

(handed out at
meeting)

PC 1/28/10
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**EDAC PROPOSED SECTIONS "1.1 PURPOSE" AND
"1.6 DESIGN WAIVERS"
(Revised 1/28/2010)**

*This is a draft, proposed replacement for Sections 1.1 and 1.6 of the LDM proposed by the
EDAC Regulatory Reform Sub-committee.*

1.1 PURPOSE

This manual contains a compilation of pertinent mandatory design standards and advisory design guidelines applicable for most proposed discretionary development, including Planned Developments, Use Permits, Design Reviews and all divisions of land. Nothing in this manual shall be held to supersede any provision of Federal or State law, General Plan Policy or ordinance, either existing or future. A matrix at the end of most Chapters identifies the authority for most of the standards and guidelines.

It is not the intent of this manual that any standard of conduct or duty toward the public shall be created or imposed by the publication of this manual. The manual is not a textbook or a substitute for engineering knowledge, experience or judgment. The methods and procedures contained herein shall be reviewed by the engineer for applicability to the project on which he or she is working. Where a particular provision is considered inapplicable to a project, the design professional shall request a deviation from the provision as provided in the manual.

Where standards in this manual are derived from a superior authority, such as Federal law, State law, General Plan policy, County ordinance or Board of Supervisor guidelines, the design and improvement standards are considered mandatory. Where the *mandatory standard* identifies exceptions or alternative performance standards, a request may be submitted to the County for an exception. If the mandatory standard contained in the County's Design Manuals or ordinances does not identify an exception or alternative, a Design Waiver may be requested. Design Waivers are addressed in more detail in Chapter 1.6 of this manual.

In the absence of a mandatory standard by a superior authority, the standards contained in this manual constitute *recommended* or *advisory guidelines*. These recommended standards are included to provide planning and design tools and guidelines or industry standards of practice and care that may be employed to improve project designs or to minimize environmental impacts. These advisory guidelines are not inflexible rules to which there are no effective design solutions, equivalent alternatives or waivers.

The Director of the Department of Transportation and the Director of Development Services are authorized to approve deviations from the advisory guidelines procedures and policies originating in this manual when, in their opinion, such deviations are consistent with the best interests of the County and good engineering practice.

ATTACHMENT 7

In the absence of a mandatory standard by a superior authority or an authorized exception, to encourage creative and original design, and to accommodate projects where the design professional wants to take a different approach due to proposed use or particular site conditions an **equivalent alternative** design solution will be considered in lieu of suggested guidelines provided in this manual as long as that solution meets the intent of this Manual and good engineering practice. For example, even though the Manual's advisory guidelines may disfavor flag lots or require that every lot should have a length to width ratio of 3:1 and be perpendicular to the street, this guideline does not prevent the design professional from proposing alternative designs. The procedure is not a general waiver of regulations. A design waiver is not required for deviation from an Advisory Guideline merely because a design professional requests an equivalent alternative solution be considered for meeting the requirements of the intent of this Manual.

Design flexibility should allow the design professional to change those criteria for specific projects where such changes appear to be appropriate. The design professional should have the flexibility to use reduced design criteria, where judgment indicates that this can be accomplished without compromising safety. Where designers exercise judgment and develop a project using design criteria that differ from established guidelines, or where a site-specific safety problem is identified and used as the basis for a design decision, the design professional should document the process in writing for presentation purposes. This should not be construed to imply that a waiver is required, only that it be documented.

~~If there is a difference of opinion with staff that cannot be resolved, then there should be a two track approach for the project presentation, with appropriate conditions addressing an equivalent alternative solution for compliance, thus allowing the approving body to make a decision on one or the other and allow the project to move ahead, without having to go back to staff for some unknown length of time and cost to prepare the appropriate conditions for that alternative.~~

Where a deviation from a standard contained in this Manual is not or cannot be approved by the Director of the Department of Transportation or the Director of Development Services, the applicant may elect to present more than one concept or alternative to the decision-maker for their consideration. In that case, both concepts should be presented with appropriate conditions and environmental review to allow the decision-maker to approve one of the alternatives without further delay. In the interest of adaptive management, these equivalent alternative solutions and design solutions will have to pass by at least be presented to the Zoning Administrator, Planning Commission and/or the Board of Supervisors who may consider whether a design solution should supersede a Manual guideline.

~~For a Mandatory Standard that the higher authority has not provided for an exception or alternative compliance, a design waiver may be the only alternative.~~