



# Memorandum

**TO:** PLANNING COMMISSION MEMBERS

**FROM:** David Hanham, Planning Manager

**SUBJECT:** Update - Objective Development Design Standards (ODDS)

**DATE:** March 25, 2024

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**PURPOSE:**

Pursuant to Program 13 in the City’s Adopted Housing Element, the City is developing objective development design standards (ODDS) for the review of multi-family housing and mixed-use development applications, in addition to SB 9 projects. Housing Element Program 13 was developed in response to state housing laws, including the Housing Accountability Act, SB 330, and SB 35. These laws significantly restrict localities from applying non-objective (subjective) development standards to the review of a housing project of two or more units. Only adopted objective standards that do not require interpretation are allowed to be used to deny eligible housing projects. Implementation of Program 13 will ensure that the City has a robust set of adopted objective development standards that will provide multifamily developers with more predictability and a clear and streamlined review and approval process. In turn, the City will set clear expectations for the design of multifamily developments in Pinole.

The Ad-Hoc Design Review Committee has been assisting in the development of the standards that will ultimately be reviewed by the full Planning Commission for a recommendation on adoption by the City Council. The ODDS work includes review and updates to following documents:

- The Three Corridor Specific Plan (last updated: 2018)
- The Zoning Code (last updated: 2020)
- The Old Town Design Guidelines (last updated: 1997)

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## **BACKGROUND**

In recent years, the State of California has enacted several new laws to increase housing supply and affordability and reduce obstacles to housing production. New State mandates present an opportunity for cities and counties to revisit existing design guidelines, convert any subjective guidelines to design standards, and create objective residential design and development standards that expedite the application and design review process. Program 13 in the City's adopted Housing Element involves adoption of Objective Development and Design Standards for all eligible housing projects.

As defined in State Law, objective standards are defined as:

*standards that involve no personal or subjective judgements by a public official and ...[are] verifiable by reference to an external and uniform benchmark ... knowable by both the development applicant ... and the public official.*

State Law prohibits local jurisdictions from denying or decreasing densities of affordable or market rate multi-family housing projects unless the projects fail to meet one or more adopted objective standards established in the General Plan, Zoning Code, Specific Plan, or design guidelines.

- Senate Bill 35 (Government Code Section 65913.4), which went into effect January 1, 2018, was part of comprehensive bill package aimed at addressing the State's housing shortage and high costs. SB 35 requires a streamlined ministerial approval process for multi-family residential developments in jurisdictions that have not yet made sufficient progress toward meeting their Regional Housing Need Allocation (RHNA). Included in the streamlining process, these cities and counties are required to establish objective design standards for multi-family developments. To qualify for SB 35 projects must meet affordability standards and satisfy certain other requirements.
- The Housing Accountability Act (HAA) (Government Code Section 65589.5), establishes the State's overarching policy that a local government may not deny, reduce the density of, or make infeasible affordable or market rate housing development projects, emergency shelters, or farm worker housing that are consistent with objective local development standards. This provides developers more certainty about the standards, conditions, and policies that apply to their projects. Local Governments that deny a project due to subjective standards (e.g., standards that are not objective) could be a violation of the HAA.

- Senate Bill 330 (“Housing Crisis Act of 2019) went into effect on Jan. 1, 2020. The bill establishes regulations that sunset on Jan. 1, 2025, as a means to address the housing crisis in the State. During this period, cities, and counties in urban areas, are prohibited from rezoning or imposing new development standards that would reduce capacity for housing or adopting new design standards that are not objective. The bill also defined previously undefined terms such as “objective standards” and “complete application” and set forth vesting rights for projects that use a new pre-application process.

**Table 1**, Subjective vs Objective Standards shows the differences between subjective and objective standards.

<b><i>TABLE 1: SUBJECTIVE vs OBJECTIVE STANDARDS</i></b>	
<b>Subjective Standards</b>	<b>Objective Standards</b>
<b>Requirements that are subject to interpretation</b> (e.g.: “Height of the new building must be compatible with surrounding structures” or “ <b>The top building story must be articulated to reduce massing</b> ”)	Measurable, quantifiable, easily defined, and enforceable requirements (e.g.: “Height is limited to 35 feet” or “The top building story shall be set back at the rate of one foot for every five feet of the height of the floor below”)

Additionally, recent changes in State law set short time limits on determinations on application completeness and whether the application complies with a jurisdiction’s adopted standards. If the jurisdiction fails to notify the applicant that the application is incomplete or that is inconsistent with an adopted standard within the required period of the application is deemed “complete” and “compliant”, and the jurisdiction may not thereafter identify new defects in the application. A jurisdiction must now note all inconsistencies during initial application review. If an application.

State law prescribes certain eligible projects that are only allowed to be reviewed under “ministerial review” as opposed to “discretionary review”. Ministerial review means a process for development approval involving no personal judgment by the public official as to the wisdom of carrying out the project. The public official merely ensures that the proposed development meets all the applicable objective standards for the proposed action but uses no special discretion or judgment in reaching a decision. A ministerial review most often a “staff-level review.” This means that a staff person at the local agency reviews the application, often using a checklist, and compares the application materials (e.g., site plan, project description,

etc.) with the objective development standards, objective subdivision standards, and objective design standards.

**Table 2**, Discretionary vs Ministerial Review, shows the differences in discretionary vs ministerial reviews.

<b><i>TABLE 2: DISCRETIONARY v MINISTERIAL REVIEW</i></b>	
<b>Discretionary Review</b>	<b>Ministerial Review</b>
<b>1. Project undergoes design review</b>	1. Streamlined review by City Staff
<b>2. Qualitative judgement and review by City Staff and Planning Commission.</b>	2. Removes personal or subjective judgements.
<b>3. Planning Commission determines the project's compliance with design guidelines</b>	3. Consistency with objective design standards is the primary tool for project review

### **ANALYSIS**

In 2022 the City contracted with professional planning consulting firms WRT and Sustainable Community Planning (SCP) to evaluate and make recommendations for the update of the City's three major design documents: the Zoning and Subdivision Code of the Pinole Municipal Code (PMC), the Three Corridor Specific Plan and the Old Town Design Standards.

After reviewing the three documents, the consulting team and Staff catalogued all existing standards as being either objective or subjective. All existing subjective standards were evaluated in terms of ease of conversion to an objective standard. Finally, recommendations were produced regarding how to best how to refine, and in many cases, develop, objective development standards.

All of these adopted codes and guidelines contain development regulations that are a mix of (1) objective standards that are independently verifiable, and (2) subjective provisions that are open to interpretation or within the purview of decision-makers. Additionally, the review noted some development entitlement regulations that contain procedures relying on discretionary (and therefore subjective) judgement by a public official or decision-making body which is not permissible for certain qualified residential projects.

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The review of existing objective standards has provided the opportunity to evaluate whether the current standards are sufficient to accomplish the City's design objectives. The review has revealed the following opportunities for adjustment, refinement, and clarity:

### Pinole Municipal Code

*Design-Related Standards.* Basic development parameters (building setbacks, height restrictions, floor area limits) are present, but most design-related criteria are expressed as guidelines or are achieved through a discretionary entitlement process to achieve design compatibility. Standards are needed for design characteristics that are critical to modulate building mass and assure minimal façade articulation, to support walkability by achieving the desired streetscape/public realm, and to assure an appropriate building scale for neighborhood compatibility.

*Discretionary Entitlement Processes.* The codes provide detailed regulations for various entitlements (Plan Check, Administrative Use Permit, Administrative Design Review, Comprehensive Design Review, Sign Permit, Subdivision Development Plan, Grading and Encroachment) with thorough submittal requirements and procedural regulations but lack objective review criteria other than compliance with specific objective regulations (development regulations, use regulations, etc.). Creation of objective standards for building design, specific land uses, landscaping, parking lot design, grading and subdivision improvements will allow the City to achieve its desired standards in cases where discretionary permits are precluded.

*Verification of Adopted Public Works Standards.* The municipal code contains references to adopted public works standards for curbs and sidewalks, utility connections, a Streets Master Plan, right-of-way improvement standards, street and parking lot tree list, and truck loading space and maneuvering standards. It should be verified that these referenced standards exist since each section of the Grading, Subdivision and Streets and Sidewalks titles rely largely on undefined criteria for approvals by the City Engineer.

*Basic Development Parameters.* The Specific Plan refines the Zoning Code's typical development parameters including subarea densities, allowable land uses, setbacks including build-to lines and height allowances including a daylight plane limitation when adjacent to residential development.

*Building and Parking Types.* The Specific Plan defines allowable building types and allowable forms of parking. The various types are defined but there are no specific development regulations in terms of building dimensions, configuration, massing, or location that would assure the resulting buildings or parking configurations will achieve the desired outcomes.

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Three Corridors Specific Plan

*Conditional Residential Uses.* The San Pablo Avenue and Pinole Valley Road areas require a Use Permit for multifamily and emergency shelters in some districts. These should be made either permitted uses or not allowed so as not to require a discretionary review process.

*Building Height Exceptions.* Define missing height exceptions, such as roof access stairwells.

*Screening Rooftop Equipment.* Establish screening requirements for rooftop equipment.

*Trash Enclosures, Loading & Mechanical Equipment.* Regulate location of these features to be away from public sidewalks and adequately screened.

*On-Site Parking.* Limit extent of parking along streets. Establish standards for landscaping in surface parking lots, including along pedestrian paths and to screen view from streets and neighbors.

*Landscape, Hardscape & Fencing.* Establish site minimums and appropriate materials palettes.

*Open Space Requirements.* Consider establishing minimum open space requirements with flexibility that allows shared space to meet most or all of the requirement. Private open space requirements should be appropriate to the housing types anticipated.

*Provisions for supportive or transitional housing,* which must be permitted.

*Massing, Articulation and Façade Design Standards.* Standards are needed to reduce building scale/massing, require a minimally acceptable level of façade articulation, avoid blank walls, and define allowable building materials.

*Street Frontages.* The current subjective design guidelines reflect stated objectives to have pedestrian-oriented street frontages. Standards are needed to designate land uses appropriate for the ground floor, minimum proportions of building facades along the “build-to” setbacks, to highlight building entries, and to define minimum amounts of ground floor transparency (window area).

Old Town Design Guidelines

*Historic Structures.* Address the protection of historic structures in consultation with qualified cultural resource consultants.

*Compatibility.* Define representative characteristics and require characteristics that maintain consistency and compatibility as new development occurs. Focus on methods of massing and façade design to maintain consistent scale, whole also regulating cornices, materials, colors, window proportions, and other key characteristics. If assessment of context determines there to be dominant styles, consider standards that maintain consistency with those styles.

*Building Form & Scale.* Establish standards to codify tripartite (base, middle, and top) building form.

*Height and Massing.* Consider shallow step back requirements to maintain appearance of compatible height.

*Materials & Colors.* Codify appropriate materials described.

**TIMELINE**

**Table 3** shows the work that has been completed to date. The overall work program is estimated to be complete in June 2024, which is consistent with the timeline outlined in Program 13 of the adopted 2023-2031 Housing Element Update. The ad-Hoc Committee is meeting throughout the process, with the Objective Development Design Standards anticipated to be brought to the full Planning Commission July to August 2024 and the City Council August to October 2024.

**Table 3 – Timeline of Remaining Project**

Document	Completed/Not Complete	Dates For Remaining Actions
Three Corridor Specific Plan	Ad-Hoc Committee has completed its review	
Old Town Design Guidelines	Ad-Hoc Committee has completed its review	
Zoning Code	Ad-Hoc Committed has completed its review	
Subdivision Code	Not Completed -Ad-Hoc Committee is currently review	Week of April 1, 2024, for completion of Ad-Hoc Committee work
Staff Refinement of Specific Plan and Design Guidelines	Not Completed	Week of June 10, 2024, for completion of the Staff’s work.

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Document	Completed/Not Complete	Dates For Remaining Actions
Ad-Hoc Committee Final Review	Not Completed	Week of June 17, 2024, for final review of Ad-Hoc Committee
Planning Commission Meeting	Not Completed	July to August. Target Planning Commission meeting of July 22, 2024
City Council Meeting	Not Completed	August to October. Target City Council Meeting of August 20, 2024

**STAFF RECOMMENDATION**

There is no staff recommendation at this this stage of the project. Staff, in collaboration with the Ad-HOC committee, is completing the work and will bring it back to the Commission when complete.





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# Memorandum

**TO:** PLANNING COMMISSION MEMBERS

**FROM:** David Hanham, Planning Manager

**SUBJECT:** Zoning Code Amendment Target Timeframes

**DATE:** March 25, 2024

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## PURPOSE:

Staff is providing the Planning Commission with an update on anticipated upcoming zoning code amendments as part of Housing Element implementation tasks and target timeframes.

## BACKGROUND

The City of Pinole 2023-2031 Housing Element sets forth the City's overall housing objectives in the form of goals, policies, and programs. Several programs in the Housing Element established tasks to update the zoning code (Title 17 of the Pinole Municipal Code) to further the goals of the Housing Element and align with text in State laws. Many zoning code amendment programs have target timeframes of adoption within two years of Housing Element adoption (April 4, 2023).

For proposed amendments to the zoning code, Planning Commission would review, comment, and provide a recommendation to the City Council. City Council approves amendments to the municipal code, including zoning code amendments. Staff has initiated work on zoning code amendments, as well as associated parts of the Three Corridors Specific Plan related to these amendments, and aims to bring the proposed amendments to Planning Commission throughout 2024.

## ANALYSIS

A number of programs in the 2023-2031 Housing Element have tasks involving zoning code updates. Staff anticipates updates would be brought to Planning Commission at different points throughout the year. An initial target schedule for each of the tasks is provided in **Table 1:**