

# COMMUNITY DEVELOPMENT AGENCY

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Honorable Board of Supervisors and  
Members of the Planning Commission  
Marin County Civic Center  
San Rafael, CA 94903

**SUBJECT:** Development Code Amendments related to the Housing Element update and the Marin County Form Based Code

Dear Members of the Board and Planning Commission:

**RECOMMENDATION:** Review and comment on the attached draft amendments to the Development Code (Marin County Code Title 22) and Form Based Code. After receiving comments from your Board, Planning Commission, and the public, Planning Division staff will revise the draft Development Code amendments and Form Based Code and return them for further consideration concurrently with the Draft Housing Element, Safety Element, and related Countywide Plan amendments, once the EIR has been completed later this year.

**SUMMARY:** The proposed Development Code amendments would codify the requirements of Senate Bill 9 and Senate Bill 35, create a new Form Based (FB) residential zoning district, create new ministerial permits for certain types of housing development, and incorporate by reference the Marin County Form Based Code to establish objective design criteria for multifamily housing projects.

On May 10, 2022, the Board adopted three interim Ordinances to implement Senate Bill 35 and Senate Bill 9, which mandate that local government streamline the review of certain housing projects. Senate Bill 35 (SB 35) mandates a ministerial planning process for multifamily housing projects that meet certain criteria. Senate Bill 9 (SB 9) is divided into two related parts, one which mandates a ministerial planning process for residential development and another which mandates a ministerial planning process for urban lot splits. All projects eligible for consideration under SB 9 must meet strict criteria for both subdivision and development. Both SB 35 and SB 9 affect only urbanized areas, and therefore neither SB 35 nor SB 9 is applicable in the Coastal Zone in Marin County or in much of the rest of West Marin.

The interim Ordinances (3765, 3766, 3767) that the Board adopted on May 10<sup>th</sup> are intended to be temporary in nature. The proposed amendments to the Development Code would permanently codify the requirements in those interim Ordinances in the Development Code. Since the Development Code is structured as a reference document, different sections of the requirements have been placed in different sections of the Development Code. These include a section on SB 9 lot splits, which has been put into a new Development Code section on Urban Lot Splits (section

22.80.064), a new section on the standards that apply to housing development under SB 9 (section 22.32.184), and a new Housing Compliance Review permit to establish the process to review SB 9 and SB 35 applications (section 22.64.010).

It is important to note that there are no substantive changes to the requirements previously established by the Board for SB 9 and SB 35 applications being proposed; the provisions of the interim Ordinances have simply been rearranged and carried forward into the Development Code.

In addition to carrying forward the provisions of the interim Ordinances, the proposed Development Code amendments establish a new Form Based (FB) residential zoning district in section 22.14.100 intended to facilitate applying the Marin County Form Based Code (attachment 3). The new FB zoning district would be a conventional multifamily district that must be used for SB 35 projects and can be combined with any other district where multifamily residential development is allowable at the sole discretion of a property owner. Such a combination would enable applicants to rely on the objective standards of the Form Based Code (FBC) when designing their multifamily housing projects. This would also afford them the opportunity to apply for a streamlined ministerial review of their application, which would be based solely on the project's compliance with the FBC. The FBC would be incorporated into the Development Code by reference and is explained in more detail in the discussion section below.

The new FB combining district would not alter the allowable uses or density on a particular site but it would require that a minimum density be achieved, establish ministerial criteria for housing development projects and streamline their review. The review of housing development projects under the FB zoning district and FBC would be done under the new Housing Development Review permit.

**DISCUSSION:** The Marin County FBC has been prepared by Opticos Design Inc. in consultation with County staff. The Marin County FBC is based on a toolkit of objective design and development standards that was first drafted to be broadly applicable to local jurisdictions throughout Marin County. This toolkit has been refined and customized to be specifically applicable to the unincorporated areas of Marin.

Beginning in the Spring of 2020, the objective design and development standards project team initiated the public outreach process that included presentations at the Board of Supervisors, recorded webinars, surveys, and a stakeholder committee. Due to the COVID-19 pandemic, the in-person meeting schedule for March 2020 was canceled and replaced with a recorded webinar. A visual preference survey was launched in April 2020 and was open for over 100 days, closing in July 2020 with responses from all over the County. The survey methodology and results are attached (attachment 2). Additionally, the Tamalpais Design Review Board developed a survey for the Tamalpais Community Plan's geographic area. The survey was circulated in July 2020 and received over 800 responses.

Staff formed a stakeholder committee at the onset of the project to help guide and customize the toolkit for the unincorporated County, which included members of the Planning Commission, Design Review Boards, and local architects and developers. The primary role of the stakeholder committee was to review the draft standards and provide comments to staff and Opticos. The stakeholder committee served as an

important advisory group for staff and Opticos during the process of developing the FBC.

The FBC contains chapters covering various topics but is fundamentally based on the transect model of community design. This model holds that communities are best designed when they follow a continuum of rural to urban land development patterns, with each transect segment built to an internally consistent level of development that relates to adjacent segments that are more rural and more urban, depending on their position with respect to the community edges and downtown core. The draft Marin County FBC extends from a lower density edge neighborhood to a higher density main street core area, but does not include the types of high density housing that are common in the downtown areas of big cities. The proposed FBC zones are intended to promote what are called “missing middle” housing densities, i.e. those housing types that are in the middle of the density range between remote rural areas and highly centralized downtown areas.

Each chapter of the FBC covers a specific topic, including the transect zones, general design standards, specific building types, specific frontage types, architectural design styles, and standards for large sites. An applicant’s first step would be to choose the appropriate transect zone for the site and the number of housing units they intend to build. Once the transect zone is chosen, other design elements that are consistent with that zone would be determined. Those combined standards would constitute the regulatory framework for the site planning and architectural design for housing projects under the FB combining district.

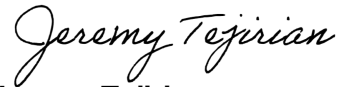
Planning Division staff would review the development plans to ensure consistency with the FBC, following a ministerial process that would not include CEQA, public notice, a public hearing, or any appeals. Once Planning Division staff issues a decision approving a project, the applicant would then apply for building permits for construction.

**EQUITY IMPACT:** Both SB 35 and SB 9 require the streamlined review of housing development projects. Senate Bill 9 increases the possible number of primary dwellings on each lot zoned for single family residential units from one unit to four units. Establishing the FB zone to implement the FBC would increase the efficiency of the application process and provide housing developers more certainty with respect to planning requirements, which will have the effect of promoting housing development. Therefore, implementing SB 35, SB 9, and the FBC will have beneficial equity impacts by increasing the amount of housing and the diversity of housing types available in Marin County.

**FISCAL IMPACT:** None.

<b>REVIEWED BY:</b>	<input type="checkbox"/> County Administrator	<input type="checkbox"/> N/A
	<input type="checkbox"/> Department of Finance	<input type="checkbox"/> N/A
	<input checked="" type="checkbox"/> County Counsel	<input type="checkbox"/> N/A
	<input type="checkbox"/> Human Resources	<input type="checkbox"/> N/A

**SIGNATURES:**



**Jeremy Tejirian**  
**Acting Deputy Director**  
**Planning Services**



**Jillian Zeiger**  
**Senior Planner**  
**Housing and Federal Grants**

**Approved:**



**Tom Lai**  
**Director**

Attachments:

1. Proposed amendments to the Development Code
2. Visual Preference Survey Report
3. Form Based Code

D. Application of combining district. The AH combining district applies to the sites listed below:

Site Name	Address	Assessor Parcel Number(s)	Zoning	AH Combining District
St. Vincent's / Silveira	St. Vincent's Drive, San Rafael	155-011-08 155-011-28 155-011-29 155-011-30 155-121-16	A2:AH	Limited to 5 acres
Marin City Community Development Corporation	441 Drake Ave, Sausalito (Marin City)	052-140-36	RMP- 4.2:AH	Limited to 0.75 acres
Golden Gate Seminary	201 Seminary Drive, Mill Valley (Strawberry)	043-261-25 043-261-26	RMP- 2.47:AH	Limited to 2 acres

### **22.14.100 – Form Based (FB) Combining District**

- A. Purpose.** The Form Based (FB) combining district is intended to provide objective design standards for multi-family housing development projects that qualify for ministerial review. This section incorporates by reference the Marin County Form Based Code in its entirety.
- E. Application of combining district.** The FB district shall apply to those lands where project applicants, either at their sole discretion or as part of a Senate Bill 35 housing development project, choose to combine it with another zoning district where multifamily residential development is allowable.
- F. Permitted Uses.** Allowable uses are governed by the underlying zoning district and application of the FB combining district shall have no effect on the allowable uses on the property.
- G. Density.** At least five new primary units shall be created by the project. The project shall result in at least the number of units on the property necessary to reach the minimum number of units established in the density range of the Countywide Plan Land Use Designation, or the minimum number of units designated for the property in the Countywide Plan Housing Element, whichever is greater.
- H. Design Standards.** New development shall comply with the provisions of the Marin County Form Based Code.
- I. Deviations.** Deviations from the provisions of the Marin County Form Based Code, as identified in subsection H. above, are subject to Design Review (Chapter 22.42), or the Exceptions process for civil engineering standards (Chapter 24.15) related to parking and access improvements.

### **22.32.184 – Senate Bill 9 Housing Development**

This section applies to development authorized under California Senate Bill 9 (SB 9) and subsequent amendments. Regulations for urban lot splits authorized under SB 9 are provided in section 22.80.064 rather than in this section.

The standards and requirements enumerated below apply to the development of residential units proposed under the provisions of SB 9 and this section. If the project is ineligible for SB 9 processing because it does not meet the required standards, the applicant may elect to submit an application for the applicable discretionary approval.

A housing development is eligible for SB 9 processing if it satisfies all of the requirements enumerated below.

A. The housing development contains no more than two primary units per lot, which are either attached or detached. A housing development contains two residential units if the development proposes no more than two new units (including just one unit on a vacant lot) or if it proposes to add one new unit to one existing unit.

B. The site of the housing development is within a single family residential zoning district.

C. The site of the housing development is located within a legal lot wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

D. The development is not located on a site that is any of the following:

1. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

2. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

3. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Public Resources Code Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

4. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

5. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

6. Within a special flood hazard area subject to inundation by the one percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subsection and is otherwise eligible for streamlined approval under this section, the County shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the County that is applicable to the site. A development may be located on a site described in this subparagraph if either of the following are met:

(a) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the County.

(b) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(7) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subsection and is otherwise eligible for streamlined approval under this section, the County shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the County that is applicable to the site.

(8) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(9) Lands under conservation easement.

E. The proposed housing development would not require demolition or alteration of any of the following types of housing:

(1) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(2) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

- (3) Housing that has been occupied by a tenant in the last three years.
- F. The lot subject to the proposed housing development is not a lot on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 (the Ellis Act) to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
- G. The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the site has not been occupied by a tenant in the last three years.
- H. The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
- I. Notwithstanding the governing zoning district for the property, the development standards of the R2 zoning district (Two Family, Residential) apply unless the development qualifies for an exception as described in subsection J below. In addition, except as provided in subsection J below, the maximum floor area of any newly constructed primary residential unit authorized under this section shall not exceed 1,200 square feet, the residential units are not allowed to be built within a Stream Conservation Area or Wetland Conservation Area, and the development shall not entail the removal of protected or heritage trees, except in conformance with Development Code Chapter 22.62 (Tree Removal Permits).
- J. Notwithstanding subsection I above, the County shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two primary units or that would physically preclude either of the two units from being at least 800 square feet in floor area. Such units are subject to minimum front yard setbacks of 25 feet and minimum side and rear yard setbacks of four feet.
- No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
- K. The County shall require that a rental of any unit created pursuant to this ordinance be for a term longer than 30 days. A deed restriction shall be recorded against the property providing future owners with constructive notice of this restriction.
- L. The County shall not allow the creation of an Accessory Dwelling Unit as part of the development subject to this section and SB 9 if the lot on which the development is to occur was created by an Urban Lot Split approval under section 22.80.064 and SB 9 (both the authority contained with Government Code section 65852.21 related to development projects and the authority in Government Code section 66411.7 related to urban lot splits).



**22.40.030 – Application Submittal and Filing**

**A. Applicability.** This Section shall apply to the submission and processing of the following development applications:

**1. Discretionary Permit Applications**

- a. Design Reviews;
- b. Floating Home Exceptions;
- c. Master Plans;
- d. Temporary Use Permits;
- e. Tentative Maps and Vesting Tentative Maps;
- f. Lot Line Adjustments;
- g. Site Plan Reviews;
- h. Tree Removal Permits;
- i. Use Permits;
- j. Variances; and
- k. Sign Reviews.

**2. Ministerial Planning Decisions.**

- a. Certificates of Compliance
- b. Homeless Shelter Permits
- c. Large Family Day-care Permits
- d. Residential Accessory Dwelling Unit and Junior Accessory Dwelling Unit Permits
- e. Sign Permits
- f. Use Permit Renewals
- g. Urban Lot Split Compliance Reviews
- h. Housing Development Regulation Compliance Reviews
- ig. Permit exemptions

**B. Eligibility for submittal of an application.** Development applications may be made only by an owner or lessee of real property, an agent of the owner or lessee, or a person who has

Review, except as otherwise provided in Section 22.42.025 (Exemptions from Design Review) and 22.42.048 (Design Review Waivers).

- A. **Planned Zoning Districts (combining coastal zones included).** Residences, non-residential structures, accessory structures, agricultural structures, and other physical improvements in all Planned zoning districts.
- B. **Conventional Zoning Districts.** Residential buildings and additions to floor area in Conventional zoning districts on a lot that would contain more than 3,500 square feet of floor area with the proposed development and/or where the proposed development of primary structures would be greater than 30 feet in height or 16 feet in height for residential detached accessory structures.
- C. **Permit Waivers.** Any waiver or exception to a standard specifically identified in this Development Code as being subject to this Chapter as well as Variance waivers identified in Chapter 22.54 (Variances).
- D. **Substandard Building Sites.** Where a vacant legal lot is proposed for single-family residential development, and when the lot is at least 50 percent smaller in total area than required for new lots under the applicable zoning district or slope regulations, in compliance with Section 22.82.050 (Hillside Subdivision Design Standards), whichever is more restrictive, the proposed development shall be subject to the requirements of this Chapter. In these instances, any exemption from Design Review provided by Section 22.42.025 (Exemptions from Design Review) shall be void and setback requirements shall be waived. The subsequent development and physical improvements of these properties shall continue to be subject to the requirements of this Chapter.
- E. **Lots Served by Paper Streets.** The development of a vacant lot served only by a paper street shall be subject to the requirements of this Chapter where required by a Community Plan pursuant to a resolution adopted by the Board of Supervisors.
- F. **Deviations in the Form Based (FB) Combining District.** As specified in Section 22.14.100, deviations to the provisions of the Marin County Form Based Code.

### 22.42.025 – Exemptions from Design Review

Development and physical improvements listed below in Subsections A to T are exempt from Design Review.

- A. **Single-family Additions and Residential Accessory Structures in Planned Districts.** Single-family residential additions and residential accessory structures on a lot with existing and proposed floor area not exceeding 3,500 square feet in a Planned District (see Chapter 22.16 Discretionary Development Standards) that meet the standards in Tables 4-2 and 4-3. This exemption does not apply if work authorized under a previous Design Review has not received approval of a final inspection from the Building and Safety Division.

## **CHAPTER 22.64 – HOUSING DEVELOPMENT REGULATION COMPLIANCE REVIEW**

### **Sections:**

22.64.010 – Purpose of Chapter

22.64.020 – Applicability

22.64.030 – Application Filing

22.64.040 – Application Review for Type 1 Projects (Form Based)

22.64.050 – Application Review for Type 2 Projects (SB 9)

22.64.060 – Application Review for Type 3 Projects (SB 35)

### **22.64.010 – Purpose of Chapter**

This Chapter establishes procedures for various types of Housing Development Regulation Compliance Reviews (Housing Compliance Reviews) that provide for ministerial review of housing development project applications.

### **22.64.020 – Applicability**

There are three distinct types of Housing Development Review applications, which apply as described below:

- A. **Type 1.** Development proposed in the Form Based (FB) combining district, under the regulations of the Marin County Form Based Code.
- B. **Type 2.** Development proposed under the statutory authority of Senate Bill 9 (2021, as subsequently amended). Urban lot split applications are reviewed under the Urban Lot Split provisions in section 22.80.064.
- C. **Type 3.** Development proposed under the statutory authority of Senate Bill 35 (2018, as subsequently amended).

Specific procedures for reviewing these three types of applications are provided in this Chapter. All of these types of review are ministerial in nature and shall conform to the requirements of Development Code Section 22.40.052 for ministerial planning permit reviews, except for those deviations specifically established in this Chapter.

### **22.64.030 – Application Filing**

An application for a Housing Compliance Review shall be submitted, filed, and processed in compliance with and in the manner described in Chapter 22.40 (Application Filing and Processing, Fees).

Housing Compliance Review application forms are available online and at the Agency's public service counter.

### **22.64.040 – Application Review for Type 1 Projects (Form Based)**

The Director may only approve or conditionally approve an application for a Type 1 Housing Compliance Review if the project is consistent with all of the applicable standards in the Marin County Form Based Code. Deviations from these standards are subject to Design Review (Chapter 22.42), or the Exceptions process for civil engineering standards (Chapter 24.15) related to parking and access improvements.

### **22.64.050 – Application Review for Type 2 Projects (SB 9)**

The Director may only approve or conditionally approve an application for a Type 2 Housing Compliance Review if the project is consistent with all of the applicable standards in Section 22.32.184 (Senate Bill 9 Development Standards).

The County shall only deny a Type 2 Housing Compliance Review application that is otherwise eligible for SB 9 processing if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of California Government Code Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

### **22.64.060 – Application Review for Type 3 Projects (SB 35)**

All sites for Type 3 (SB 35) projects are governed by the FB (Form Based) Combining District. The Planning Commission is the Review Authority for Type 3 (SB 35) projects, and the Planning Commission may only approve or conditionally approve an application for a Type 3 Housing Compliance Review if the project is consistent with all of the applicable standards in the Marin County Form Based Code.

Type 3 (SB 35) applications are subject to the mandatory procedures provided below.

A. Preliminary Application Filing. An applicant shall file a notice of intent to submit an SB 35 Housing Compliance Review application in the form of a preliminary application consistent with Government Code Section 65941.1. Complete Building Permit applications for the project shall be submitted concurrently with the Preliminary Application.

An applicant for an SB 35 housing development project shall be deemed to have submitted and filed a preliminary application upon providing all of the following information about the proposed project to the County:

1. The specific location, including parcel numbers, a legal description, and site address, if applicable.
2. The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.
3. A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.
4. The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.

5. The proposed number of parking spaces.
6. Any proposed point sources of air or water pollutants.
7. Any species of special concern known to occur on the property.
8. Whether a portion of the property is located within any of the following:
  - (a) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.
  - (b) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
  - (c) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.
  - (d) A special flood hazard area subject to inundation by the one percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
  - (e) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
  - (f) A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.
  - (g) Any historic or cultural resources known to exist on the property.
  - (h) The number of proposed below market rate units and their affordability levels.
  - (i) The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.
  - (j) Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.
  - (k) The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.
  - (l) The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied, and the income levels of any existing tenants.
  - (m) A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site

features that would be subject to regulations by a public agency, including creeks and wetlands.

(n) The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

B. Timeline. Within 180 calendar days after filing a preliminary application, an applicant shall submit a formal Senate Bill 35 application, provided scoping consultation has concluded consistent with Subsection C, below.

C. Scoping Consultation

(1) Upon receipt of the preliminary application, the County shall contact the Native American Heritage Commission for assistance in identifying any California Native American tribe that should be noticed. The County shall provide a formal notice of the applicant's intent to submit a formal application to each required California Native American tribe within 30 days of preliminary application submittal. The formal notice shall be consistent with Government Code Section 65913.4(b).

(2) If, within 30 days of receipt of the formal notice, any California Native American tribe that was formally noticed accepts the invitation to engage in scoping consultation, the County shall commence scoping consultation within 30 days of receiving that response.

(3) The scoping consultation shall be conducted consistent with Government Code Section 65913.4(b). If, after scoping consultation is concluded, a development is not eligible for Senate Bill 35 streamlining, the County shall provide written documentation as required by Government Code Section 65913.4(b) to the applicant and any California Native American tribe that is a party to that scoping consultation.

(4) Tribal consultation concludes either 1) upon documentation of an enforceable agreement regarding the treatment of tribal resources at the project site (Government Code section 65913.4(b)(2)(D)(i)), or 2) one or more parties to the consultation, acting in good faith and after a reasonable effort, conclude that a mutual agreement cannot be achieved (Government Code section 65913.4(b)(2)(D)(ii)).

D. Formal Application. If the development remains eligible to apply under Senate Bill 35 after scoping consultation consistent with Government Code Section 65913.4(b) has concluded, an applicant may file a formal Senate Bill 35 application for compliance review.

E. Compliance Review

1. Scope of Review. The County's scope of review is limited to all of the provisions contained in this Development Code, Government Code Section 65913.4(a), and the objective standards in the Marin County Form Based Code.

2. Public Oversight and Application Review Timelines. The final review of a formal application shall be done by the Planning Commission during a hearing to determine if the application complies with all of the provisions contained in this Development Code, Government Code Section 65913.4(a), and standards of the Marin County Form Based Code, and shall occur within the following timeframes:

(a) Within 90 calendar days of formal application submittal for applications that include 150 or fewer housing units.

(b) Within 180 calendar days of formal application submittal for applications that include 151 or more housing units.

### 3. Compliance Determination.

(a) Compliant Application. If the application complies with all of the provisions contained in this Development Code, Government Code Section 65913.4(a), and all applicable objective standards in the Marin County Form Based Code, the County shall complete any application review, Planning Commission hearing and any subdivision approval within the timeframes listed in Subsection E.2.

(b) Non-Compliant Application. If the application does not demonstrate compliance with all of the provisions contained in this Development Code, Government Code Section 65913.4(a), and all applicable objective standards, then the Planning Commission shall provide the applicant with written documentation of which standards the development conflicts with and an explanation of the reasons the development conflicts with each standard. If the application can be brought into compliance with minor changes to the proposal, the Planning Commission may, in lieu of making the detailed findings referenced above, allow the development proponent to correct any deficiencies within the timeframes for determining project consistency specified in C.(2) above.

(c) Resubmitted Application. If the project was found to be non-compliant, the applicant may resubmit a corrected application for Senate Bill 35 streamlined processing, and the County shall review it for compliance.

(d) Project Ineligible. If the project is ineligible for Senate Bill 35 streamlined processing, the applicant may elect to submit an application for the applicable discretionary approval.

### F. Decision on Project

(1) Project Approval and Findings. The Planning Commission is the review authority for Type 3 Housing Compliance Review applications. The Planning Commission shall approve the application if it finds that the proposed development is compliant with all of the provisions contained in this Development Code, Government Code Section 65913.4(a), and all applicable objective standards of the Marin County Form Based Code.

(2) Conditions of Approval. The Planning Commission may impose conditions of approval provided those conditions of approval are objective and broadly applicable to development within the County.

### G. Post-decision Procedures.

(1) Subsequent Permits. Any necessary subsequent permits shall be issued on a ministerial basis subject to applicable objective standards. If a public improvement is necessary to implement a development subject to this Section, and that public improvement is located on land owned by the County, the County shall process any approvals needed as required by Government Code Section 65913.4(h).

### (2) Post-Approval Modifications.

(a) Post-Approval Modification Request. An applicant or the County may request a modification to an approved development if that request is made prior to the issuance of the final building permit.

- (b) Applicability of Objective Standards to Modifications. The County shall only apply objective standards in effect when the original application was submitted, except that objective standards adopted after the date of original submittal may be applied when: 1) the total number of residential units or total square footage of construction changes by 15 percent or more; or 2) when the total number of residential units or total square footage of construction changes by five percent or more, and it is necessary to subject the development to an objective standard beyond those in effect when the application was submitted in order to mitigate or avoid a specific adverse impact upon public health or safety, for which there is no feasible alternative method to satisfactorily mitigate or avoid. Objective building standards contained in the California Building Code, as adopted by the County, shall be applied to all modifications.
- (c) Post-Approval Modification Review Timeframe and Decision. The County shall determine if the modification is consistent with objective planning standards and issue a decision on the applicant's modification request within 60 days after submittal unless a new Type 3 Housing Development Review application is required, in which case a decision shall be made within 90 days.
- (3) Expiration. An application approved consistent with this section shall remain valid for three years; however, an application approval shall not expire if the development includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making at or below 80 percent of the area median income consistent with Government Code Section 65913.4(e).
- (4) Extension. At the discretion of the Director, a one-year extension may be granted consistent with Government Code Section 65913.4(e).



5. The exception is consistent with the Marin Countywide Plan, or any applicable Community Plan or Specific Plan.

In granting an exception, the Review Authority shall secure substantially the same objectives of the regulations for which the exception is requested and shall impose whatever conditions it deems necessary to protect the public health, safety, general welfare and convenience, and to mitigate any environmental impacts.

### **22.80.064 – Urban Lot Splits Under Senate Bill 9**

Conformance with the provisions of this section shall be ensured by requiring any project proponent seeking approval for an urban lot split that is subject to the terms of this section to obtain approval of an “Urban Lot Split Compliance Review” (Lot Split Review) prior to applying for their Parcel Map.

The review of such an application shall conform to the requirements of Development Code Section 22.40.052 for ministerial planning permit reviews. The Planning Division shall issue a ministerial approval, approval with conditions, or denial of a Lot Split Review based on the project’s conformance with the objective standards and requirements provided for in this section and any applicable requirements of the Subdivision Map Act.

The procedures, standards, and requirements enumerated below apply to urban lot splits proposed under the provisions of SB 9 and this section. If the project is ineligible for SB 9 processing because it does not meet the required standards, the applicant may elect to submit a discretionary Tentative Map application.

- A. Notwithstanding any other provision of this section, the County shall ministerially approve an urban lot split only if the County determines that the urban lot split meets all of the following requirements:
  1. The lot split subdivides an existing lot to create no more than two new lots of approximately equal lot area provided that one lot shall not be smaller than 40 percent of the lot area of the original lot proposed for subdivision.
  2. Both newly created lots are no smaller than 1,200 square feet.
  3. The lot being subdivided meets all the following requirements:
    - (a) The lot is located within a single-family residential zone.
    - (b) The lot subject to the proposed urban lot split is located within a legal lot wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
  4. The lot split is not located on a site that is any of the following:
    - (a) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural

protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(b) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(c) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Public Resources Code Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(d) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(e) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(f) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the County shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the County that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the County.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(g) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the

County shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the County that is applicable to that site.

(h) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(i) Lands under conservation easement.

5. The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(a) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(b) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(c) A lot or lots on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 (the Ellis Act) to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(d) Housing that has been occupied by a tenant in the last three years.

6. The lot is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

7. The lot has not been established through prior exercise of an urban lot split as provided for in this section.

8. Neither the owner of the lot being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent lot using an urban lot split as provided for in this section.

B. An application for a Lot Split Review for an urban lot split shall be approved in accordance with the following requirements:

1. The County shall approve or deny an application for an urban lot split ministerially without discretionary review.

2. The County shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

3. Notwithstanding Subdivision Map Act Section 66411.1, the County shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the lots

being created as a condition of approving a Lot Split Review for an urban lot split pursuant to this section.

C. Notwithstanding the governing zoning district for the property, the development standards of the R2 zoning district (Two Family, Residential) apply unless the development qualifies for an exception as described in subsection D below.

D. Notwithstanding subsection C above, the County shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two primary units or that would physically preclude either of the two units from being at least 800 square feet in floor area. Such units are subject to minimum front yard setbacks of 25 feet and minimum side and rear yard setbacks of four feet.

No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

E. Notwithstanding subsection A. above, the County shall deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

F. In addition to any standards established in accordance with this section Ordinance, the County shall require that the project satisfy the following requirements when considering an application for an Urban Lot Split Review:

(1) Easements required for the provision of public services and facilities.

(2) Both lots adjoin a public right-of-way, except that if a lot is already developed with a residence it can adjoin a private street.

G. The County shall require that the uses allowed on a lot created by this section be limited to residential uses.

The County shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

H.

This requirement shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

I. The County shall require that a rental of any unit on a lot created pursuant to this section be for a term longer than 30 days. A deed restriction shall be recorded against the property providing future owners with constructive notice of this restriction.

J. The County shall not require, as a condition for ministerial approval of a Lot Split Review, the correction of nonconforming zoning conditions.

### **22.80.070 – Notice of Judicial Challenge**

At least 30 days before filing any judicial action or proceeding to attack, review, set aside, void or annul the decision of the Review Authority concerning a Tentative, Parcel or Final Map, or any of the proceedings, acts or determinations taken, done or made before this decision, or to determine the reasonableness, legality or validity of any condition of approval, written notice shall be served upon the Review Authority detailing the nature of the conduct or action intended to be challenged. This Section is not intended to extend the statute of limitations provided in Map Act Section 66499.37.

**Food Products (land use).** This land use consists of the manufacture of or processing foods for human consumption, and certain other related products. Examples of the products included in this land use are:

- bakery products
- candy, sugar and confectionery products
- catering services separate from stores or restaurants
- dairy products
- fats and oil products
- fruit and vegetable canning, preserving, related processing
- grain mill products and by-products
- meat, poultry, and seafood canning, curing, byproduct processing
- miscellaneous food item preparation from raw products

Does not include: bakeries which sell all products on site (see "Retail Stores, General Merchandise"); beer brewing as part of a brew pub, bar or restaurant (see "Bars and Drinking Places"); beverage production other than dairy products (see "Beverage Production"); slaughterhouses and rendering plants (see "Slaughterhouses and Rendering Plants"); or operations on crops after harvest (see "Agricultural Processing Uses").

**Footprint.** The horizontal surface area covered by a structure.

**Form Based Code.** The objective standards for multifamily housing development, which are incorporated by reference in their entirety into this Development Code.

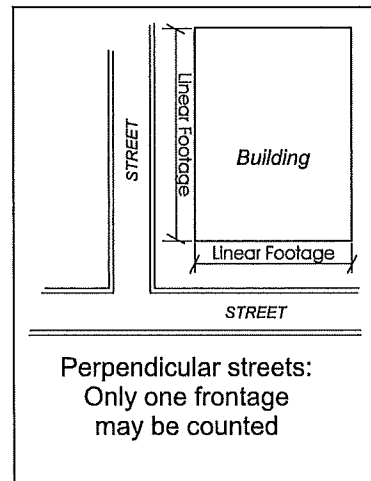
**Front Wall.** The wall of the building or other structure nearest the street upon which the building faces.

**Front Wall (Signs).** For the purposes of Chapter 22.28 (Signs), the front wall is the wall of a structure that contains the primary entrance or entrances to the premises. If there are entrances in more than one wall, the longest of the walls in which primary entrances are located shall be the front wall. The front wall includes not only the wall itself, but all doors, windows, and other openings and projections. See Figure 8-2.

**Frontage.** See "Lot Frontage."

**Fuel and Ice Dealers (land use).** This land use consists of the retail sale to consumers of ice, bottled water, fuel oil, butane, propane and liquefied petroleum gas (LPG), bottled or in bulk, as a principal use.

**FIGURE 8-2  
WALL FRONTAGE**



**O. Definitions, "O."**

**Oak Woodland Management Guidelines.** The Oak Woodland Management Guidelines adopted by the Board and on file with the Agency.

**Objective Standards.** 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 prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

**Occupancy.** The use or operation of a site or structure for an approved land use.

**Off-Road Vehicle Courses (land use).** This land use consists of areas set aside for the use of off-road vehicles, including dirt bikes, motorcycles, and four-wheel drive vehicles. Does not include sports assembly facilities (see "Sports Facilities and Outdoor Public Assembly"), or simple access roads that are usable only by four-wheel or two-wheel drive vehicles in conjunction with a permitted land use.

**Off-Site Product.** A product that is produced on property other than the site where it is offered for sale.

**Offices, Business (land use).** This land use consists of the provision of direct services to consumers. This land use includes establishments such as insurance agencies, real estate offices, and post offices (not including bulk mailing distribution centers, which are included under "Vehicle and Freight Terminals").

Does not include: medical offices (see "Medical Services – Clinics and Laboratories"); or offices that are incidental and accessory to another business or sales activity that is the principal use. Incidental offices that are customarily accessory to another use are allowed as part of an approved principal use.

**Offices, Professional (land use).** This land use consists of professional or government offices including:

- accounting, auditing and bookkeeping services
- advertising agencies
- architectural, engineering, planning and surveying services
- attorneys
- counseling services
- court reporting services
- data processing and computer services
- detective agencies and similar services
- educational, scientific and research organizations
- employment, stenographic, secretarial and word processing services
- government offices including agency and administrative office facilities
- management, public relations and consulting services
- photography and commercial art studios
- writers and artists offices outside the home

Does not include: medical offices (see "Medical Services – Clinics and Laboratories") or offices that are incidental and accessory to another business or sales activity that is the principal use. Incidental offices that are customarily accessory to another use are allowed as part of an approved principal use.

**Offices, Property Management (land use).** This land use consists of accessory offices on the site of an apartment complex, mobile home park, or commercial facility, for the purpose of providing tenant services.

**Offices, Temporary (land use).** This land use consists of a mobile home, recreational vehicle or modular unit used as a temporary office facility. Temporary Offices may include: construction supervision offices on a construction site or off-site construction yard; a temporary on-site real estate office for a development project; or a temporary business office in advance of permanent facility construction.

**Playground.** See “Parks and Playgrounds.”

**Pocket Neighborhood.** The type of clustered residential development described in the Multifamily Residential Design Guidelines or the Form Based Code, as applicable.

**Porch.** A deck with a roof, which is attached to a building.

**Poster Board.** A sign consisting of a framed or unframed surface, freestanding or attached to a wall or fence or other structure, designed and located only for the display of announcements of coming performances of cultural, educational, and athletic events.

**Potbellied Pig.** That type of swine commonly known as the Vietnamese, Chinese, or Asian Potbelly Pig (*Sus scrofa bittatus*).

**Poultry Processing Facility (Land Use).** This land use consists of facilities permanently installed on a site engaged in slaughtering poultry for meat to be sold.

**Precise Development Plan.** See Chapter 22.44 (Master Plans and Precise Development Plans).

**Premise(s).** The site of a land use or activity subject to the requirements of this Development Code.

**Primary Structure.** See "Structure, primary."

**Primary Zoning District.** One of the agricultural, residential, commercial, or special purpose zoning districts established by Sections 22.06.020 (Zoning Districts Established) and Article V (Coastal Zones – Permit Requirements and Development Standards), that is applied to a site by the Zoning Map in addition to one or more of the combining districts established by Section 22.06.020.

**Printing and Publishing (land use).** This land use consists of printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying, and other "quick printing" services; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; and establishments manufacturing business forms and binding devices.

**Private Residential Recreation Facilities (land use).** This land use consists of privately-owned, non-commercial outdoor recreation facilities provided for members or project/neighborhood residents, including swim and tennis clubs, park and sport court facilities. Does not include golf courses/country clubs, which are separately defined.

**Private Road.** A street or right-of-way owned and maintained by a private person(s) or entity(ies).

**Project.** See "Development, or Project."

**Property Line.** See "Lot Line or Property Line."

**Proposed Parcel(s).** Each separate parcel shown on a tentative map or lot line adjustment, as proposed by an applicant.

**Proposed Dwelling.** A new dwelling that is the subject of a permit application that meets all requirements for permitting, including zoning requirements.

**Proposed Single Family Dwelling.** See “Proposed Dwelling” and “Single Family Dwelling”.

**Protected Tree and Heritage Tree.** Any one of the following as indicated in the table below:



Common Name	Botanical Name	Protected Size Diameter at Breast Height	Heritage Size Diameter at Breast Height
Arroyo willow	<i>S. lasiolepis</i>	6 inches	18 inches
Big-leaf maple	<i>Acer macrophyllum</i>	10 inches	30 inches
Bishop pine	<i>Pinus muricata</i>	10 inches	30 inches
Blue oak	<i>Q. douglasii</i>	6 inches	18 inches
Box elder	<i>A. negundo var. californicum</i>	10 inches	30 inches
California bay	<i>Umbellularia californica</i>	10 inches	30 inches
California black oak	<i>Q. kelloggii</i>	6 inches	18 inches
California buckeye	<i>Aesculus californica</i>	10 inches	30 inches
California nutmeg	<i>Torreya californica</i>	10 inches	30 inches
Canyon live oak	<i>Q. chrysolepis</i>	6 inches	18 inches
Chaparral oak	<i>Q. wislizeni</i>	6 inches	18 inches
Coast live oak	<i>Quercus agrifolia</i>	6 inches	18 inches
Coast redwood	<i>Sequoia sempervirens</i>	10 inches	30 inches
Douglas-fir	<i>Pseudotsuga menziesii</i>	10 inches	30 inches
Giant Chinquapin	<i>Castanopsis chrysophylla</i>	10 inches	30 inches
Hawthorn	<i>Crataegus douglasii</i>	10 inches	30 inches
Mountain-mahogany	<i>Cercocarpus betuloides</i>	10 inches	30 inches
Narrow leaved willow	<i>Salix exigua</i>	6 inches	18 inches
Oak	<i>Q. parvula var. shrevei</i>	6 inches	18 inches
Oregon ash	<i>Fraxinus latifolia</i>	10 inches	30 inches
Oregon oak	<i>Q. garryana</i>	6 inches	18 inches
Pacific madrone	<i>Arbutus menziesii</i>	6 inches	18 inches
Pacific yew	<i>Taxus brevifolia</i>	10 inches	30 inches
Red alder	<i>A. rubra</i>	10 inches	30 inches
Red elderberry	<i>Sambucus callicarpa</i>	10 inches	30 inches
Red willow	<i>S. laevigata</i>	6 inches	18 inches
Sargent cypress	<i>Cupressus sargentii</i>	6 inches	18 inches
Scouler's willow	<i>S. scouleriana</i>	6 inches	18 inches
Service-berry	<i>Amelanchier alnifolia</i>	10 inches	30 inches
Shining willow	<i>S. lucida ssp. lasiandra</i>	6 inches	18 inches
Silk tassel	<i>Garrya elliptica</i>	10 inches	30 inches
Sitka willow	<i>S sitchensis</i>	6 inches	18 inches
Tanbark oak	<i>Lithocarpus densiflorus</i>	10 inches	30 inches
Valley oak	<i>Q. lobata</i>	6 inches	18 inches
Wax myrtle	<i>Myrica californica</i>	10 inches	30 inches
White alder	<i>Alnus rhombifolia</i>	10 inches	30 inches

**Public Right of Way.** A street that has been accepted or is being maintained by the State, the County, or a city, and provides unrestricted vehicular access to the public.

**Public Road.** A street or highway owned and maintained by the County, a City, the State, or the Federal government.





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# County of Marin Survey Summary Report

## Objective Design and Development Standards

DRAFT REPORT | AUGUST 2020

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## Introduction

### Project Summary

The Marin County and Cities Objective Design and Development Standards (Project) is a county-wide effort, among 10 jurisdictions with grant funding from the California Building Homes and Job Act (SB 2). The Project is aimed at creating a toolkit to ensure that new multifamily housing and mixed-use developments are appropriate to their surroundings and meet the communities' expectations of high quality and attractive development. The participating jurisdictions include: City of Belvedere, Town of Corte Madera, Town of Fairfax, City of Larkspur, City of Mill Valley, City of Novato, Town of Ross, Town of San Anselmo, City of Sausalito, Town of Tiburon, and Unincorporated Marin County. Each jurisdiction can refine and adopt the toolkit to meet the unique needs and preferences of each community while complying with state mandates and remaining eligible for funding.

Along with assuring that multifamily and mixed-use development is contextually appropriate and in keeping with community expectations, the Project is intended to support participating jurisdictions' compliance with recent State housing legislations, particularly SB35, the Housing Accountability Act, and SB330, the Housing Crisis Act of 2019. These new laws specify that project review is done at a ministerial level with no discretionary approval by a design review board and/or Planning Commission for qualifying projects, and that new developments are evaluated with objective design standards. Given that new State law limits local discretionary review, Marin County and participating jurisdictions are evaluating their current standards and identifying opportunities to improve and refine them to better assure that communities' retain control of future development outcomes and the look and feel of their neighborhoods. Objective Design and Developments standards are measurable, easy to quantify, do not require interpretation, and facilitate review and approval process.

**Project goals are to address individual preferences while leveraging similarities such as physical conditions, development patterns, community character, and common regulatory contexts among the jurisdictions.**

### Survey Introduction

The online survey is part of a broader community engagement effort which is a priority for project managers at the County and individual jurisdictions. See **website** for more information. The intent of the survey was to gather feedback from the community on their preferences on the elements of design for multifamily and mixed-use development. The feedback from the surveys is intended to complement and inform the consultant team's research on existing regulations, standards, and guidelines and to better position each community to attain the type of development that they find attractive, contextually appropriate, and that broadens the availability of housing. The objectives of the survey are to help introduce the Project and guide the community to additional information on objective design and development standards and the recent State housing legislation; gather constructive feedback on preferences and priorities on multi-family development; identify challenges and opportunities; and understand the perspective of the community in addressing housing needs.

### Survey Methodology

In order to reach the greatest number and broadest cross section of individuals, the consultant team administered an online survey via SurveyMonkey, a popular online platform. The survey was posted or

“active” for 111 days, starting in April 2020 through July 24<sup>th</sup>, 2020. LWC provided links to the survey for the jurisdictions to post on websites, Facebook pages and distribute via flyers, handouts, emails, and other methods. The survey generated 541 responses from residents, property owners, business owners and operators, special interest groups, County and City staff, elected officials, and civic leaders.

The survey (English version) was vetted by the County and each of the jurisdictions and was made up of 41 questions and took approximately 10-15 minutes to complete. The survey was also translated and posted in Spanish and Vietnamese. Participants were assured that their participation would be handled with confidentiality; that survey results would only be reported in aggregate format, with no personally identifiable information included in project reports or communications.

The survey included seven respondent profile questions (Gender, Race, Age, Residence, Tenure, and Position in community), 33 general countywide questions, and one open-ended question to gather additional comments. The general countywide questions were subcategorized into three distinct contexts: Core, Suburban, and Edge. Four example developments were provided for Core and Suburban contexts and three examples were provided for Edge Context. Each had three corresponding questions. Participants were asked to provide their perspective on physical characteristics of residential and mixed-use development in three settings: Core, Suburban, and Edge. A photo and brief description (see Page 5) of the three settings was provided in the survey and is illustrated next.

Three jurisdictions (Belvedere, Mill Valley, and San Anselmo) submitted additional questions to supplement the general, Countywide questions. They were added at the end of the survey where respondents who reside or work in those jurisdictions could opt to respond. See Appendices D, E, and F.





### **CORE CONTEXT**

In Marin County, a Core is a traditional downtown or main street area. Areas where the mixing of uses is a primary characteristic and daily destinations are within a short, 5 to 10-minute walk of most dwellings. (For example: Rafael Town Center and Mill Valley Downtown).



### **SUBURBAN CONTEXT**

The Suburban context describes areas typically developed after WWII (1950s) with wider roadways and more surface parking. In these areas the separation of uses is a primary characteristic and driving is usually required to reach daily destinations. (For example: Strawberry).



### **EDGE CONTEXT**

Edge areas typically have clustered or lower-intensity development that is adjacent to elements of the natural environment, such as local waterways, agricultural, or open space. (For example: Point Reyes Station next to Tomales Bay Ecological Reserve).

# Survey Result Summary

## Respondent Profile

In the 111 days it was posted, 541 individuals completed the survey. The majority of respondents identified themselves as Residents (511). This question allowed respondents to select more than one response, or all that applied. Respondents also identified themselves as Landlord/Property Manager/Owner (84) and Business Owner/Operator (68), Developer/Builder/Contractor/Architect/Designer (56), Worker Employed in the County (52) and Member or representative of a government agency or district in Marin County and Worker in Marin County (33), 12 chose Other.

Most of the respondents identified themselves as residents of San Anselmo (291). 90 respondents identified themselves as Mill Valley residents, followed by Unincorporated (35), Corte Madera (24), Fairfax (20), Larkspur (22), Sausalito (16), Tiburon (9), Belvedere (9), and Ross and Novato at 6 each.

Respondents were nearly evenly split (269 to 272) on having lived in more than one Marin County community.

The majority of respondents Own their homes (450) and 66 identified themselves as Renters. 25 respondents Preferred Not to Say or chose Not Applicable.

Most respondents were Female (309), with 210 Male participants. 23 respondents Preferred Not to Say or chose Not Applicable.

The majority of respondents was over 65 (190), followed by 55-64 year olds (149) and 45-54 year olds (124), then 35-44 year olds (51) and the 25-34 year age class (25). Only one person under 18 and two people in the 18-24 age class responded.

The overwhelming majority of respondents identified themselves as White (446) with 12 respondents identifying as Asian/Pacific Islander, 11 Hispanic/Latinx, 3 Black/African Americans and 1 Native American. 69 respondents preferred not to state their race or identified as "Other".

**541 people completed the survey, the majority identified themselves as Resident (511).**

**More Owners (450) responded than Renters (66).**

**Responses were split on having lived in more than one Marin County community (269 to 272).**

**More women (309) participated than men (210).**

**Respondents were generally "older", in the 65+ age class (190), followed by 55-64 year olds (149) and 45-54 year olds (124).**

**Most respondents identified as White (446).**

## Preferences on Design Characteristics

As described in the Survey Methodology, for each of the photo examples within the Core, Suburban and Edge contexts, respondents were asked their perspective in three questions, 1) the level of appeal and 2) what characteristics make the example appealing and 3) what improvements they would make to improve the design of the example. Responses to each of these multiple-choice questions with accompanying graphs and charts can be found in Appendix B. Respondents were also given the opportunity to provide a written response to each question which generated 1203 individual comments (see Appendix C for the list of comments). There was also an opportunity at the end of the survey to add a general written comment on issues that may not have been covered in the survey. All the multiple choice and written responses are summarized next.

### SUMMARY OF DESIGN APPEAL RESPONSES

While responses on level of appeal varied among the examples, consistent themes arose in the characteristics that appealed to respondents and the design improvements they would make. These themes offer important insight into the community's design preferences.

Across the three contexts, the community noted a clear preference for developments that maintain the scale and character of the neighboring development, and use articulation to reduce mass and bulk. Responses consistently cited "Building articulation," "Building height," "Building setback," and "Landscaping/plantings" characteristics when considering if the design of the development was appealing or needed improvement. The "Area between the building and the roadway" and "Screening" were mentioned frequently as valued design characteristics that influence the appeal of the development and need improvement.

#### Consistent themes in the most appealing design characteristics:

- Building articulation,
- Building height,
- Building setbacks,
- Landscaping,
- Building height and
- Relationship with Neighboring structures

### CORE (What do you find appealing and what improvements would you make)

Generally, there was consensus for more landscaping, trees, plazas, outdoor space, balconies, bike parking and storage, greater setbacks and articulation to reduce building mass/bulk, blending in with nearby buildings (contextually appropriate design), high/higher quality design elements, updated/refreshed exteriors, better choice of colors, and hidden parking.

Items on which there was dissenting comments or lack of consensus included modern versus traditional style, more versus less height, more versus less density, and more versus less parking.

### SUBURBAN (What do you find appealing and what improvements would you make)

Generally, respondents agreed that more outdoor space, landscaping, decks, porches and open space was appealing as well as bicycle parking and storage, high/higher quality/attractive materials, perpetuating community character, greater setbacks and articulation to reduce bulk/monotony, solar on rooftops, hidden/underground parking and attention to (context) blending in with the neighborhood.

There were conflicting comments on more versus less density, height, modern versus traditional design, taller versus height limits/reduction.

## **EDGE (What do you find appealing and what improvements would you make)**

Generally, comments were in favor of solar on rooftops, car charging options, more outdoor space, pool, tennis and basketball court and landscaping, community garden, playground, blending with neighboring buildings and environment, hidden/underground parking, unique/individual design, less monolithic, keeping with the character of Marin, better quality, attractive materials, and articulation to break up “boxiness” and bulk.

Items on which there were dissenting comments included support for taller buildings versus limits or reduction of height, higher versus lower density, and to build more housing opposed to limiting or restricting development at the edge.

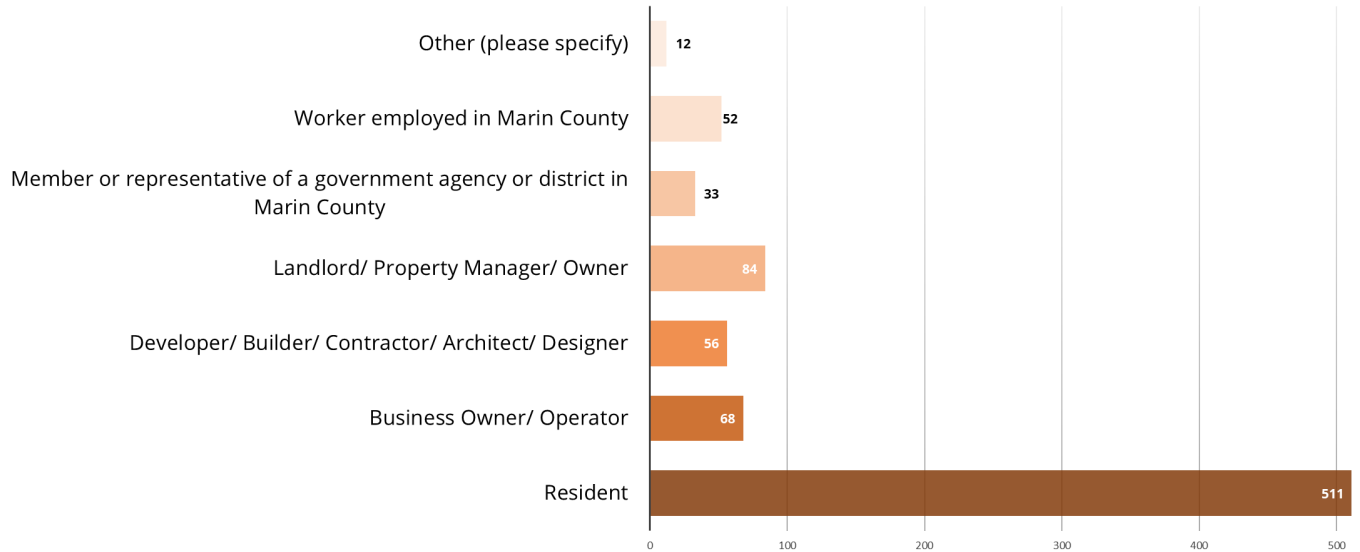
## **Additional Comments (summary of comments not included in the write-in responses and multiple choice)**

- Prioritize LEED Standards
- Need more affordable housing in Marin
- Just build more housing
- Encourage density in commercial areas and near transit
- Impose a building moratorium
- Consider walkability transit, and access to goods and services
- Consider fire risk
- Need objective design standards
- Consider people with disabilities

A handful of respondents thought the survey was too long or confusing, while a similar number thanked the City for the opportunity or voiced support.

## APPENDIX A: Respondent Profile Questions

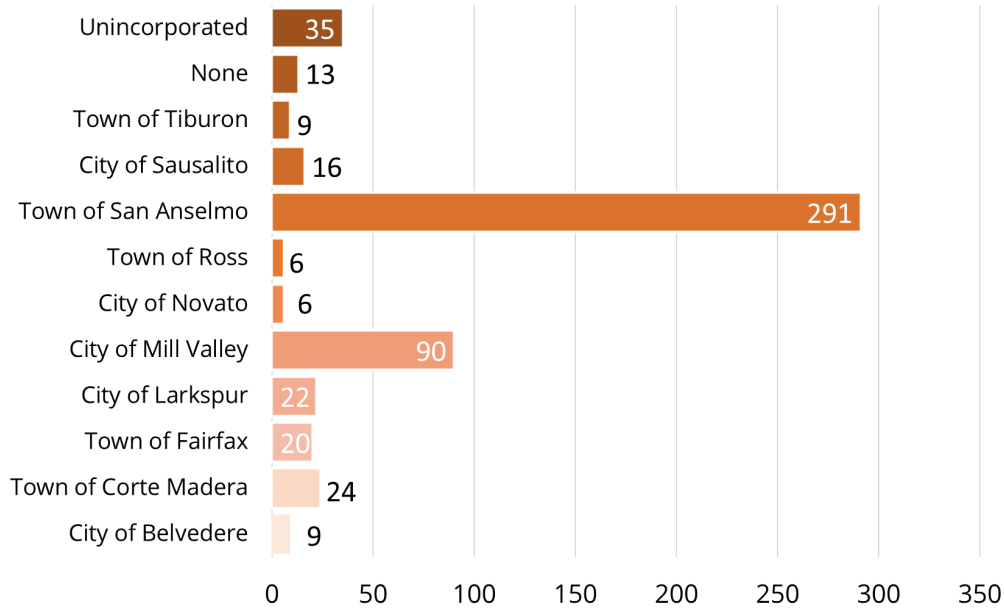
### Question 1: I am a: [select all that applies]



“Other” includes:

- Renter
- Landscape Architect
- Homeowner
- Live in Ross on the border with SA
- Renter, lessor, elder
- Member Strawberry Design Review Board
- Planner
- City Planner outside of Marin
- Planning Commisioner
- Intended resident
- Renter- low income
- Active transportation advocate

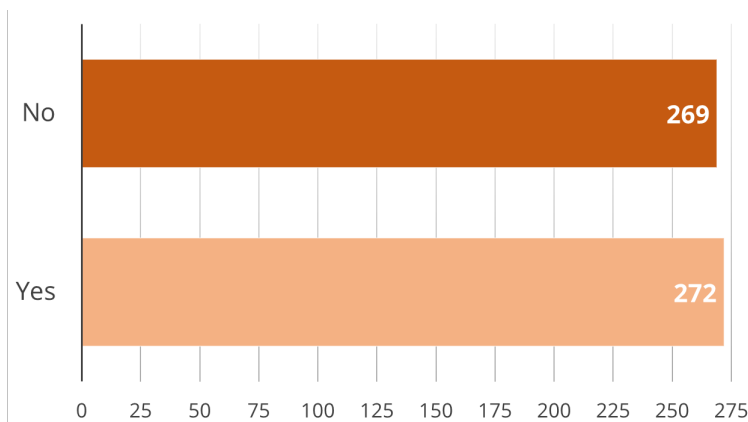
## Question 2: In what Marin county community do you reside?



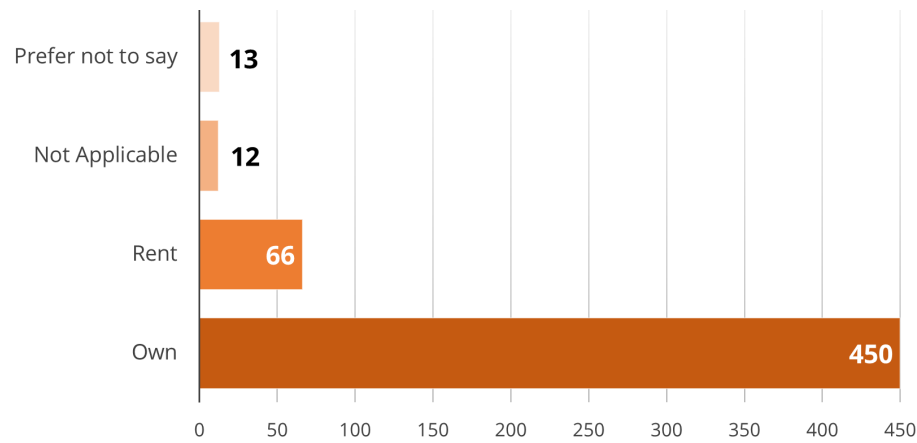
“Unincorporated Marin County” specified below:

- 94973
- 94960
- 94941
- Almonte
- Greenbrae
- Homestead
- Homestead Valley
- Kentfield (2)
- Marin City
- Point Reyes Station
- San Rafael
- Sleepy Hollow (7)
- Tam Valley (6)
- Terra Linda
- Tam Junction
- Woodacre (3)
- Other

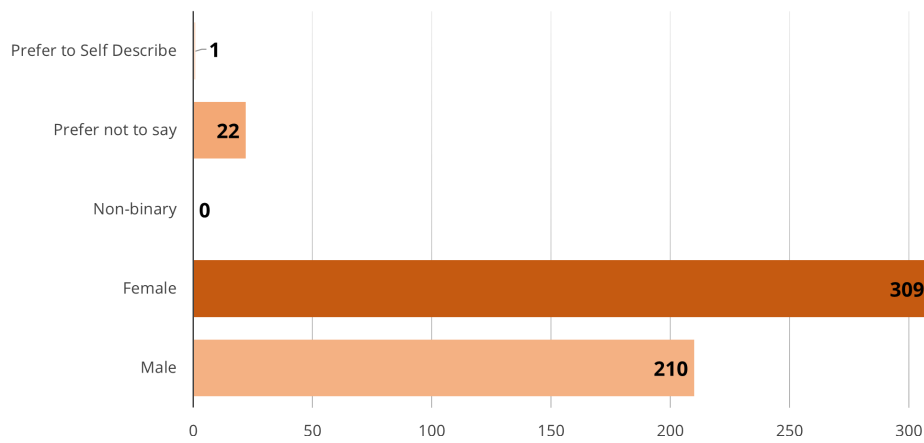
## Question 3: Have you lived in more than one Marin County community?



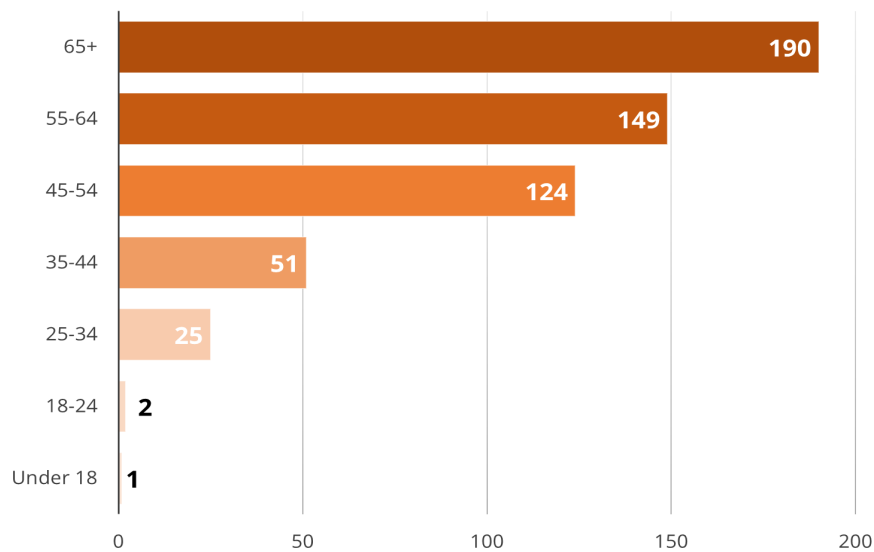
### Question 4: Do you own or rent?



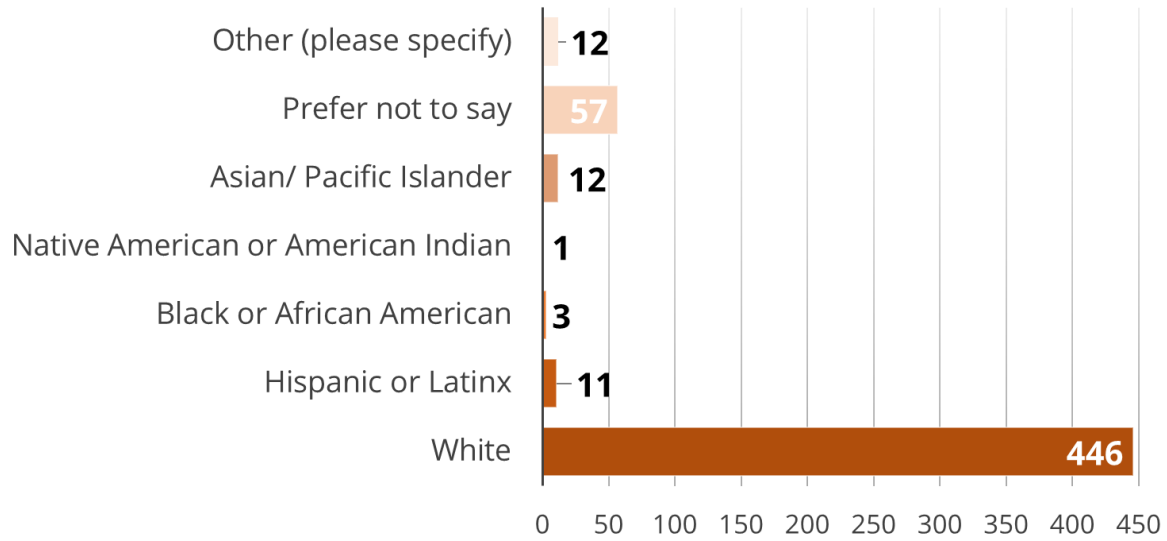
### Question 5: What is your gender?



### Question 6: What is your age?



## Question 7: What is your race or ethnicity?



### Other (please specify):

- Other
- Mixed race 4 or more races
- Eurain America
- Eurasian
- Irish
- Human
- Mixed
- Caucasian. "White" is neither a race nor an ethnicity.
- Mixed race
- White, Jewish
- Multi-racial
- decline



## APPENDIX B: General Countywide Questions

Respondents were provided examples for the three placetypes (Core, Suburban, and Edge) and asked to identify if the design of the development is appealing or unappealing and what improvements they would make for the design to be more appealing.

### Core Context

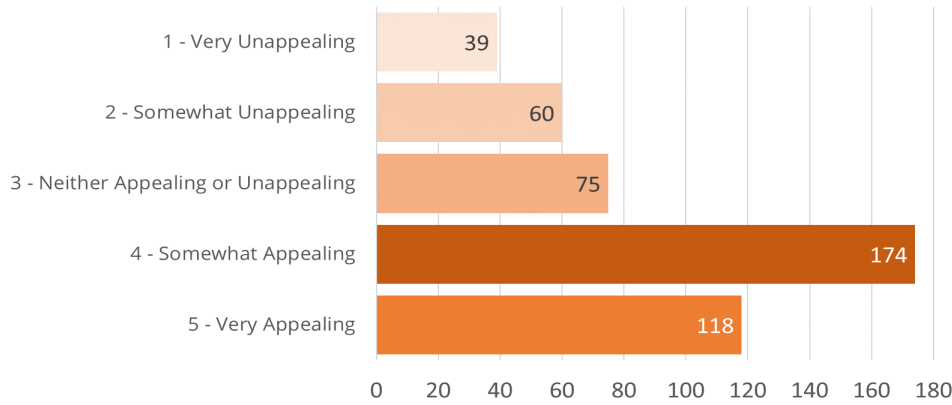
Most respondents agreed on the design of the first example to be the most appealing and rated the other three examples as somewhat appealing. Respondents found “Building Articulation” and “Building Height” to be the most appealing characteristics of the design of Example 1 and recognized “Landscaping/plantings” and “Area between the building and roadway” as improvements they would make. Most respondents identified Example 2 as somewhat unappealing, primarily due to: “Landscaping/plantings,” “Screening,” and “Area between the building & roadway.” Comments also identified colors and materials as unappealing design elements. Core context examples three and four were generally identified as somewhat appealing designs. Most respondents found “Building articulation” as an appealing characteristic for both developments. For Example 3 and Example 4, most respondents recognized “None” of the characteristics as improvements to make, while many identified “Building setbacks” as an improvement to make to the design of both developments.

### Core Context Example 1

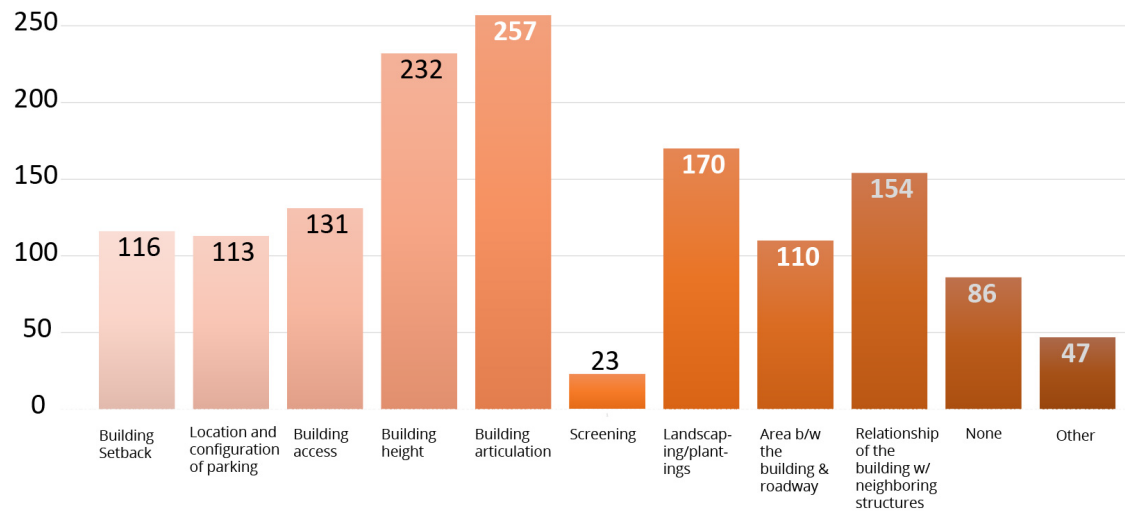


Most respondents found this example to be “Somewhat Appealing” and “Very Appealing.” Respondents found the characteristics “Building Articulation” and “Building Height” to be the most appealing. Respondents identified “Screening” as the least appealing characteristics of the development. Participants identified “Landscaping/plantings,” “Building setbacks,” and “Area b/w the building & roadway” as characteristics that needed improvement. “Building access,” “Location and configuration of parking,” and “Screening” are characteristics that participants generally would not improve.

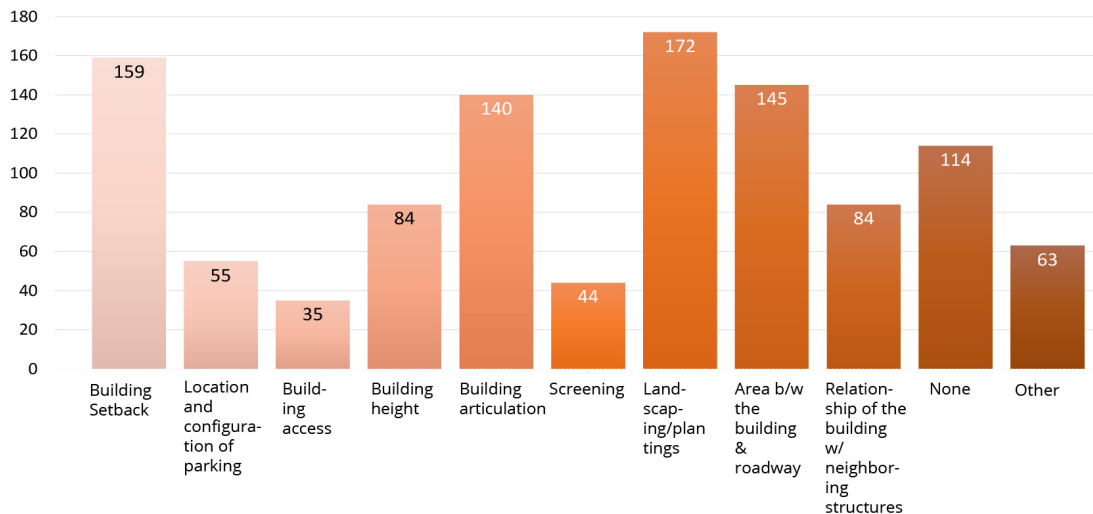
*How appealing do you consider the design of the development shown in the image?*



*What characteristics make the design of the development appealing to you? (Mark all that apply).*



*What improvements would you make to the design of the development? (Mark all that apply).*

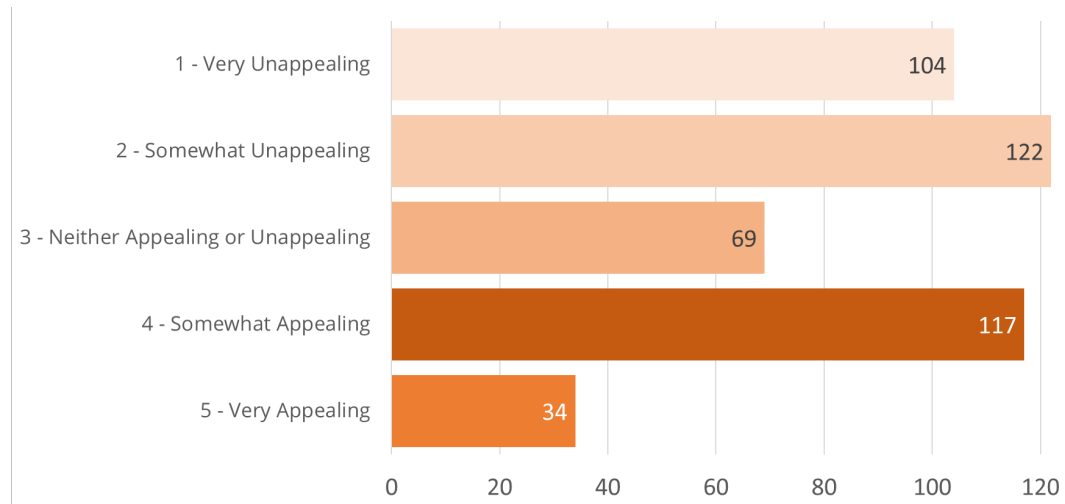


## Core Context Example 2

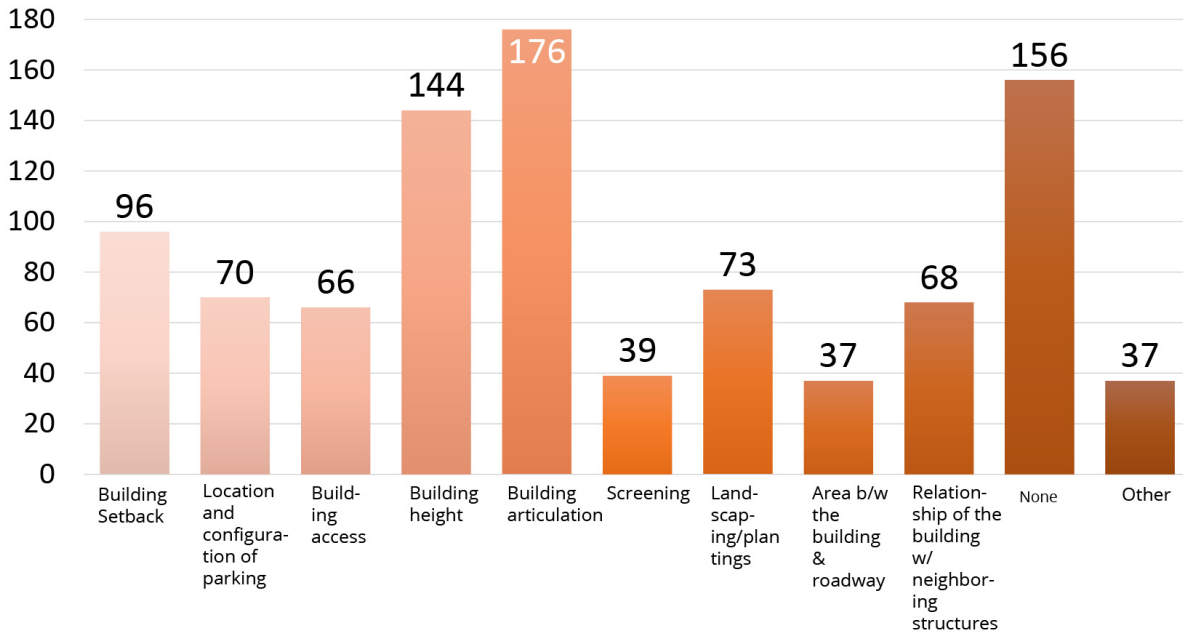
Most respondents found this example to be “Somewhat Unappealing” and “Somewhat Appealing.” Respondents found the characteristics “Building Height” to be the most appealing as well as “None” of the characteristics to be appealing. Generally, respondents distinguished “Screening” and “Area between the building & roadway” as unappealing characteristics. Participants identified “Landscaping/plantings” and “Area between the building & roadway” as characteristics that needed the most improvement. “Building articulation,” “Screening,” and “Building setback” are identified as characteristics that need improvement.



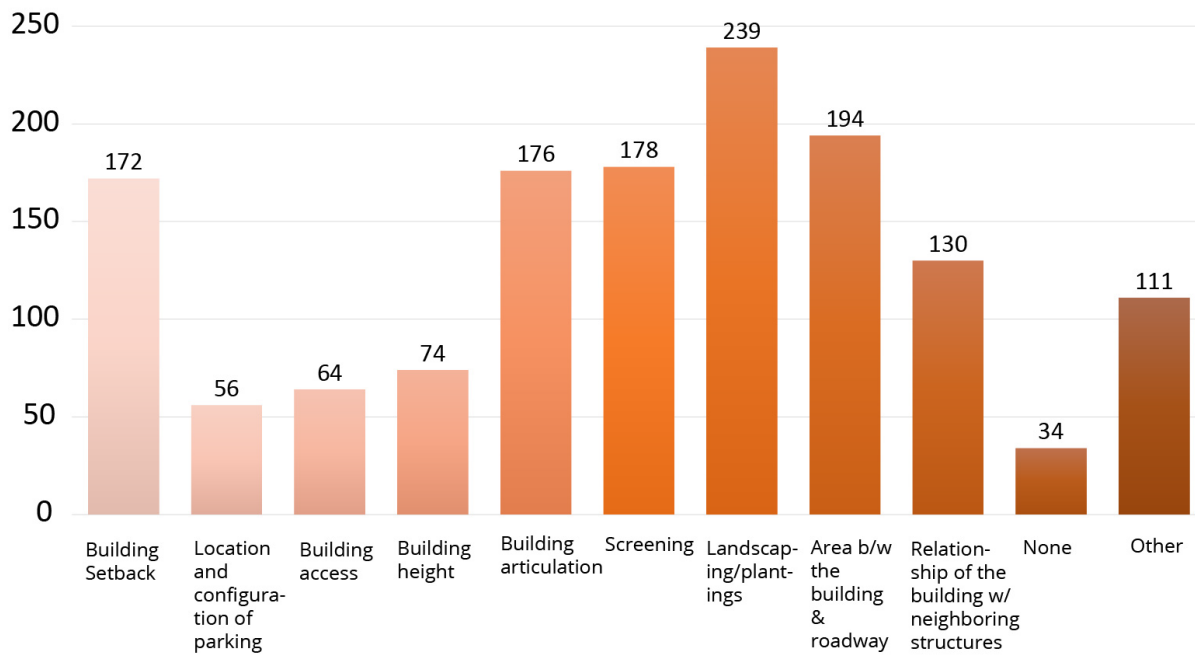
*How appealing do you consider the design of the development shown in the image?*



What characteristics make the design of the development appealing to you? (Mark all that apply).



What improvements would you make to the design of the development? (Mark all that apply).

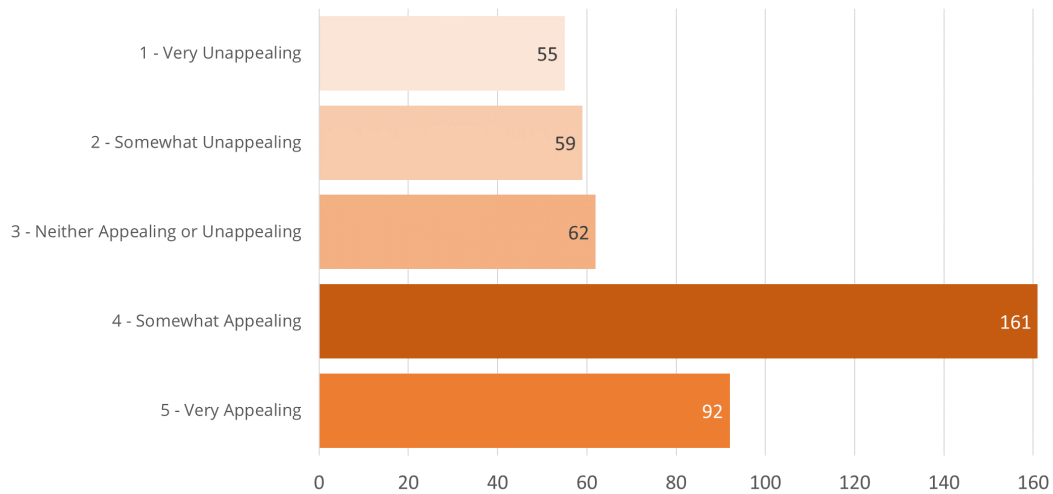


### Core Context Example 3

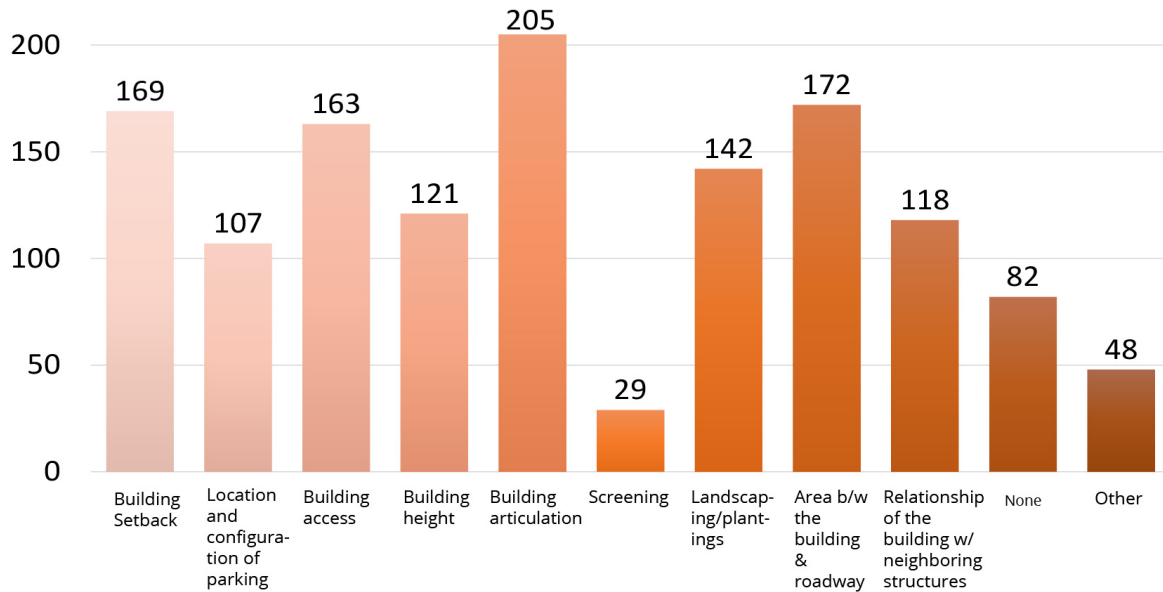
Most respondents found this example to be “Somewhat Appealing.” Respondents found the characteristics “Building articulation,” “Areas between the building & roadway,” and “Building access” to be the most appealing. Respondents identified “Screening” to be the least appealing characteristic of the development. Participants found the characteristics “Building height” and “Landscaping/plantings” to need the most improvement. Many respondents found “None” of the characteristics needed to be improved. Some respondents identified “Building articulation” and “Relationship of the building with neighboring structures” as improvements to make to the design of the development.



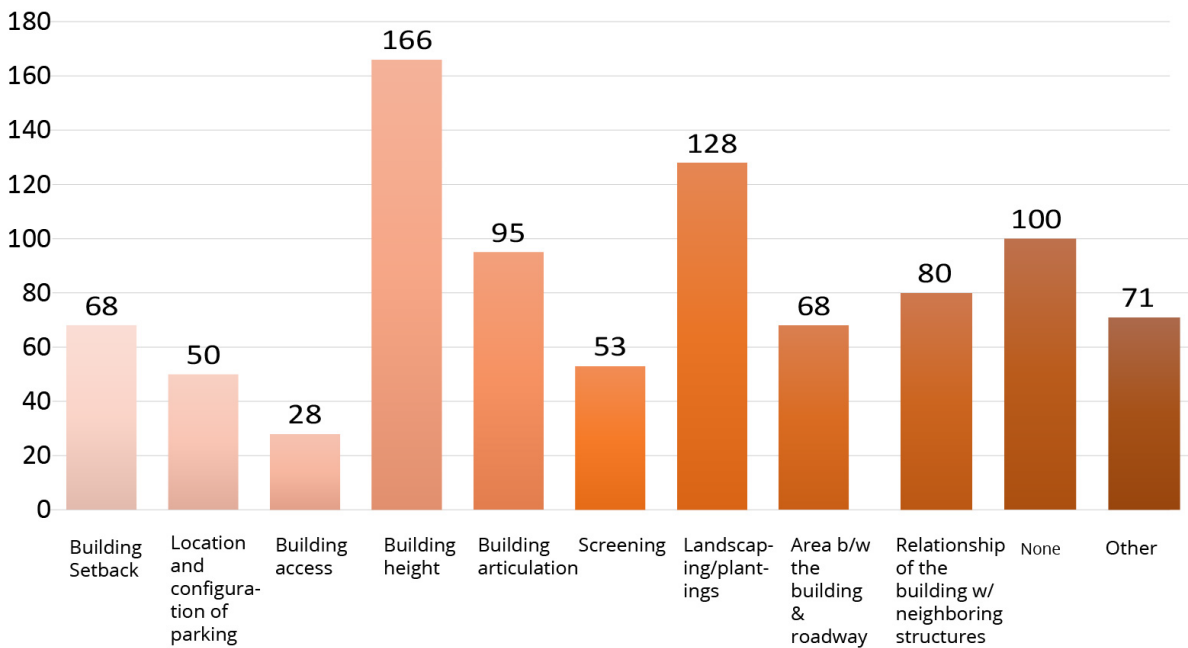
*How appealing do you consider the design of the development shown in the image?*



What characteristics make the design of the development appealing to you? (Mark all that apply).



What improvements would you make to the design of the development? (Mark all that apply).

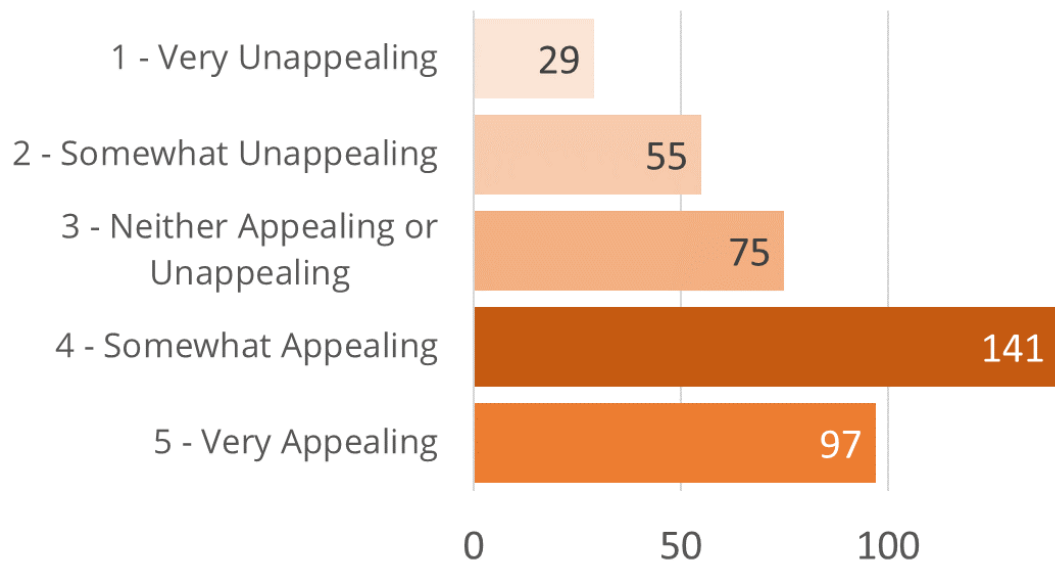


### Core Context Example 4

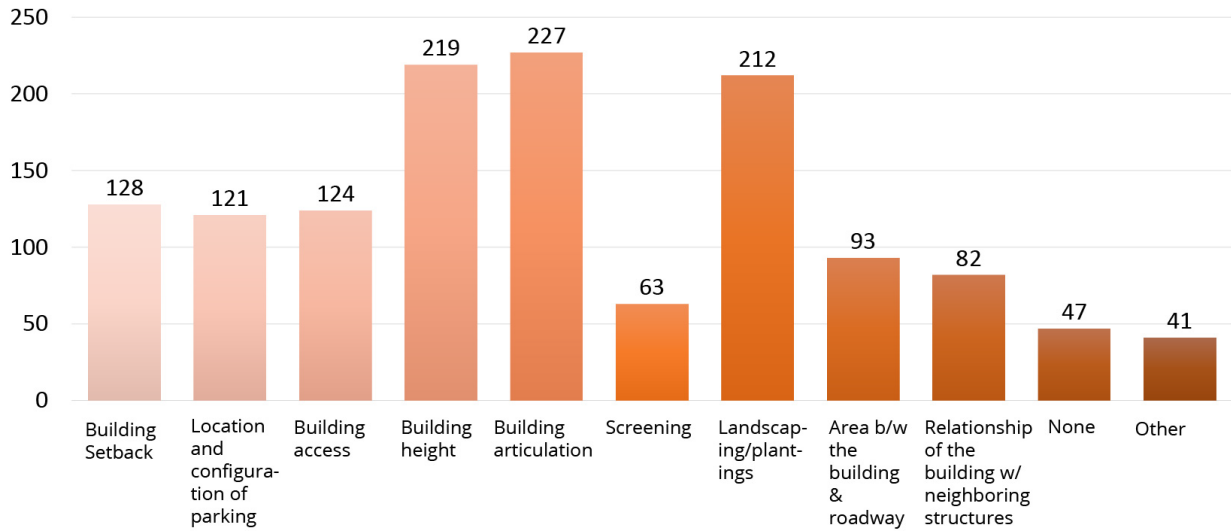
Most respondents found this example to be “Somewhat Appealing.” Many respondents found the design of the development to be “Very Appealing.” Most respondents identified “Building Height,” “Building Articulation,” and “Landscaping/plantings” as characteristics that make the design of the development appealing. Many respondents identified “Building setbacks,” “Building access,” and “Location and configuration of parking” to be appealing. Most respondents found that “None” of the characteristics need improvements. Many respondents found characteristics “Building setbacks” and “Areas between the building and roadway” as improvements to make to the design of the development. Few respondents identified “Screening” and “Building access” as characteristics that need improvement.



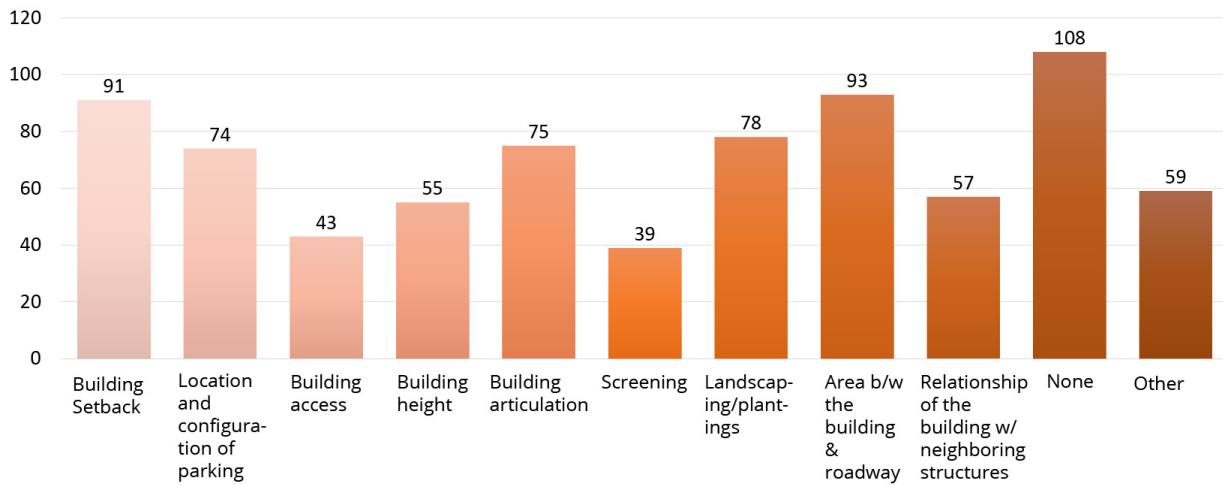
*How appealing do you consider the design of the development shown in the image?*



What characteristics make the design of the development appealing to you? (Mark all that apply).



What improvements would you make to the design of the development? (Mark all that apply).





## Suburban Context

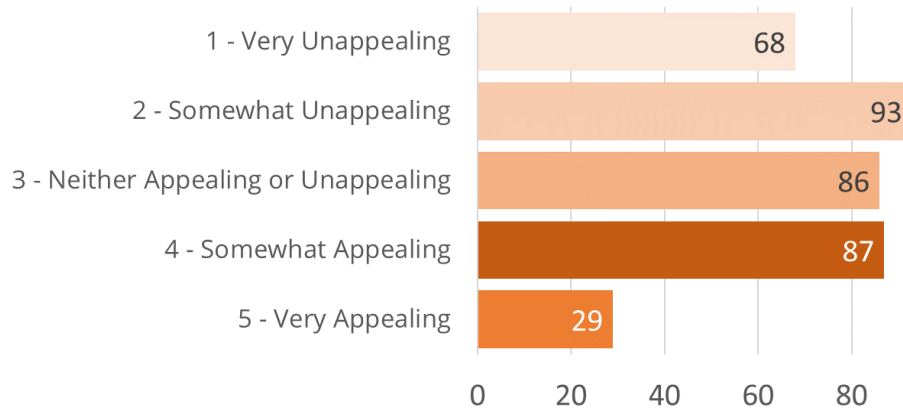
For Suburban Context, there was consensus for Example 4 to be the most appealing design of the development. On the other hand, Example 1 was identified as somewhat of an unappealing design. Examples two and three were found to be somewhat appealing. Most respondents agreed on “Building articulation,” “Landscaping/plantings,” “Building height,” and “Building setback” as the most appealing characteristics that make the design of the development very appealing. Overall, “Landscaping/plantings” and “Building articulation” were determining characteristics for respondents to identify appealing or unappealing designs among the examples. Not many respondents ranked “Screening” and “Relationship of the building w/ neighboring structures” as a deciding factor for creating an appealing design. However, respondents identified these as items for improvement. Additionally, most respondents identified “Building articulation” and “Landscaping/plantings” as appealing characteristics and many respondents identified “Building setback” and “Building height” as appealing characteristics for Example 3. For Example 1, most respondents identified “Landscaping/plantings,” and “Building articulation” as an improvement to make to the design of the development.

### Suburban Context Example 1

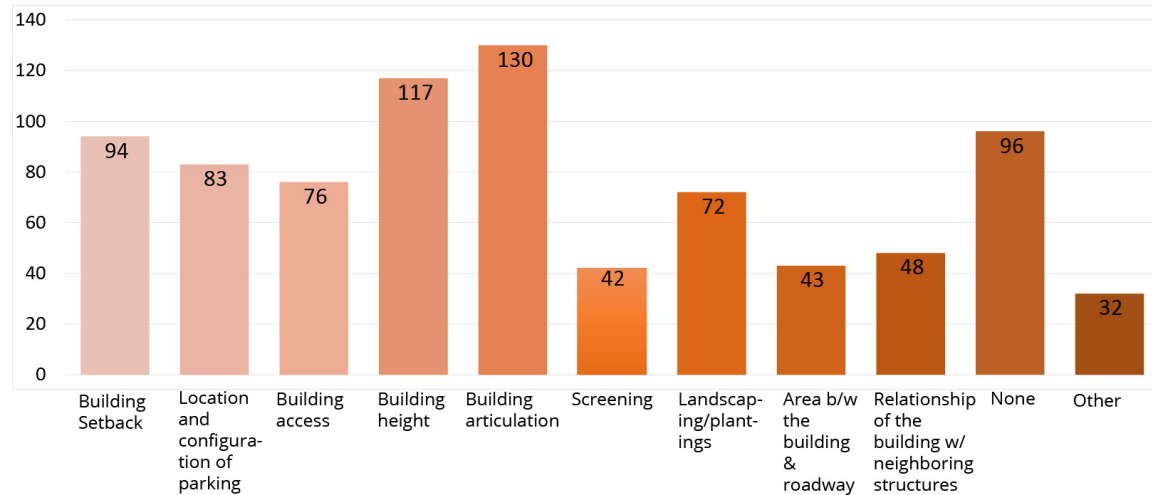
Most respondents identified the design of this development to be “Somewhat Appealing.” Most respondents found the characteristics “Building setback” and “Landscaping/plantings” to be the most appealing design elements of the development. Many respondents determined “Building articulation” and “Building height” to be appealing characteristics. Most respondents identified “None” of the characteristics as improvements to make to the design of the development. Many respondents found “Building articulation” as a characteristic to make improvement to the design of the development. Very few respondents identified “Building setback,” “Building access,” and “Building height” as improvements to make the design.



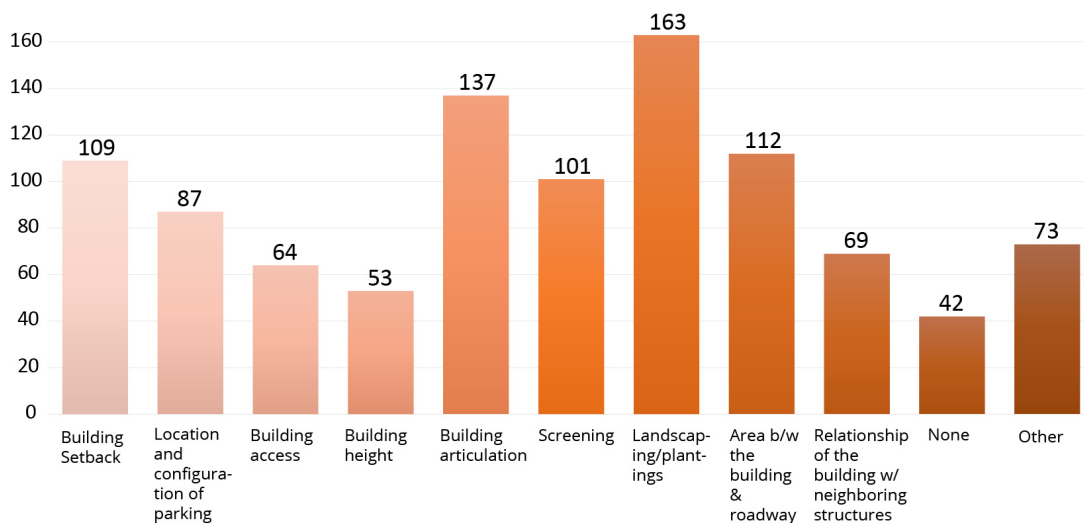
*How appealing do you consider the design of the development shown in the image?*



*What characteristics make the design of the development appealing to you? (Mark all that apply).*



*What improvements would you make to the design of the development? (Mark all that apply).*

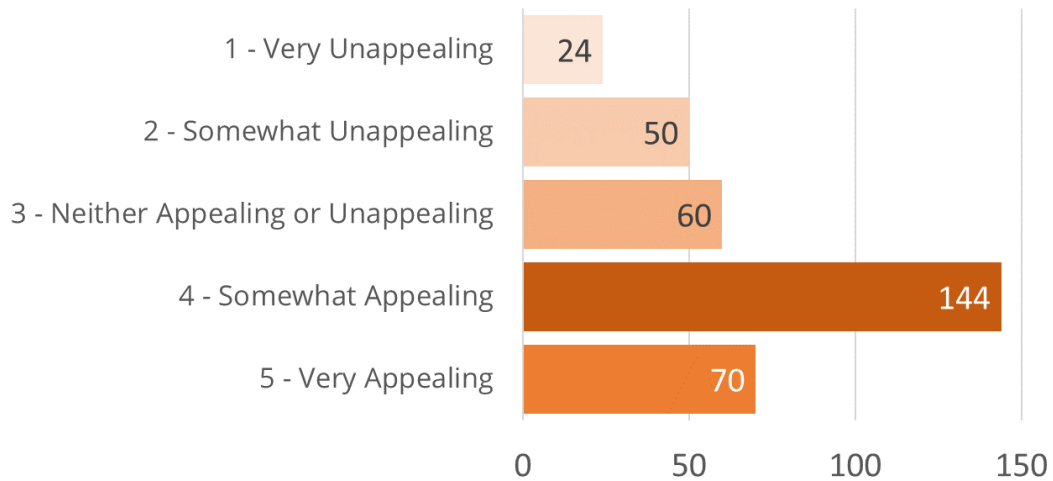


## Suburban Context Example 2

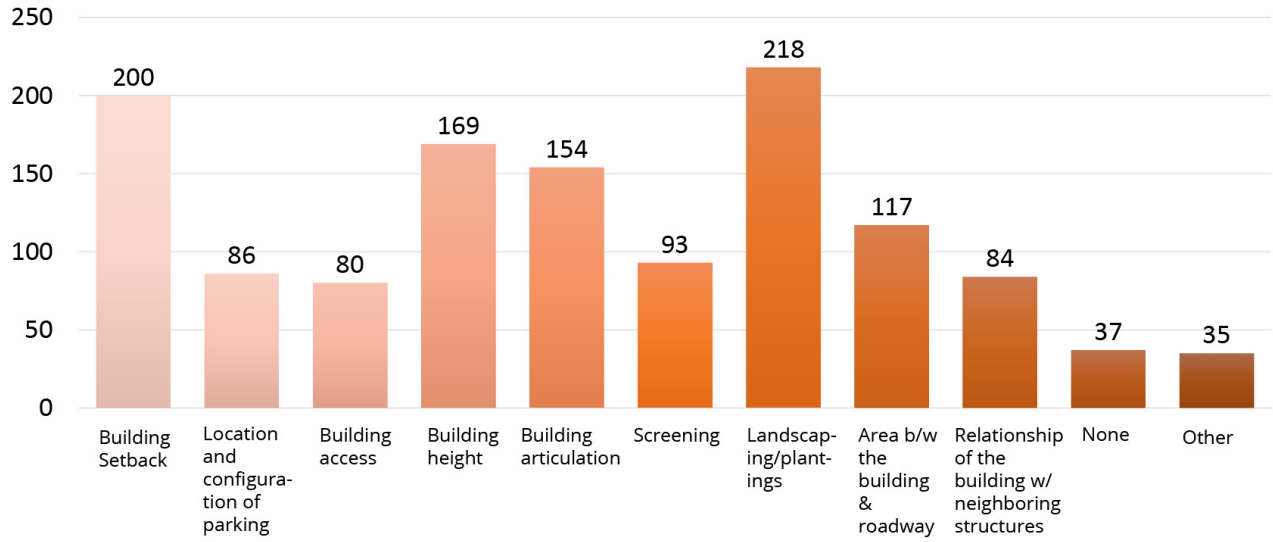
Most respondents identified the design of this development to be “Somewhat Appealing.” Most respondents found the characteristics “Building setback” and “Landscaping/plantings” to be the most appealing design elements of the development. Many respondents determined “Building articulation” and “Building height” to be appealing characteristics. Most respondents identified “None” of the characteristics as improvements to make to the design of the development. Many respondents found “Building articulation” as a characteristic to make improvement to the design of the development. Very few respondents identified “Building setback,” “Building access,” and “Building height” as improvements to make the design.



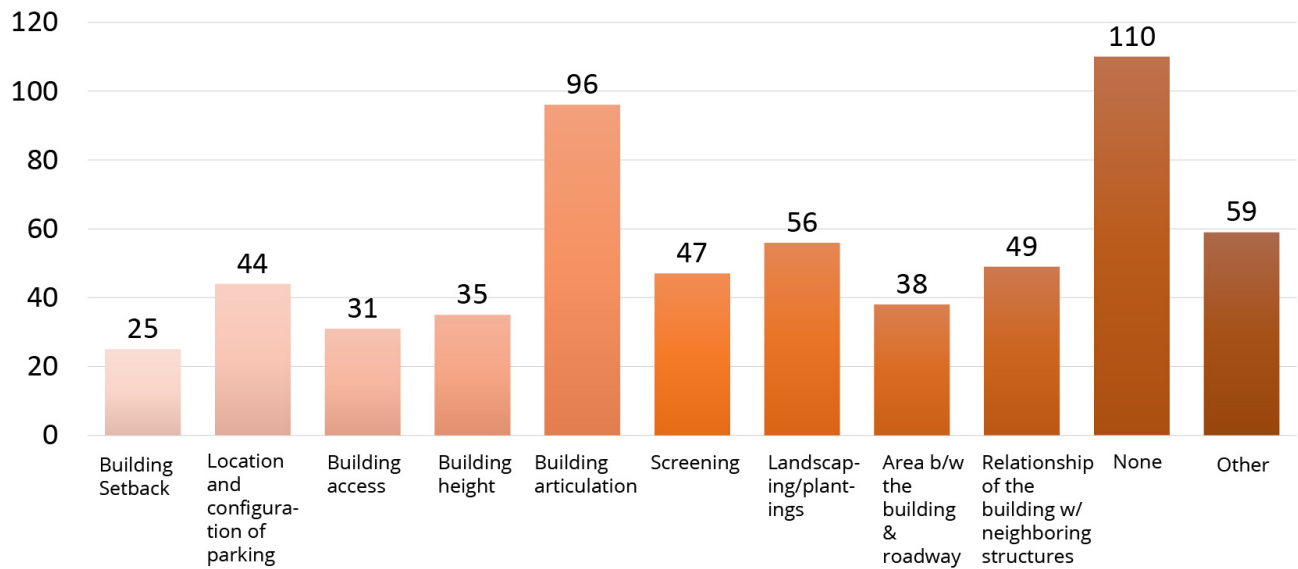
*How appealing do you consider the design of the development shown in the image?*



What characteristics make the design of the development appealing to you? (Mark all that apply).



What improvements would you make to the design of the development? (Mark all that apply).

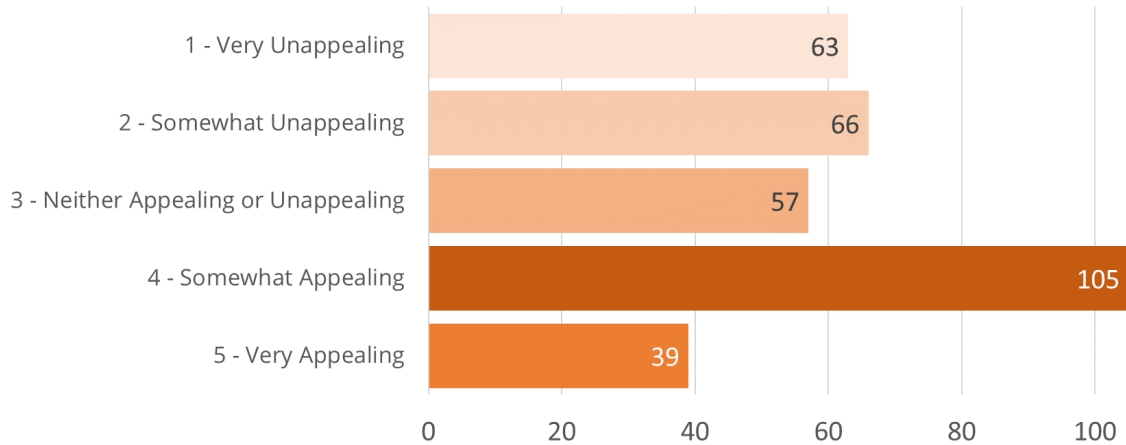


### Suburban Context Example 3

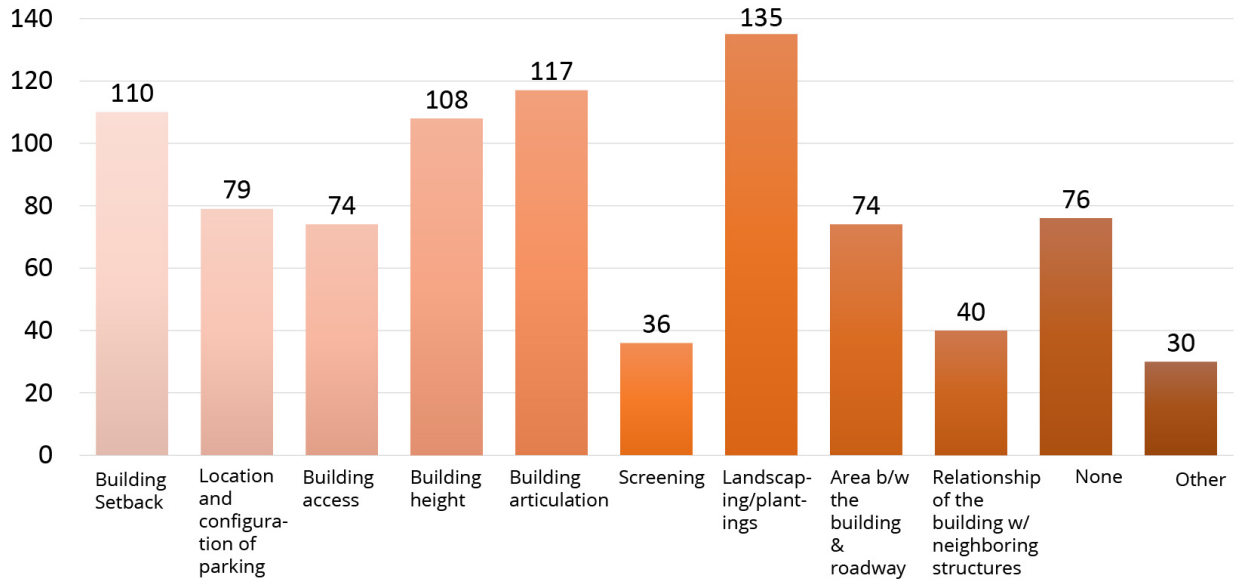
Most respondents found the design of this development to be “Somewhat Appealing.” Most respondents identified “Building articulation” and “Landscaping/plantings” as appealing characteristics. Many respondents identified “Building setback” and “Building height” as appealing characteristics. Very few respondents found “Screening” as an appealing design characteristic of the development. Most respondents also acknowledged “Building articulation” as a design characteristic that needs improvement for this development. Many respondents found “Landscaping/plantings,” “Area between the building and roadway,” “Building height,” and “Relationship of the building w/ neighboring structures” as improvements to make to the design of the development.



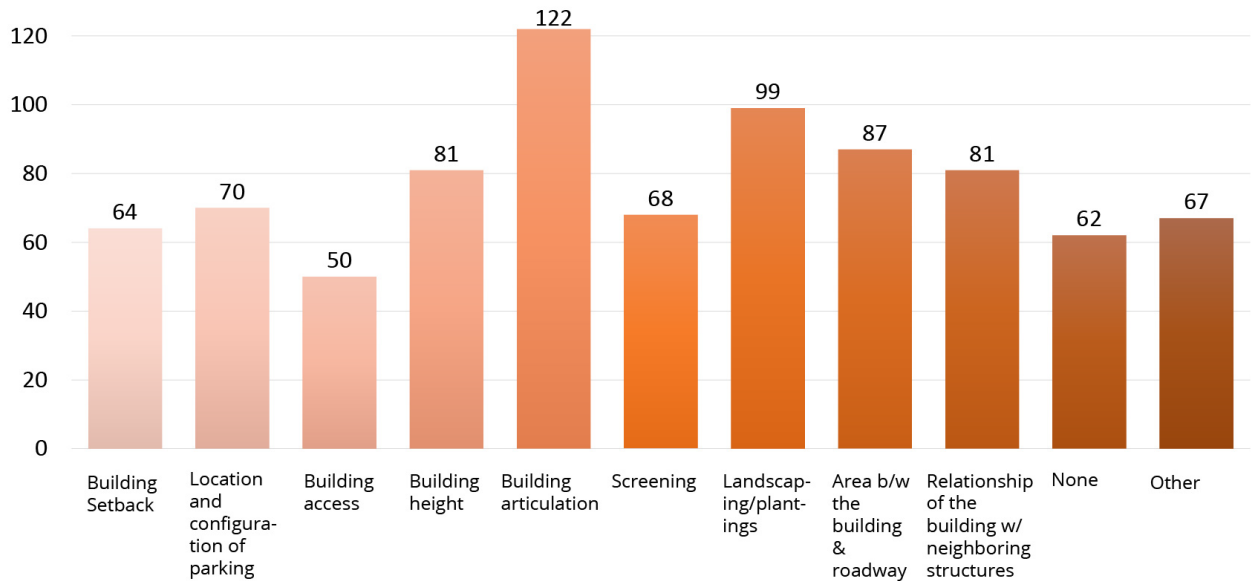
*How appealing do you consider the design of the development shown in the image?*



What characteristics make the design of the development appealing to you? (Mark all that apply).



What improvements would you make to the design of the development? (Mark all that apply).

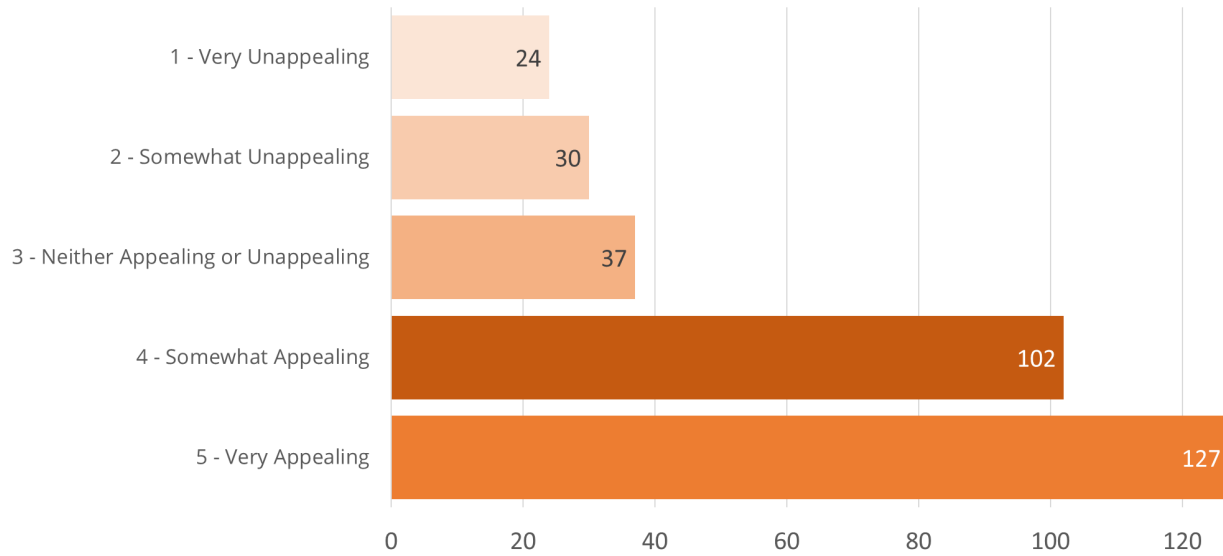


## Suburban Context Example 4

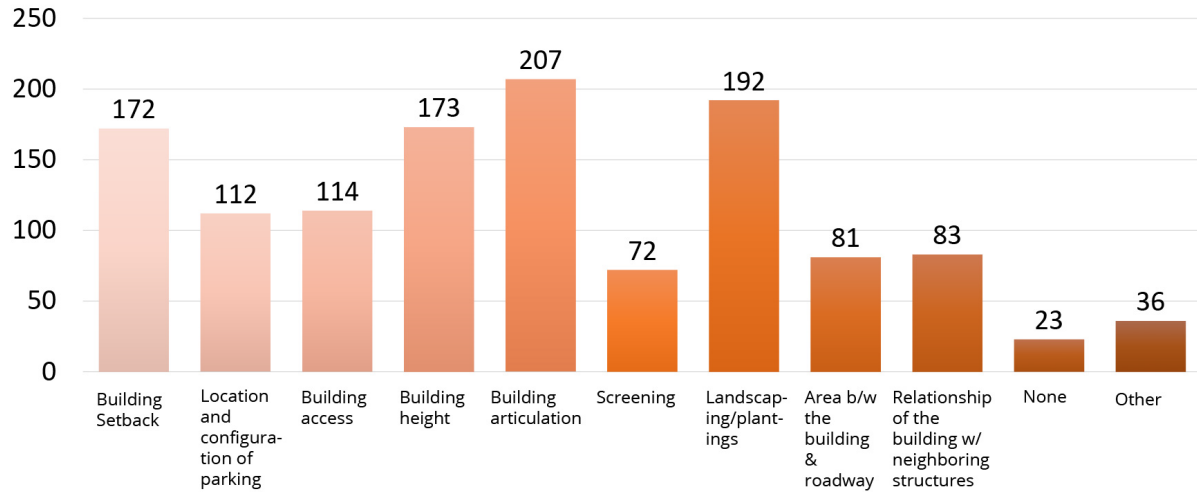
Most respondents identified the design of this development to be “Very Appealing.” Most respondents identified “Building articulation,” “Landscaping/plantings,” “Building height,” and “Building setback” as the most appealing characteristics. Many respondents found “Building access” and “Location and configuration of parking” as appealing characteristics. Most respondents identified “None” of the characteristics as improvements to make to the design of the development.



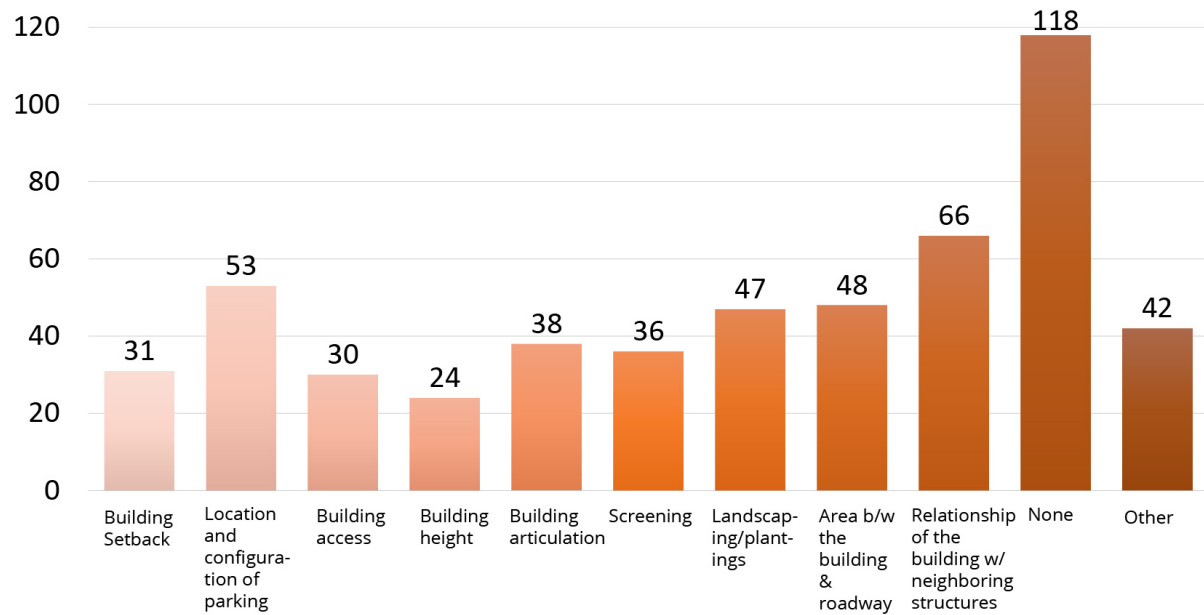
*How appealing do you consider the design of the development shown in the image?*



What characteristics make the design of the development appealing to you? (Mark all that apply).



What improvements would you make to the design of the development? (Mark all that apply).





## Edge Context

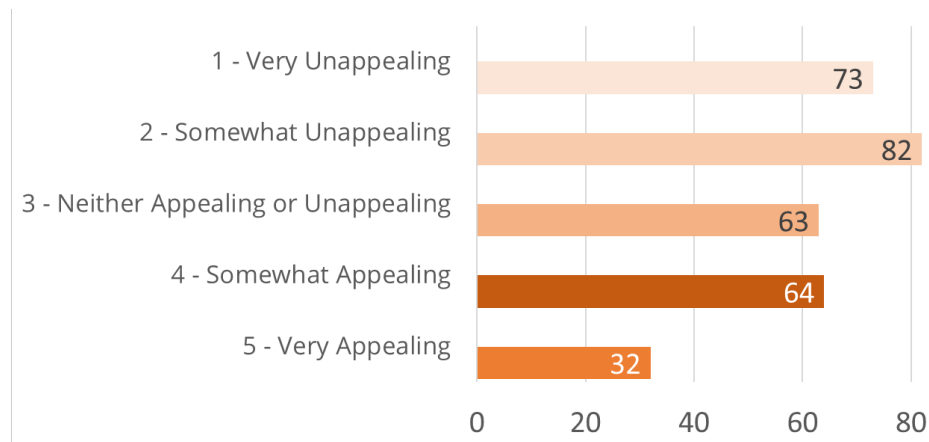
For the Edge Context examples, there was consensus among the respondents that Example 2 was the least appealing design and Example 3 was the most appealing design. Similar to Suburban Context, “Building setback,” “Building height,” “Building articulation,” and “Landscaping/plantings” were deciding factors for the respondents to identify appealing and unappealing designs. Respondents identified “Building articulation” and “Landscaping/plantings” as improvements to make to the design of the developments for all three examples. Respondents identified “Building height” and “Building setback” as characteristics that make the design of the development appealing. The design of the Example 3 development was the most popular in terms of “Building height,” “Building setback,” and “Building articulation.”

### Edge Context Example 1

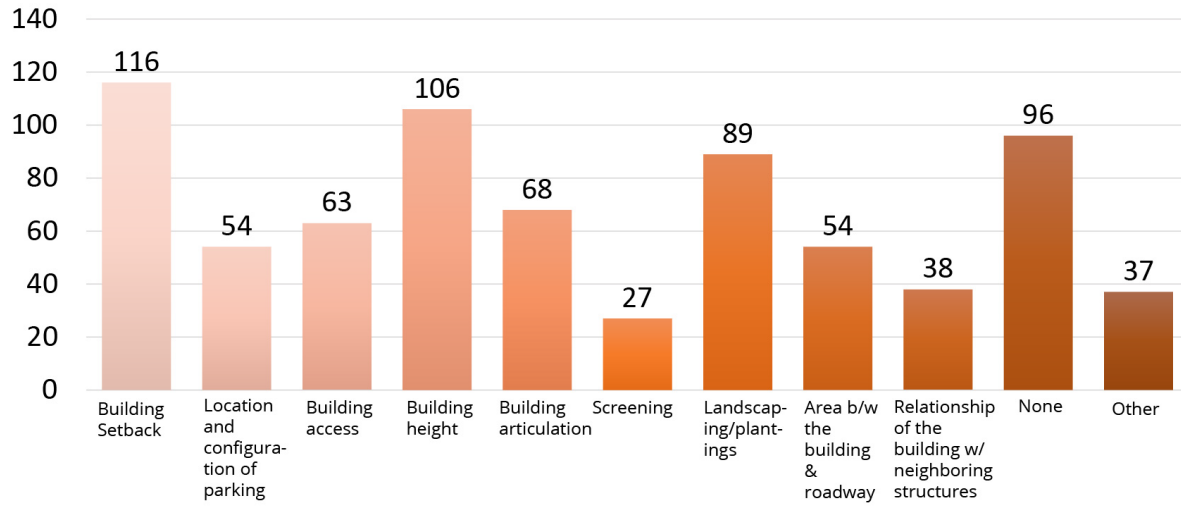
Most respondents found this Edge development to be “Somewhat Unappealing” and many respondents identified it as “Very Unappealing.” Very few identified the design of this development as “Very Appealing.” Most respondents identified “Building setback” and Building height” as appealing characteristics. Most respondents found the characteristics “Building articulation” and “Landscaping/plantings” as needed improvements.



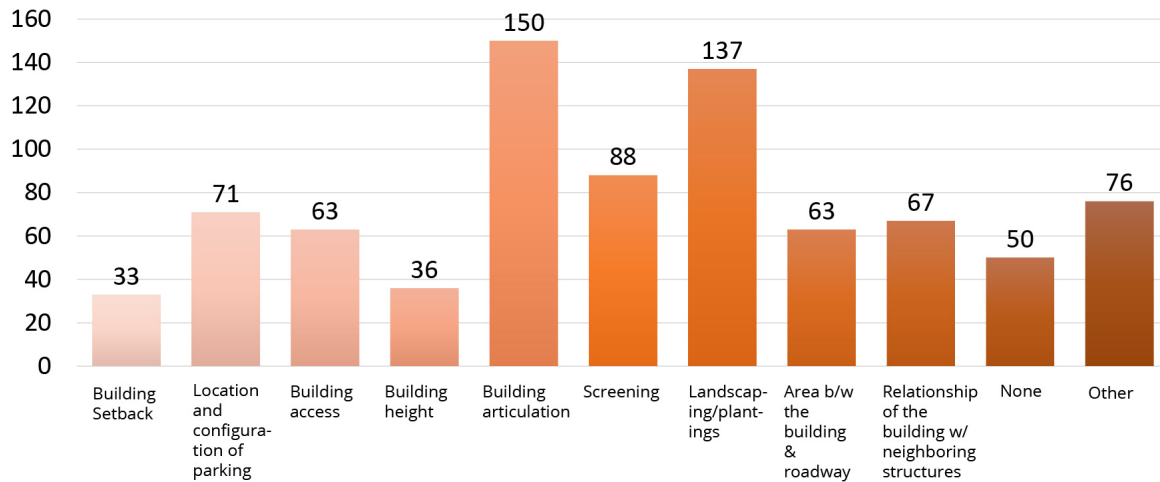
*How appealing do you consider the design of the development shown in the image?*



What characteristics make the design of the development appealing to you? (Mark all that apply).



What improvements would you make to the design of the development? (Mark all that apply).

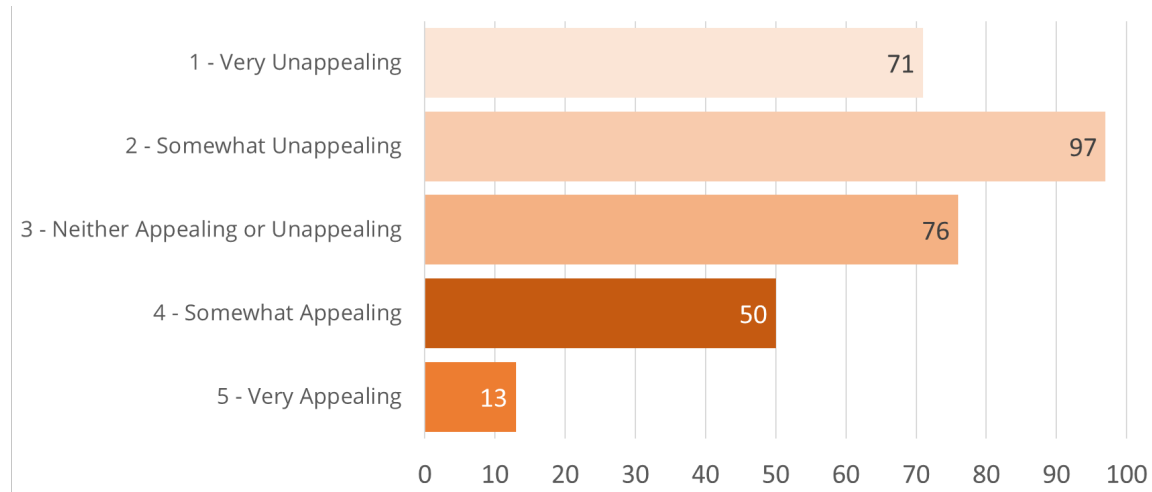


## Edge Context Example 2

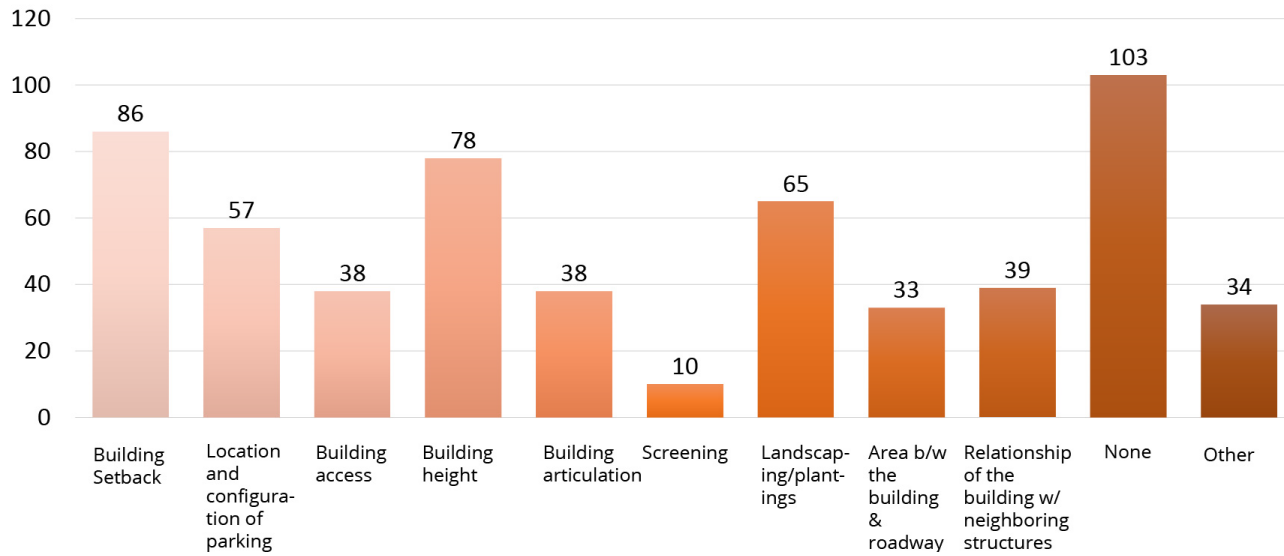
Most respondents identified the design of this development as “Somewhat Unappealing.” Very few respondents recognized this to be a “Very appealing” development. Most respondents identified “None” of the characteristics as appealing. Many respondents found “Building setback” and “Building height” as appealing characteristics. Most respondents identified “Building articulation” as an improvement to make to the design of the development. Many respondents identified “Location and configuration of parking” and “Landscaping/plantings” as improvements to make to the design.



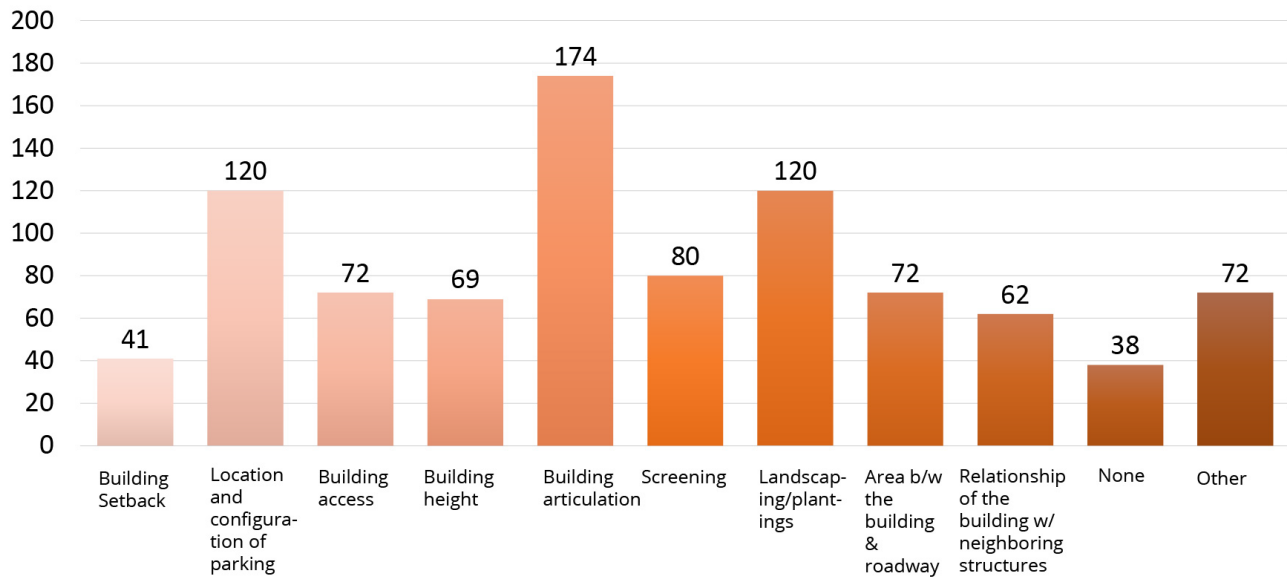
*How appealing do you consider the design of the development shown in the image?*



What characteristics make the design of the development appealing to you? (Mark all that apply).



What improvements would you make to the design of the development? (Mark all that apply).

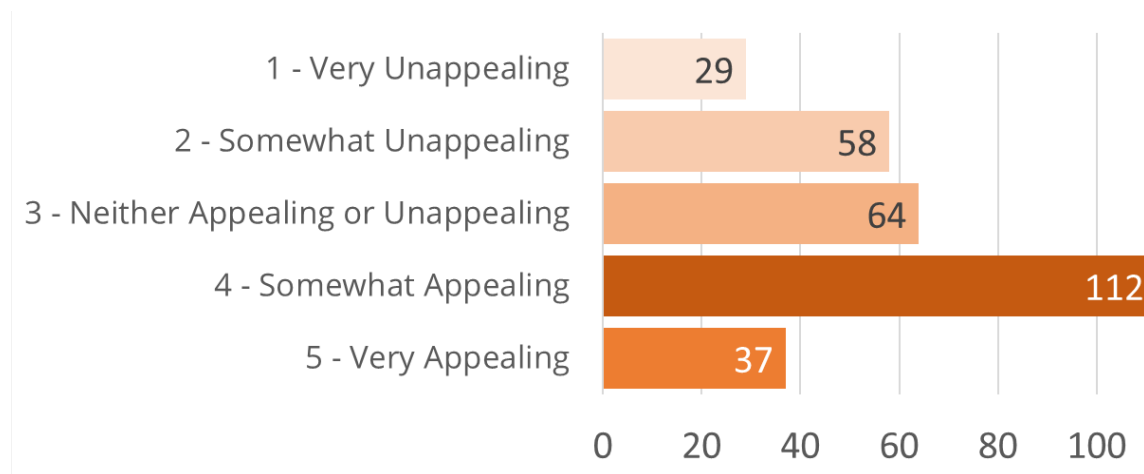


### Edge Context Example 3

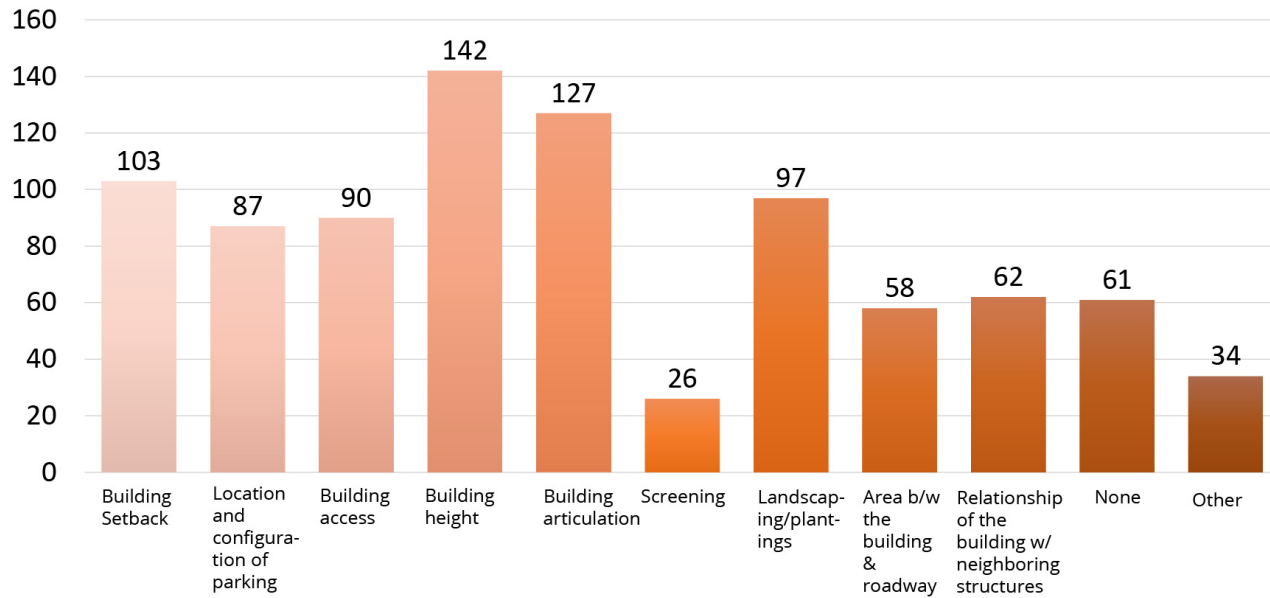
Most respondents identified the design of the development as “Somewhat Appealing” and found the “Building height” as a characteristic that makes the design of the development appealing. Many respondents found the “Building articulation” and “Building setback” as appealing design characteristics. Most respondents identified “Landscaping/plantings” and “Building articulation” as characteristics to improve the design of the development.



*How appealing do you consider the design of the development shown in the image?*



*What characteristics make the design of the development appealing to you? (Mark all that apply).*



*What improvements would you make to the design of the development? (Mark all that apply).*

