

**TOWN OF FAIRFAX  
STAFF REPORT  
Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** February 20, 2020  
**FROM:** Ben Berto, Director of Planning and Building Services  
**SUBJECT:** Objective Design and Development Standards (ODDS)  
**CEQA STATUS:** Statutorily exempt pursuant to Public Resources Code §21080.17

**BACKGROUND**

A housing crisis remains ongoing in California, and is particularly felt in the Bay Area. As reported by the Town Attorney to the Town Council the last two years, the State in response continues to attempt to spur housing, including by reducing local government review and control of housing development. Specifically, the various statutes that comprise the Housing Accountability Act (HAA) and Senate Bill 35 have dictated that local government review of housing projects be limited to whether they comply with locally-adopted Objective Design and Development Standards (ODDS).

Unusually, the State created in Senate Bill 2 - the Building Homes and Jobs Act – an opportunity for local jurisdictions to apply for grant funding to assist local jurisdictions in responding to certain aspects of housing mandates. The Town Council in June 2019 authorized applying for grant funding, which the Town is in the final stages of obtaining.

A number of planning agencies in Marin, under the auspices of the County of Marin, have been collaborating on combining grant funding for certain local housing-related efforts, in order to reduce costs. One of the efforts is a work program that will result in Objective Design and Development Standards (ODDS) for the participating jurisdictions.

**DISCUSSION**

The following is an overview of the ODDS topic and the work program in which Fairfax is participating and It also presents some of the information and format to be used going forward in this process.

**Why are ODDS needed?**

- To streamline housing production, changes in California law require that municipalities amend zoning to make residential development requirements easy to interpret and administer.
- Currently, municipalities in Marin County rely on both objective and subjective review of residential development applications. In Fairfax, development applications are reviewed by staff, the Planning Commission, and sometimes the Town Council.

- For multi-family development projects, developers must now be provided at least one *ministerial review* path using explicit *objective standards* without *discretionary review* or other *subjective judgments*.
- For single-family development projects, allowable density can now only be limited by objective standards.
- Objectives standards and residential application requirements must be in place prior to receiving development applications. The completeness of an application must also be determined within a very limited time.

### **How will ODDS needs be addressed?**

- Fairfax is working with Marin County and nine other Marin municipalities to prepare Objective Design and Development Standards (ODDS). This countywide effort is being coordinated and administered by County staff.
- Marin County has selected a planning and design team led by Opticos to develop a draft "*toolkit*" of objective standards free from subjective interpretation. Toolkit standards will be based on *place types* in each community.
- Informational workshops about this effort are scheduled to occur shortly at four locations in Marin. The Planning Commission, Fairfax residents, and other interested parties are encouraged to attend one or more of those workshops (all to be held from 7 to 9pm), :
  - March 11: San Anselmo- 105 Seminary Road, Montgomery Hall
  - March 17: Novato- 901 Sherman Avenue
  - March 18: San Rafael- 618 B Street
  - March 19: Corte Madera- 498 Tamalpais Drive
- A community engagement plan specific to Fairfax will be presented for Planning Commission comment in early spring, which includes plans for a community workshop specific to Fairfax to hear residents' input on issues, preferences, and concerns. A countywide survey will be held to evaluate visual preferences and inform ODDS development.
- Based on Fairfax's community workshop and a subsequent working session with the Planning Commission, Opticos will tailor the countywide toolkit to address Fairfax's unique needs and conditions. A presentation of ODDS recommendations to Planning Commission is anticipated at the end of 2020, with revisions made prior to adoption.
- An "*architectural style pattern book*" will also be developed for Fairfax that will encourage local aesthetic compatibility, particularly with (potential) historic resources. It is anticipated that a community-led survey of potential historic resources will run in tandem with Opticos efforts.

### **ODDS work funding and administration**

The ODDS toolkit and architectural styles is being administered and coordinated by the County of Marin, in concert with nine local municipalities. Opticos' work efforts are being funded by grants from Senate Bill 2. Fairfax will receive additional SB2 grant funds to cover community engagement and objective development standards tailored to the Town's local conditions and needs.

## **Outcomes**

**Zoning Code Toolkit.** Objective design & development standards will be developed for residential and mixed-use place types in Marin County. Application submittal requirements and review procedures will also be provided. Recommendations will be based on place and correspond with zoning districts in Fairfax.

**Toolkit Tailoring.** Toolkit recommendations will be tailored to Fairfax, such as to develop standards for development near potential historic resources and districts. Opticos' community engagement strategy is also being tailored to Fairfax, including a community workshop and multiple Planning Commission work sessions.

**Architectural Style Pattern Book.** For each community, an architectural style pattern book will illustrate appropriate architectural styles, with checklists for materials & finishes, lighting, siding, roofline, fenestration, eaves, cornice lines, and balconies. The pattern book will also consider compatibility with historic buildings and the arrangement of architectural elements

## **Frequently Asked Questions**

**How is this work funded?** See "How will ODDS work be funded and administered?" above.

**How will the project address each community's unique issues and needs?** The toolkit will contain different sets of zoning standards based on different *place types*, residential building types, and site conditions present in Marin County communities. Opticos will work with Fairfax to tailor countywide ODDS to address local needs and conditions. Each community is free to use all or just parts of Opticos recommendations making additions and revisions as may be desired, while remaining compliant with State ODDS requirements.

**How does the RHNA goal for each community fit into the ODDS project?** If a jurisdiction has not met their RHNA goal of zoning for housing at a variety of income levels, State law allows developers to have multi-unit housing applications processed using a ministerial (building permit-only) approval process for streamlined review. The ministerial process means that the development will only be evaluated by ODDS adopted at the time of application submittal.

**What if the Town does not adopt ODDS?** If Fairfax does not adopt ODDS, it will be limited to reviewing residential project(s) by the objective standards that have already established. Local jurisdictions may have no recourse to address issues that are not addressed by standards in place at the time of a project application.

**Where will the objective design and development standards apply?** ODDS apply to all aspects of multi-family housing developments, including mixed-use projects that are over two-thirds residential. Additionally, single-family residential density can only be limited using objective standards. Exceptions to ODDS requirements are only allowed under narrow circumstances involving public health or safety impacts. The State does not mandate use of ODDS for commercial project review.

**What about architectural style?** See Architectural Styles Pattern Book above.

**Can the Town still use design guidelines?** Design guidelines are advisory and can be subjective. A community's design guidelines can be integrated into ODDS, if the content can be translated into easily-interpreted often-quantifiable standards. Design guidelines that are not incorporated as ODDS can be used to illustrate aesthetic

preferences and inform applicants about those preferences, but cannot be part of the ministerial review process. Project review may include discretionary review using design guidelines, if submitted to voluntarily by a project applicant, and a reasonable path for ministerial review remains available. Design review procedures can still be applied to commercial and other non-residential projects.

**How can I get involved?** Introductory workshops will be held in March in four locations in the County in March (see "How will ODDS needs be addressed?" above). Local residents may find the March 11 San Anselmo workshop to be the most convenient.

### **Key Terms**

**Design Guidelines.** Guidance that communicates expectations for development. When design guidelines are open to interpretation, they cannot be administered with *ministerial review*, and must be interpreted using *discretionary review* process.

Guidelines can address a variety of topics ranging from site design, building design, architectural style, and landscaping. *Design guidelines will not meet the requirements for Objective Design and Development Standards.*

**Discretionary Review.** The process of using subjective judgment to review a proposed development or use. *Design Guidelines* are often comprised of subjective factors that are commonly administered using *discretionary review*.

**Ministerial Review.** Ministerial review evaluates projects using no personal judgment by planning staff, planning commission, or other *discretionary review* bodies. The review involves only the use of fixed standards or objective measurements.

**Objective Standards.** Adopted Legislation (Senate Bill 35) defines an "objective standard" as involving "...no personal or subjective judgment by a public official and uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant ... and the public official prior to submittal." Examples include:

Garages shall not comprise more than 25% or 30 feet of a street-facing façade, whichever is more.

Porches and balconies shall have a minimum dimension of 5 feet in any one direction. Mirrored glass is prohibited."

**Place Types and Zoning Districts.** Zoning districts vary from municipality to municipality, but Marin communities share characteristically similar "place types" that range such as town centers, urban neighborhoods, suburban neighborhoods, and rural hamlets. The toolkit will develop ODDS for characteristically different place types, which will then be applied and revised to match the character and purposes of local zoning districts.

**Place Type.** A place type describes fundamental characteristics of the kind of setting where development is anticipated, and will correspond with the zoning districts that allow multi-family housing among Marin's participating jurisdictions.

Specific place types won't be defined until Opticos completes an analysis of typical Marin site conditions, however place types are likely to be based on whether project will be: residential (only) versus mixed-use (e.g., residential over retail); core/downtown versus suburban versus semi-rural; or flat versus hilly. Opticos will be working with the Planning Commission to tailor its recommendations to Fairfax.

**RHNA (Regional Housing Needs Assessment).** In 1969, the State mandated that all California cities, towns and counties plan for local housing needs. This State mandate is called the Housing Element and the Regional Housing Needs Allocation (RHNA). For all regions of the State, the California Department of Housing and Community Development (HCD) determines the RHNA, which is the number of new homes that need to be built in order to meet the housing needs of people at all income levels.

**Subjective Judgment.** A standard that cannot be measured or require interpretation, such as:

“Produce high quality design.”

“Use high quality, durable materials that age well.”

“Consistent with the character of neighborhood”

**Zoning.** Development regulations for a district comprised of parcels, which limit physical characteristics, allowable uses, and other characteristics associated with development. Zoning typically limits the amount of building area, the number of residential units, building height, building setbacks, parking, and landscaping.

### **ODDS-related laws and resources**

#### **Housing Accountability Act (HAA)**

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB167](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB167)

#### **SB 35**

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB35](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB35)

#### **SB 330**

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB330](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330)

#### **Summaries**

<https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/SB-330-Limits-Local-Laws-Over-Housing-Developments>

<https://goldfarbblipman.com/wp-content/uploads/2019/01/California-Conundrum.pdf>

### **RECOMMENDATION**

1. Conduct the public hearing, and provide comments and questions on the information in the staff report.