



Memorandum

TO: PLANNING COMMISSION MEMBERS

FROM: David Hanham, Planning Manager

SUBJECT: Objective Development Design Standards (ODDS)

DATE: June 26, 2023

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.

Staff will be requesting the Ad-Hoc Design Review Committee to assist in the development of these 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: 2020)
- The Zoning Code (last updated: 2020)
- The Old Town Design Guidelines (last updated: 1997)

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.

<i>TABLE 1: SUBJECTIVE vs OBJECTIVE STANDARDS</i>	
Subjective Standards	Objective Standards
Requirements that are subject to interpretation (e.g.: “Height of the new building must be compatible with surrounding structures” or “ The top building story must be articulated to reduce massing ”)	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.

<u>TABLE 2: DISCRETIONARY v MINISTERIAL REVIEW</u>	
Discretionary Review	Ministerial Review
1. Project undergoes design review	1. Streamlined review by City Staff
2. Qualitative judgement and review by City Staff and Planning Commission.	2. Removes personal or subjective judgements.
3. Planning Commission determines the project's compliance with design guidelines	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. **Table 3** provides an overview of regulations contained the PMC, Three Corridor Specific Plan and Old Town Design Guidelines.

<u>TABLE 3: REGULATORY DOCUMENT CONTENTS</u>	
<i>Pinole Municipal Code</i>	The Pinole Municipal Code (PMC) regulates development through its zoning regulations in Title 17. Districts which allow multi-unit residential development include the R-2 (Medium Density), R-3 (High Density), R-4 (Very High Density), R (Rural), RMU (Residential Mixed Use), CMU (Commercial Mixed Use), OPMU

	<p>(Office Professional Mixed Use), and OIMU (Office Industrial Mixed Use) Districts.</p> <p>The PMC also contains overarching regulations that pertain to all districts, including administrative provisions in Article I, site planning standards in Article III, special use standards in Article IV and resource conservation standards in Article V. In addition, development standards are found in Titles 12 (Streets and Sidewalks), 15 (Grading) and 16 (Subdivisions).</p>
Three Corridor Specific Plan	<p>The Three Corridor Specific Plan adds additional development and design criteria for properties along Pinole’s major corridors: San Pablo Avenue, Pinole Valley Road, and Appian Way. These corridors present major opportunities for mixed-use and multifamily development. Development regulations are mostly contained within Chapter 6 (Land Use Standards) and -- for building and site design – Chapter 7 (Private Realm Standards and Guidelines). Developer expectations for street improvements are contained in Chapter 8 (Public Realm Guidelines).</p>
Old Town Design Guidelines	<p>The Old Town Design Guidelines provides advisory guidelines for development that is within the historic Old Town district to retain its established historic character.</p>

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) judgment by a public official or decision-making body which is not permissible for certain qualified residential projects.

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 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.

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. The use tables for all three areas do not include:

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

The overall work program is estimated to be complete in May 2024, which is consistent with timeline outlined in Program 13 of the adopted 2023-2031 Housing Element Update. The ad-Hoc Committee is slated to meet approximately six times throughout the process with the Objective Development Design Standards going to the full Planning Commission in April of 2024 and the City Council in May of 2024. Attachment 1 of this reports outlines the schedule of the Objective Development Design Standards scope of work.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission take the following actions for the purpose of creating objective standards for eligible multifamily projects and carry out the provisions of Housing Element Program 13:

- Provide feedback regarding the proposed timeline (Attachment 1); and
- Assign the Design Review ad-Hoc Committee to work with staff to prepare a set of recommended amendments to the PMC, Three Corridor Specific Plan, and the Old Town Design Guidelines.

ATTACHMENTS:

1. Schedule of Activities.

OBJECTIVE DEVELOPMENT DESIGN GUIDELINES
Timeline for Completion

<u>Week/Dates</u>	<u>Actions</u>
6/26/2023	Planning Commission Meeting to introduce project and assign the PC AdHoc Design Review Team
7/3/2023	Meeting for AdHoc Meeting and review work done by Consultant
7/10/2023-8/21/2023	Staff is working on Specific Plan Items as defined in Consultant documents.
8/28/2023	AdHoc Meeting on Specific Plan items as defined in Consultant documents
9/4/2023-9/08/2023	Refine Comments from AdHoc meeting
9/11/2023-10/16/2023	Staff is working on Zoning Code items as defined in Consultant documents
10/23/2023	AdHoc Meeting on Zoning Code items as defined in Consultant Documents
10/30/2023-11/03/2023	Refine Comments from AdHoc meeting
11/13/2023-12/11/2023	Staff is working on Old Town Guidelines as defined in Consultant Documents
12/18/2023	AdHoc Meeting on Old Town Guidelines as defined in Consultants Document
12/26/2023- 01/06/2024	Refine Comments from AdHoc meeting
01/09/2024-02/06/2024	Combine all of the changes in one document and bring to the AdHoc Committee for final review
02/13/2024-03/27/2024	Prepare ODDS documents for the Planning Commission Review, Prepare and ODDS Checklist
4/10/2024	Planning Commission Meeting for recommendation to City Council
5/16/2024	City Council Approval of ODDS