



22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

2022 CDC Amendments Working Group
Meeting 7 Agenda

Wednesday, August 24, 2022
3:00 – 5:00 pm Virtual Meeting

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1. Welcome and Introductions (3:00pm)
 2. Role of the Working Group (3:10pm)
 - a. Purpose/Goal (Staff)
 - b. Meeting Guidelines (Staff)
 3. Meeting 6 Review (3:15pm)
 - a. Summary Notes (Group Discussion/Agreement)
 - b. Update on CDC Chapter 96 Code Amendment Package (Staff)
 4. Clear & Objective Code Compliance Project Discussion #1 (Staff/Group Discussion) (3:20pm)
 - a. State Statute/Legal Cases (City Attorney's Office)
 - b. Project Background/Overview (Consultant Team)
 5. Meeting 8 Agenda/Logistics (Staff/Group Discussion) (4:45pm)
 6. Public Comment (4:50pm)
 7. Adjourn (5:00pm)

Meeting Notes:

*The 2022 CDC Amendments Working Group meeting will be conducted virtually via WebEx. The public can watch the meeting online at: https://youtu.be/UMAo6FxMJ_E
Submit written comments to dwys@westlinnoregon.gov before 12:00 pm on the meeting day. To participate remotely during the meeting, please complete the form at: <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by 12:00 pm on the meeting day. Staff will email a Webex invitation before the meeting. If you do not have email access, please call 503-742-6061 for assistance 24 hours before the meeting. If you require special assistance under the Americans with Disabilities Act, please call City Hall 48 hours before the meeting date, 503-657-0331.*

Memorandum

Date: August 10, 2022

To: 2022 CDC Amendments Working Group

From: Darren Wyss, Planning Manager

Subject: Meeting #7

The September 24th Working Group meeting will be the first of three meetings to discuss the final project, Clear & Objective Code Compliance, assigned to the group by City Council. The purpose of the project is to ensure the City's Community Development Code is compliant with state statutes that require the City to only apply clear and objective standards, conditions, and procedures to development of housing. Associate Planner John Floyd is managing this project and can be reached at jfloyd@westlinnoregon.gov or 503-742-6058. The City has a consultant team, MIG/APG, under contract to assist with the project and they will be in attendance, as well as Chris Damgen from the City Attorney's office.

The rest of this memo is intended to provide background information on the Meeting 7 Agenda topics and help to frame topics for the group discussion. The agenda topics have been addressed individually below and we encourage you to become familiar with the subject matter in advance of the meeting. We also encourage you to ask clarifying questions in advance. Both will help the meetings be more efficient and effective at getting to group consensus and a final recommendation. Feel free to email John or myself dwyss@westlinnoregon.gov or call 503-742-6064 at any time with questions or to get clarification on the materials.

Role of the Working Group (Agenda Item 2)

The following items are included in the packet:

1. Working Group Purpose, Goals, and Membership
2. Approved Meeting Guidelines

Meeting 6 Review (Agenda Item 3)

The following items are included in the packet:

1. Meeting 6 Summary Notes

The working group meetings are being recorded and posted to the [City's meetings page](#). Staff will also produce a general summary of each meeting, with the goal to capture major points of discussion and consensus. Please review the attached Meeting 6 Summary Notes and bring recommended additions/deletions to the meeting for discussion and consensus.

The Working Group's recommendation on the CDC Chapter 96 Code Amendment Package has been reviewed/discussed at two Planning Commission work sessions. The PC is scheduled to hold a public hearing on the amendments on August 17th. Staff will provide an update to the group on the outcome of the public hearing.

Clear & Objective Code Compliance Project Discussion #1 (Agenda Item 4)

The following items are included in the packet:

1. Legal Memo from City Attorney's Office dated November 16, 2020
2. Project Background/Overview Memo from MIG/APG (Consultant Team)

As required by State statute (ORS 197.307), local governments may only adopt and apply clear and objective standards, conditions and procedures to the development of housing (with some exceptions for historic districts). This applies to standards such as setbacks and building height that apply at time of building permit, as well as development review application criteria that apply to partitions, subdivisions, site/design reviews, and planned unit developments that will provide housing.

Cities that have a clear and objective development review application approval path can also adopt alternative or "discretionary" approval criteria. Developers may elect the alternative path to allow greater flexibility in housing development proposals.

Several legal challenges, through appeals of development review decisions, have tested or are presently testing the clear and objective nature of approval criteria across the state. Addressing concerns about development criteria through appeals is costly and creates uncertainty during the development process for all involved parties (applicant, jurisdictional decision makers, and community members). If criteria are removed through the legal process, the City has no ability to address the underlying issues.

Chris Damgen from the City Attorney's office will provide an overview of state statute, risks to the City if not in compliance, and legal cases that have been issued. The City's consultant team, MIG/APG, will provide project background and an overview of work completed to this point. The next two Working Group meetings will be focused on recommended code amendments from the project team.

If you have questions about Meeting 7 or materials, please feel free to email or call me at dwyss@westlinnoregon.gov or 503-742-6064. As always, please submit questions before the meeting to increase the efficiency and effectiveness of the discussion as it allows staff to prepare materials and distribute them for your consideration. Thank you and hope to see everyone on the 24th.

Agenda Item #2 Materials

The West Linn City Council appointed a limited-duration Working Group, as outlined in West Linn Community Development Code Chapter 98.035, to review and make recommendations on three code amendment projects currently underway. As part of the appointment process, a purpose and goal statement was also created.

Goal

The 2022 Working Group will recommend a code amendment package for each of the three projects:

1. *HB2001 Implementation*
2. *Clear and Objective Standards for Housing*
3. *Chapter 96: Street Improvement Construction*

Purpose

The 2022 Working Group will provide input on the three projects by reviewing, discussing, and revising the draft code amendment packages. The 2022 Working Group will meet monthly addressing HB2001 Implementation first, Chapter 96 second, and the Clear and Objective Standards last.

The City has a consultant team (MIG, Inc.) working on HB2001 Implementation and another consultant team (Angelo Planning Group) working on the Clear and Objective Standards for Housing project. Both consultant teams will be part of the 2022 Working Group process.

The working group is scheduled to meet monthly beginning in January 2022. West Linn Planning staff anticipates a minimum of eight meetings will be required to review and recommend code amendment packages for all three projects.

Membership

Rory Bialostosky Mary Baumgardner (Alternate)	City Council
Charlie Mathews Scott Erwin Carrie Pellett (Alternate)	Planning Commission
Shannen Knight Dan Tedrow Vicki Olson (Alternate)	Committee for Citizen Involvement
Tom Watton	Historic Review Board
Shannon Ilas Shannen Knight (Alternate)	Economic Development Committee
Greg DiLoreto	Transportation Advisory Board
Kim Bria	Sustainability Advisory Board
Darren Gusdorf	Development Community
JJ Portlock	Development Community
Jim Farrell	Community-at-Large

2022 Working Group Meeting Guidelines

Updated January 27, 2022

1. Meetings will generally be held on 4th Wednesday of Month. They will begin at 3:00 PM and end by 5:00 PM. **Meetings will start and end on time.** Changes to the meeting day or time must be approved by a majority of the committee.
2. Staff will provide agendas and all supplemental meeting materials to the members by the Wednesday immediately preceding the next meeting.
3. Staff will record the meetings.
4. Members accept the responsibility to come to the meetings prepared for the discussions.
5. To promote efficient and effective meetings, members should make a reasonable attempt to provide questions to staff in advance of meetings to allow time for research and distribution of answers/materials to the group before the meeting.
6. The Chair will manage meetings by keeping discussions focused, ensuring all points of view are heard, maintaining civility, and adhering to the agenda.
7. Members will fully explore the issues and search for creative solutions before forming conclusions. When members have divergent perspectives on topics under discussion, members should identify where they disagree as well as where they agree and identify the rationale for their position.
8. Each member is an equal participant in the process and will have an equal opportunity to voice opinions and contribute ideas.
9. Members shall make a concerted effort to focus on the topics under discussion.
10. The Working Group will strive to achieve consensus on recommended CDC amendments. If consensus cannot be achieved, a vote of members present will be taken. Alternate members will only vote if the regular member is not present. The majority recommendation and dissenting opinions will be forwarded as appropriate.
11. Requests for information from staff will be limited to items that can reasonably be provided.
12. Members may not present themselves as speaking for the Working Group unless authorized to do so by a majority vote of the Working Group. Members are welcome to participate in any public meetings and discussions as private citizens.
13. Time shall be allotted at the end of each meeting to allow members of the public to comment.
14. Any written comments received from the public by staff will be provided to all members.

Agenda Item #3 Materials



**2022 CDC AMENDMENTS WORKING GROUP MEETING
Draft Meeting Notes of June 22 2022**

Members: Planning Commissioner Charlie Mathews, Planning Commissioner Scott Erwin, CCI Member Shannen Knight, EDC Member Shannon Ilas, SAB Member Kim Bria, Member-at-large Darren Gusdorf, Member-at-large Jim Farrell, Member-at-large JJ Portlock CCI, Member Vicki Olson, HRB Member Tom Watton, TAB Member Greg DiLoreto, Council President Rory Bialostosky, Planning Commissioner Carrie Pellett (Alternate)

Members absent: Councilor Mary Baumgardner

Staff present: Darren Wyss, Planning Manager, Chris Myers, and Lynn Schroder, Administrative Assistant

The meeting video is available [here](#).

1. Welcome and Introductions

Chair Farrell opened the meeting and took the roll.

2. Role of the Working Group

Planning Manager Wyss reviewed the goal and purpose of the Working Group. The purpose of the June meeting is to develop recommendations on street improvement requirements for a single lot or parcel development.

Wyss provided an update on HB 2001 code amendments passed by the City Council.

3. Meeting 5 Review

Shannen Knight clarified her comments for the May 25, 2022 meeting notes. The Working Group approved the meeting notes as amended.

4. CDC Chapter 96 Discussion #2

Associate Planner Myers reviewed the Chapter 96 discussion at the previous meeting. The Working Group members agreed that a fee-in-lieu of street improvement construction should be an option allowed by City code.

Myers clarified the “1320-foot walkshed” terminology. The walkshed refers to the distance individuals are comfortable walking to get to any space.

The working group considered two different draft options for fee-in-lieu. Option 1 would adopt a set of proposed criteria for the street improvement waiver and fee-in-lieu option. Option 2 would adopt a street improvement fee-in-lieu map.

Wyss clarified that fee-in-lieu is legally allowed and that fee-in-lieu funds could be used in other parts of the City as long as the City would pay for future improvements to any property that paid a fee-in-lieu (i.e., properties would not pay twice for street improvements associated with the property.) Fee-in-lieu funds would be kept in a separate fund to use only for street improvements.

Greg DiLoreto supported Option 1 for ease of implementation and clarity.

Kim Bria wanted the City to add a sidewalk layer to the City's GIS.

Charlie Mathews asked about the method for determining the amount of the fee-in-lieu and the extent of street improvement that would be required.

Darren Gusdorf noted that the fee-in-lieu cost must accurately reflect the actual cost of the improvements, or it will not be used.

Scott Erwin floated the idea of 5% variance for fee-in-lieu.

The consensus of members was that a map would be too difficult, costly, and time-consuming to create and maintain. Members recommended to the Planning Commission:

1. Utilize a specific set of criteria to determine whether a waiver of street improvements for a fee-in-lieu is allowed.
2. Accessory Dwelling Units should not require construction of street improvements or a fee-in-lieu.

5. Meeting 7 Agenda/Logistics

Members agreed to cancel the July 2022 meeting and add an October 2022 meeting.

6. Public Comment

None.

7. Adjourn

Chair Farrell adjourned the meeting at 3.45 pm.

Agenda Item #4 Materials

LEGAL MEMORANDUM

TO: West Linn City Council
Darren Wyss, Associate Planner
Jerry Gabrielatos, City Manager

FROM: Tim Ramis and Bill Monahan, City Attorney's Office

DATE: November 16, 2020

RE: Recent LCDC Action Related to Clear and Objective Requirement

Summary

LCDC has taken recent action which may accelerate the need for all jurisdictions to amend development codes to change discretionary environmental protection standards into clear and objective criteria. This is likely to require substantial work by our planning staff as well as hearings before the Planning Commission and City Council.

Background

To encourage efforts to expand the supply of housing, the State Legislature adopted ORS 197.286 – 197.314. These provisions require local governments to apply only clear and objective criteria to applications for housing projects. Application of typical discretionary standards (e.g. “adequate public facilities,” “compatible development,” “effective mitigation”) is prohibited. In theory, the law aims at addressing the concern that use of discretionary criteria leads to uncertainty, delay or density reductions that do not serve the goal of efficiently providing an adequate supply of housing stock.

Increasingly, in West Linn and other jurisdictions, applicants have been asserting the clear and objective requirement to avoid conducting transportation, environmental and other studies required by codes that require “adequate” designs or have other equally vague or discretionary standards. LUBA has ruled in support of applicants making this argument. For example, in *Walter v. City of Eugene*, 73 Or LUBA 356 (2016), LUBA found that the city’s code did not define the word “disperse” as it affected street design and traffic. Due to uncertainty in the potential interpretations of “disperse,” LUBA found that resolving the matter required substantial judgment and discretion. It ruled that the city’s standard was not clear and objective and therefore it could not be applied.

This situation affects the Goal 5 environmental protection provisions of many jurisdictions which frequently address protection of habitat, riparian areas and historic resources through criteria which are not written as objective criteria, instead involving tests for compliance that require substantial judgment to be applied.

This was the case in *Warren v. Washington County*, 296 Or App 595, 439 P3d 581 (2019). An opponent of a subdivision argued the County should have applied certain discretionary environmental protection provisions of its community development code to prevent or restrict the proposed subdivision. The Court reviewed the criteria and the history of the statute and affirmed LUBA's opinion that the "clear and objective" standard applies broadly. The regulations in question were found not applicable because they were not objective standards.

Recent LCDC Action

LCDC was asked to act related to this case. LCDC is empowered to consider claims that local governments are not complying with the LCDC Goals and to issue rulings, called Enforcement Orders, requiring action to comply. In response to the Court of Appeals ruling in *Warren v. Washington County*, Ms. Warren sought an LCDC Enforcement Order, arguing that since the Court ruled that the County's Goal 5 standards were inapplicable because they were not clear and objective, the County no longer had adequate Goal 5 protection in place. Without enforceable Goal 5 protection, Ms. Warren reasoned, the County was out of compliance with Goal 5. The requested action was to require the County to rewrite its Goal 5 provision to meet the clear and objective requirement. After first determining there was sufficient justification to find "sufficient cause", the Commission on January 23, 2020 ruled that "sufficient cause" was shown in the *Washington County* case. Following an extensive hearings process, on May 22, 2020, the Commission issued an enforcement order against Washington County pursuant to ORS 197.320(10) directing the County to amend its code standards that were invalidated because they were not clear and objective standards for housing. The Commission ordered the County to amend its code by May 1, 2021.

The decision of LCDC is reasonable notice to all jurisdictions that there may soon be a requirement to place substantial code rewrites into the work programs of planning officials statewide. As the City Council, Planning Commission, Public Works and Community Development Departments are allocating resources for future projects, please keep in mind that the *Washington County* case may soon create a need for relatively swift action to convert environmental, transportation and other code standards into clear and objective criteria.



memo

Project Introduction:

City of West Linn Clear and Objective Code Compliance Project

to **John Floyd and Darren Wyss, City of West Linn**
from **Cathy Corliss and Kate Rogers, MIG | APG**
re **Project Introduction for August Working Group Meeting**
date **August 11, 2022**

EXECUTIVE SUMMARY

This project will update West Linn's development code standards for housing to be clear and objective, as required by state law. Clear and objective standards use terms, definitions, and measurements that provide for consistent interpretation of the standard with no discretion required by the reviewer. The City may also retain its existing discretionary requirements as an optional, alternative review track for housing, should applicants desire more flexibility—this is known as a “two-track system” of development review. This memo describes these concepts in more detail and also provides examples from the existing Community Development Code (CDC) to illustrate the types of issues and solutions that we will be discussing at later Working Group meetings.

INTRODUCTION

Required Clear and Objective Standards, Conditions and Procedures

As required by State statute (ORS 197.307), local governments may only adopt and apply clear and objective standards, conditions and procedures to the development of housing (with some exceptions for historic districts). The primary focus of the Clear and Objective Code Compliance Project is to ensure that the City of West Linn's Development Code complies with this requirement.

What makes a standard “clear and objective?”

Clear and objective standards use terms, definitions, and measurements that provide for consistent interpretation of the standard. In other words, any two people applying the same standard to a development would get the same result, and there is no need or ability for the reviewer to use their

discretion in applying the standard (i.e., there is no “gray area” for interpretation). In creating clear and objective standards and procedures, we will be discussing which aspects of residential building and site design are most important to the City (e.g., height, setbacks, open space, building/parking placement and orientation, etc.?) and focusing on ensuring that there are clear and objective standards to address these attributes – keeping in mind that what’s most important may vary based on the type of building or its location within the City.

In addition to standards, review criteria in the CDC provide the basis for making a decision about an application (i.e., if the criteria are met, the application can be approved) and therefore applicable review criteria need to be clear and objective as well as the standards.

Once adopted, the clear and objective standards and criteria should result in new developments that meet the City’s expectations. The standards and criteria should provide a predictable outcome for a wide variety of contexts and scenarios—i.e., they should work for the majority of residential applications. On the other hand, standards should avoid being overly restrictive and producing monotonous, undesirable, or overly expensive development. Per state statute, the standards cannot be so strict that the standards have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

Approaches to clear and objective standards

There are a variety of approaches that can be used to craft clear and objective standards. For example:

- **True/False Standards** – These can be used to evaluate whether a proposed development has satisfied a certain objective criterion. (E.g., does the main entrance face the street?)
- **Counts and Measurements** – These standards are typically based on a minimum value, a maximum value, or an acceptable range of values. (E.g., maximum building height of 30 feet.)
- **Ratios and Calculations** – These numeric standards are linked to the scale of a project. (E.g., minimum common open space of 200 square feet per dwelling unit.)
- **Lists/Menus** – Lists and menus provide flexibility for applicants to meet a standard by choosing among several options. Lists can specify a range of acceptable options (“Any of the following...”) or can require selection of a minimum number of elements (“At least two of the following five options...”). These can work well for architectural design standards (e.g., “at least XX of the following detailed design elements...”) provided the items on the list are defined in a clear and objective manner.

Optional Discretionary Review

As noted above, a clear and objective review path is required for residential development. It should be written so that it works for most residential projects. However, it may not be practical to write clear and objective standards and criteria that can work in every development situation. ORS 197 recognizes this and allows local governments to also provide an optional discretionary review path or parallel track.

For example, some jurisdictions provide a “two-track” system for design requirements and review:

- A **clear and objective track**, as described above, that specifies the standards and criteria in ways that require no interpretation.
- A **discretionary track** states the purpose, intent, or guideline that must be achieved by the design, with the burden of proof on the applicant to make a case to the decision-maker for why the proposed design meets the intent or guideline. One approach to creating this track might be to simply retain the current discretionary standards and criteria. (Note: The current discretionary regulations can also be retained for non-residential development.)

The advantage of a two-track system, when successfully implemented, is that it offers both certainty and flexibility. Applicants willing to work within the clear and objective standards have the option of a simplified review process that saves time and money and increases the certainty of approval. Clear and objective standards also offer certainty to reviewers, who can review applications more efficiently with less time devoted to interpreting discretionary/unclear requirements, and to the public, who will benefit from knowing when a project will or will not be approved. For applicants with creative ideas or unique circumstances that don’t meet the objective standards, discretionary review is available, which can provide more flexibility. However, it is important to note that when there is discretion involved in the decision, a development application can take more time to process because notice and an opportunity to comment on the proposal must be provided.

Ideally, a proposed project that meets all the clear and objective review standards should also be approvable through the discretionary track. In other words, the clear and objective standards should lead to outcomes (development projects) that are generally consistent with the discretionary approach. This is important because if an applicant sets out by following the clear and objective track and finds the project cannot meet a certain standard, the whole project should not need to be redesigned if the applicant opts for the discretionary track. The reverse situation does not raise the same concern -- an applicant is likely choosing a discretionary path specifically because they cannot or do not wish to meet the clear and objective standards. Given that, it’s not necessary to create a parallel clear and objective standard for every discretionary CDC regulation, and to do so would be very challenging (and would not be possible within the scope of this project). In the table on the next pages, example #4 illustrates how challenging this can be.

EXAMPLES FROM THE WEST LINN CDC DRAFT AUDIT

As a first step in this project, the consultant team reviewed the CDC and noted which residential standards and criteria did not appear to be clear and objective. At the September meeting, we will be discussing these issues and draft solutions in detail. However, five examples are shown below to help illustrate the types of issues and solutions that we will be discussing. The wording highlighted in yellow in the excerpts from the current CDC (below) is open to interpretation and requires the use of discretion.

#	Excerpts from Current CDC	Potential “Clear and Objective” Concern	Example of Possible Solution
1	Block length. The distance measured along all that part of one side of a street which is between the centerline of two intersecting or intercepting streets, or between an intersecting or intercepting street, undivided acreage, or other major barrier.	This definition is used to implement standards applicable to residential development and therefore needs to be clear and objective. For example, it’s unclear how much land is considered “undivided acreage” or what qualifies as a “major barrier.”	Block length. The distance measured along all that part of one side of a street which is (1) between the centerline of two intersecting or intercepting streets; or (2) between the centerline of an intersecting or intercepting street, and a railroad right-of-way, water resource area, wetland, or parcel greater than five acres in size.
2	Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site. The number of access drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.	<p>This standard is applied to multifamily residential developments, and for that purpose it needs to be clear and objective. For example, it’s unclear how the City would determine whether the applicant has sufficiently facilitated the flow of traffic or maximized safety.</p> <p>The City could continue to apply the existing standard to nonresidential projects or to residential projects which opt for discretionary review. As shown on the right, this approach would result in two standards – a clear and objective standard which could be applied to all development (or just residential) and a discretionary standard that applies to nonresidential development and residential development where the applicant has opted for discretionary review.</p>	<p>Access drives from the street to off-street parking or loading areas are subject to the following standards:</p> <p>(a) All development. Access drives shall be designed and constructed in compliance with City of West Linn Public Works Design Standards.</p> <p>(b) Nonresidential development and residential development subject to discretionary review. Access drives shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site. The number of access drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other</p>

#	Excerpts from Current CDC	Potential “Clear and Objective” Concern	Example of Possible Solution
			barriers or markers on frontage not occupied by service drives.
3	<p>Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the transportation element of the Comprehensive Plan, is prohibited for lots or parcels created after the effective date of this code where an alternate access is either available or is expected to be available by imminent development application. Evidence of alternate or future access may include temporary cul-de-sacs, dedications or stubouts on adjacent lots or parcels, or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.</p> <p>In the event that alternate access is not available as determined by the Planning Director and City Engineer, access may be permitted after review of the following criteria:</p> <ol style="list-style-type: none"> 1. Topography 	<p>While the reference to the transportation element of the Comprehensive Plan isn’t discretionary in the typical sense, references to other documents that are too general have been found to be insufficiently “clear” in some cases. Therefore, being more specific when referring to other documents is recommended.</p> <p>The use of terms “imminent” and “may” add discretion to this standard. It may be relatively straightforward to make the standard clear and objective and provide an optional discretionary process for exceptions. However, the discretionary process will require the applicant to go through a land use process that offers notice and an opportunity to comment (e.g., development review).</p>	<p>Direct individual access from single-family dwellings and duplex lots to an arterial street is prohibited for lots or parcels created after the effective date of this code where alternate access is currently available or will be available in the future as specified below. Arterial streets are designated in the Motor Vehicle Plan of the City’s Transportation System Plan. Evidence that alternate access will be available in the future includes the existence of one or more of the following: temporary cul-de-sacs, dedications or stubouts on adjacent lots or parcels, or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.</p> <p>Applicants for a discretionary may request an exception to this standard. The City may allow direct individual access from a single-family dwelling or duplex lot to an arterial street based on consideration of the following criteria:</p> <ol style="list-style-type: none"> 1. Topography ...

#	Excerpts from Current CDC	Potential “Clear and Objective” Concern	Example of Possible Solution
4	<p>Contrasting architecture shall only be permitted when the design is manifestly superior to adjacent architecture in terms of creativity, design, and workmanship, and/or it is adequately separated from other buildings by distance, screening, grade variations, or is part of a development site that is large enough to set its own style of architecture.</p>	<p>Some of the approval standards for Class II Design Review are highly subjective. The City can continue to apply these to nonresidential development or residential developments where the applicant opts to follow the discretionary path.</p> <p>It is a highly subjective determination as to whether a design is “contrasting,” but “manifestly superior;” and if not, whether the proposed development is “adequately separated” or “large enough.”</p>	<p>[NOTE: It may not be possible to create a parallel clear and objective standard in all cases. For example, in this case, to establish a set of clear and objective architectural style standards that would be appropriate citywide is outside the scope of this project.]</p>
5	<p>Projects shall bring at least part of the project adjacent to or near the main street right-of-way in order to enhance the height-to-width ratio along that particular street. (The “height-to-width ratio” is an architectural term that emphasizes height or vertical dimension of buildings adjacent to streets. The higher and closer the building is, and the narrower the width of the street, the more attractive and intimate the streetscape becomes.) For every one foot in street width, the adjacent building ideally should be one to two feet higher. This ratio is considered ideal in framing and defining the streetscape.</p>	<p>Some of the approval standards for Class II Design Review are clear and objective, provided the City is willing to accept the applicant’s proposed approach. In this case, that means that as long as any part of the project (undefined) is near (undefined) a main street (undefined), the standard is met.</p> <p>A more specific clear and objective standard could be created that specifies:</p> <p>“at least part” = the minimum percent of building (e.g., 25%)</p> <p>“near” = maximum distance (e.g., 20 feet)</p> <p>“main street” = front lot line”</p>	<p>At least 25 percent of the length of the ground level street-facing façade of the building must meet the maximum building setback standard of 20 feet as measured from the front lot line.</p> <p>[NOTE: Applicants for a discretionary review could request an exception to this standard in which case they would be subject to the current standard].</p>