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 polices 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-
The public 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.