like site entrances, street corners, building entrance, plazas and architectural elements—treated?

☐ Are local conditions—like wind, drought, rain and common plant diseases—taken into account?

☐ Does the landscape plan complement the architecture?

☐ Are planters large enough for their intended use and plant material? (Three-foot planters next to a five-story building are not sufficient.)

☐ Are elements like landscaping, pavers, stamped concrete, benches, lighting and fountains incorporated?

14. Lighting

☐ Are night-lights aesthetically pleasing, compatible and appropriately located?

☐ Are walkways properly lit for safety?

☐ Are lights used only for safety or does the plan allow for special lighting (floodlights, up or down lighting, spotlights) of signs, buildings and landscape?

☐ Will proposed lights be shielded from shining onto adjacent property or buildings?

15. Signage

☐ Is your sign ordinance adequate or should there be a master sign program? (A special program is more likely needed for large, multi-tenant buildings).

☐ Do business and project signs complement the architecture (style, color, size, materials, number)? Are they in proper scale to the site and buildings?

☐ How are signs to be illuminated?

16. Citizen Involvement

☐ Did the applicant get meaningful public participation from neighboring residents and the community as a whole?