



**Planning Commission
Regular Meeting**

**Tuesday, February 27, 2024, 7:00 P.M.
AGENDA**

**Participate In-Person:
San Rafael City Council Chambers
1400 Fifth Avenue, San Rafael, CA 94901**

Watch Online:

Watch on Zoom Webinar: <http://tinyurl.com/Planning-Commision-24>

Watch on YouTube: <http://www.youtube.com/cityofsanrafael>

Listen by phone: 1 (669) 444-9171

ID: 840 9897 7308#

One Tap Mobile: US: +16694449171, 84098977308#

This meeting will be held in-person. This meeting is being streamed to YouTube at www.youtube.com/cityofsanrafael.

How to participate in the meeting:

- You are welcome to come to the meeting and provide public comment in person. Each speaker will have 3-minutes to provide public comment.
- Submit your comments by email to PlanningPublicComment@cityofsanrafael.org by 4:00 p.m. the day of the meeting.

If you experience technical difficulties during the meeting, please contact PlanningPublicComment@cityofsanrafael.org.

CALL TO ORDER

RECORDING OF MEMBERS PRESENT AND ABSENT

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

PUBLIC NOTIFICATION OF MEETING PROCEDURES

ORAL COMMUNICATIONS FROM THE PUBLIC

Remarks are limited to three minutes per person and may be on anything within the subject matter jurisdiction of the body. Remarks on non-agenda items will be heard first, remarks on agenda items will be heard at the time the item is discussed.

CONSENT CALENDAR

The Consent Calendar allows the Commission to take action, without discussion, on Agenda items for which there are no persons present who wish to speak, and no Commission members who wish to discuss.

ACTION ITEMS

1. Annual Meeting 2024

Annual Meeting of Planning Commission for 2024 to include:

- a) review of 2023 Planning Commission Meeting; and
- b) election of officers; and
- c) review of Planning Commission “Rules and Procedures”

Project Planner: Margaret Kavanaugh-Lynch margaret.kavanaugh-lynch@cityofsanrafael.org

Recommended Action - *Elect a new Chair and Vice Chair for 2024; Consider and accept any proposed changes to the Planning Commission “Rules and Procedures”*

2. Objective Design Standards –Objective Design Standards for a ministerial (“by-right”) process required by Senate Bill 35 (SB 35). APN: Citywide, File No: P18-009.

Project Planner: Charity Wagner charity.wagner@cityofsanrafael.org

Recommended Action – *Review the attached report and attached draft policy document and recommend approval to the City Council.*

DIRECTOR’S REPORT

COMMISSION COMMUNICATION

ADJOURNMENT

Any records relating to an agenda item, received by a majority or more of the Commission less than 72 hours before the meeting, shall be available for inspection online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing city.clerk@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing “711”, at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request.

The Planning Commission will take up no new business after 11:00 p.m. at regularly scheduled meetings. This shall be interpreted to mean that no agenda item or other business will be discussed or acted upon after the agenda item under consideration at 11:00 p.m. The Commission may suspend this rule to discuss and/or act upon any additional agenda item(s) deemed appropriate by a unanimous vote of the members present. Appeal rights: any person may file an appeal of the Planning Commission’s action on agenda items within five business days (normally 5:00 p.m. on the following Tuesday) and within 10 calendar days of an action on a subdivision. An appeal letter shall be filed with the City Clerk, along with an appeal fee of \$350 (for non-applicants) or a \$4,476 deposit (for applicants) made payable to the City of San Rafael and shall set forth the basis for appeal. There is a \$50.00 additional charge for request for continuation of an appeal by appellant.



REPORT TO PLANNING COMMISSION

SUBJECT: Annual Report of Planning Commission for 2024 to include: a) review of calendar year 2024 scheduled dates for Planning Commission meetings; b) election of officers; c) review of Planning Commission “Rules and Procedures”

EXECUTIVE SUMMARY

The Annual Meeting of the Planning Commission is required to elect the Chair and Vice Chair officers for the calendar year. The Annual Meeting also provides the Commission an opportunity to review and consider adoption of revisions to the Planning Commission’s “Rules and Procedures.” This year staff has suggested edits to the Rules and Procedures for the Commission’s consideration.

BACKGROUND AND ANALYSIS

2024 Planning Commission Meeting Dates:

The list of scheduled Planning Commission meetings for 2024 is found in Table 3, below.

Table 1. 2023 Scheduled Planning Commission Meetings

January 9 – Cancelled	May 14	September 10
January 23 - Cancelled	May 28	September 24
February 13	June 11	October 15
February 27	June 25	October 29
March 12	July 9	November 12
March 26	July 23	November 26
April 9	August 13	December 10
April 23	August 27	

Election of Officers:

Section II.E of the Planning Commission “Rules and Procedures” requires that the Planning Commission conduct an annual meeting to select officers (Chair and Vice Chair) for the calendar year. The new Chair and Vice-Chair positions will commence in the *next* scheduled Planning Commission meeting (i.e. not this one).

The office of the Chair and Vice Chair is rotational, with selection based on seniority or tenure of service. Per the Rules and Procedures, generally, a Commissioner shall not serve as a Chair more than once in seven consecutive years. Table 1 below lists the appointment dates and past service as chair by each of the Commission members.

Table 1: San Rafael Planning Commission History of Tenure and Chairpersonship

Commissioner	First Appointed to Commission	Years Served as Chairperson	Years Served as Vice Chair
Aldo Mercado	July 2018	2020 partial	2020 partial
Shingai Samudzi	June 2019	2021	2020 partial
Jon Previtali	June 2020	2022	2021
Samina Saude	June 2020	2023	2022
Jon Haveman	May 2021	None	2023

Chair

Based on the rotation criteria, Commissioner Haveman is next-in-line to serve as Chair, as he served as Vice Chair for 2023.

Vice Chair

The same rules and procedures apply in the determination of Vice Chair. While all Commissioners have served as Vice Chair in the last seven years, Commissioner Mercado is the Commissioner with the longest tenure. Therefore, Commissioner Mercado would be the next in line to serve as Vice Chair.

RECOMMENDATION: Based on the rules and procedures, it is recommended that Commissioner Haveman be elected to serve as Chair and Commissioner Mercado be elected to serve as Vice Chair. A motion and second, followed by vote are required.

Consideration of Revisions to Planning Commission “Rules and Procedures”:

The Rules and Procedures were updated last year. These changes included:

- The change in membership to include one representative from each district;
- The hybrid meeting format;
- The sunseting of AB 361, which allowed virtual participation of Brown Act meeting during the COVID state of emergency; and
- The elimination of the pledge of allegiance and requirement of speakers to identify themselves and their place or residence to be consistent with City Council meetings and goals to strengthen inclusion and belonging.

This year, staff is requesting the Commissioners to consider moving the start time of the meetings from 7:00 pm to 6:00 pm. This change would align the Planning Commission meeting start time with the new start time of City Council meetings.

Revisions are presented in Exhibit 1 in ~~strikeout~~ for deleted text and underline for added text. The Planning Commission is asked to review and adopt the amendments. In addition, the Planning Commission is encouraged to review the currently adopted Rules and Procedures and discuss any other proposed modifications.

Finally, staff has included a summary of Roberts Rules of Order for reference in Exhibit 2. Robert’s Rules of Order provide common rules and procedures for deliberation and debate in order to place the whole Commission on the same footing and speaking the same language.

RECOMMENDATION: It is recommended that the Commission vote to approve the changes to the Rules and Procedures to reflect the changes. A motion and second, followed by a vote are required.

OPTIONS:

1. Approve the recommended amendments to the “Rules and Procedures” to reflect changes noted above; or

2. Approve the Rules and Procedures without the changes noted above; or
3. Identify additional areas for further study and direct staff to return with recommended revisions to the "Rules and Procedures" for action at a future meeting.

EXHIBITS

1. Draft Planning Commission "Rules and Procedures" in strike through and underline to reflect revisions, dated February 27, 2024.
2. A Brief Summary of Roberts Rules of Order (Parliamentary Procedures)

PLANNING COMMISSION RULES AND PROCEDURES

CITY OF SAN RAFAEL

Adopted January 24, 2023

I. Organization and Officers

A. Organization

1. The Planning Commission shall consist of seven regular members appointed by the Mayor with the approval of the City Council and shall be organized and exercise such powers as prescribed by the City Charter and by the San Rafael Municipal Code (City Code).

The commission shall be composed of seven (7) regular voting members, one (1) commissioner from each of the city's four (4) city council electoral districts, and three (3) at-large commissioners.

Requirements for eligibility:

- a. District representatives: Each district representative must reside in the district they represent.
 - b. At-large members: Must reside in city limits.
2. The term of the Commission members is four years with a staggered expiration schedule.
 3. Vacancies on the Commission for other than expiration will be filled by appointment for the un-expired portion of the term.
 4. In-person meeting attendance is required unless a [just cause exemption](#) is approved by the City Clerk and relayed to the staff liaison before the meeting. A member may only use the just cause provisions up to two meetings per calendar year.
 5. If any Commissioner should have three consecutive, unexplained absences from regular meetings of the Planning Commission as shown in the roll call of the official minutes, the Chair may recommend to the City Council that the seat be relinquished.
 6. If any Commissioner wishes to request a leave of absence for three to six consecutive meetings, the request shall be made to and approved by the Chair. A request for a leave of absence for more than six consecutive meetings shall be made to and approved by the City Council.

B. Officers

1. Selection

- a. A Chair and Vice-Chair shall be elected from among the Commission's membership at the Annual Meeting held the first meeting of the

calendar year, to serve for a one-year period. It is intended that the Chair and Vice-Chair be rotated among the Commissioners based on tenure, as defined by total years of service. In the event the years of service are identical, tenure will be determined in alphabetical order. It is the general rule that a Commissioner shall not serve as Chair more than once in seven consecutive years. However, in the event that: 1) a position is vacated; 2) a Commissioner is not interested in serving as an officer; or 3) there is limited tenure among the other Commissioners, then a Commissioner can be appointed as an officer more than once in seven years.

- b. The Vice-Chair shall serve as Chair in the following year.
- c. The Chair and Vice-Chair may not succeed themselves. However, in the event that the current Chair or Vice-Chair has served less than a year, the Commission may choose to re-elect her/him for an additional term.
- d. The Vice-Chair shall succeed the Chair if he/she vacates the office and shall serve the un-expired term of the Chair. The Commission shall elect a new Vice-Chair to serve the un-expired term of that office. Selection shall be based on seniority.
- e. In the absence of the Chair and Vice-Chair, the member of the Commission with the longest tenure, as defined by total years of service, shall preside over the meeting. In the event that the years of service are identical, seniority will be determined by alphabetical order.

2. Responsibilities

The responsibilities and powers of the officers of the Planning Commission shall be as follows:

a. Chair

- Preside at all meetings of the Commission.
- Call special meetings of the Commission in accordance with legal requirements and the Rules of Procedure.
- Sign documents of the Commission.
- See that all actions of the Commission are properly taken.
- Assist staff in determining agenda items.
- The Chair shall be an ex officio member of all committees with voice but not vote.

b. Vice-Chair

During the absence, disability or disqualification of the Chair, the Vice-Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair.

C. Duties and Powers

1. The Planning Commission shall have the power to recommend to the City Council, after conducting a public hearing, the adoption, the amendment or the repeal of a General Plan, a Neighborhood or Specific Plan, the Zoning Ordinance of the City Code, or a site-specific master plan for a Planned Development (PD) District, or any part thereof, for the physical development of the City.
2. The Planning Commission shall exercise such functions with respect to environmental review, land subdivisions, land use and planning, design review, and zoning, as may be prescribed by City Code, City resolution, and State law.
3. The Commission shall advise the City Council on those matters falling within its charged responsibilities in a manner reflecting concern for the overall development and environment of the City as a setting for human activities.

D. Rules of Order

Except as otherwise provided in these Rules of Procedure, "Roberts Rules of Order, Newly Revised" shall be used as a guide to the conduct of the meetings of the Planning Commission, provided, however, that a failure of the Commission to conform to said rules of order shall not, in any instance, be deemed to invalidate the action taken.

II. **Meetings**

A. Public Meetings

All meetings shall be held in full compliance with the provisions of state law, ordinances of the City and these Rules of Procedure.

B. Regular Meetings

1. Regular meetings shall be held on the second and fourth Tuesdays following the first Monday in each month, at ~~7:00~~ 6:00 p.m. in the Council Chambers of the City Hall, unless otherwise determined by the Commission. All regular meetings must be held in the following manner:
 - a. within the city limits of San Rafael.
 - b. using in-person/virtual hybrid meeting format
2. Whenever a regular meeting falls on a public holiday, no regular meeting shall be held on that day. Such regular meeting may be rescheduled to another business day or canceled by motion adopted by the Planning Commission. All meetings must be held within the city limits of San Rafael.
3. A meeting of the Commission may be canceled by the Chair for lack of a quorum, no pending business, or any other valid reason. Such

cancellation may be made at any time prior to the scheduled meeting. All efforts shall be made by the Community Development Department staff to notify those involved at the earliest possible time. Prior to the scheduled meeting, the Community Development staff shall post a cancellation notice on the City of San Rafael public hearing board, the City website and at the prescribed location of the meeting.

C. Adjourned Meetings

In the event it is the wish of the Planning Commission to adjourn its meeting to a certain hour on another day, a specified date, time, and place must be set by a majority vote of the Commissioners present, prior to the regular motion to adjourn.

D. Special Meetings

Special meetings of the Planning Commission may be held at any time upon the call of the Chair or by a majority of the voting members of the Commission or upon request of the City Council following at least 24 hours' notice to each member of the Commission and to the press. The time and place of the special meeting shall be determined by the convening authority. At least 24 hours prior to the scheduled special meeting, the Community Development staff shall post a notice of the meeting on the City of San Rafael public hearing board, the City website and at the prescribed location of the meeting.

E. Annual Meeting

The Annual Meeting of the Planning Commission will be held at the first meeting of the calendar year. The meeting will be devoted to the election of a Chair and Vice-Chair for the ensuing year and any other business scheduled by the Commission.

F. Study Sessions/Workshops/Informational Presentations

1. The Commission may be convened in the same manner as prescribed for the calling of a special meeting for the purpose of holding a study session, or for presentations of informational items, provided that no official action shall be taken.
2. Such meetings shall be open to the public.

G. Notification

Public Hearings and Discussion Items - Notice of the time, place/ items to be considered and action pending shall be given in accordance with the requirements of the City Code and State Law.

H. Agenda

1. An agenda for each meeting of the Commission shall be prepared by the Community Development Director or staff in consultation with the Chair.

2. A staff report shall be prepared for each item and distributed to the Planning Commission and made available to the public a minimum of 72 hours prior to a regular meeting.
3. A copy of the agenda shall be posted in City Hall 72 hours before a regular meeting.
4. Items not appearing on the agenda cannot be acted upon or discussed by the Commission. However, the Commission may take action under the following circumstances:
 - a. If the Commission finds, by majority vote, that an emergency situation must be addressed. An "emergency situation" is limited to work stoppages and crippling disasters;
 - b. If by a two-thirds vote (or a unanimous vote if two-thirds of the members are not present), there is a need to take immediate action and the need for action came to the attention of the Commission and staff after the agenda was posted.

Prior to discussing such items, the Commission shall publicly identify the item and shall provide the public an opportunity to provide comment on the item.
5. Members of the public may address the Commission on any agenda item, and may, at the beginning of the meeting, address the Commission on any issue that is not listed on the agenda, provided that the issue is within the jurisdiction and powers of the Planning Commission.

I. Order of Meetings

1. The Order of business shall be as follows:
 - a. The Chair shall take the chair at the hour appointed for the meeting and shall immediately call the meeting to order.
 - b. Members present and absent shall be recorded by roll call.
 - c. The order of the agenda shall be approved as submitted or revised by a majority vote of the Commissioners present.
 - d. The public shall be advised of the procedures to be followed in the meeting including the protocol and time frames for public comment. For hybrid meetings, the public will be advised of the different ways to participate. Any member of the audience may comment on any matter which is not listed on the agenda.
 - e. The minutes of any preceding meeting shall be submitted for review and approval by a majority vote of the Commissioners present at that preceding meeting.
 - f. The Commission shall then hear and act upon those proposals scheduled for consideration or public hearing.
 - g. Director's Report.

h Commission Communications.

i Adjournment.

2. Presentation or Hearing of Proposals

The following shall be the order of procedure for hearings/discussion items concerning planning and zoning matters:

- a. The Chair shall announce the subject of the public hearing/discussion item, as noticed.
- b. If a request is made for continuance, a motion may be made and voted upon to continue the public hearing to a definite time and date (noticing not required) or a time and date to be determined (re-noticing required).
- c. Order of Speaking.

The order of speaking shall be as follows:

1. The Chair shall call for commissioners to make ex parte disclosures and potential conflict of interest disclosures with respect to the proposed project.
2. Staff provides a report on the project and summarizes its compliance with San Rafael's General Plan, compliance with State laws and the City Code, the status of environmental review, and the staff recommendation for action(s) by the Commission and Design Review Board Representatives (if applicable).
3. The public hearing is opened.
4. The applicant makes a presentation to the Commission.
5. The public speaks to the Commission and Design Review Board Representatives (if applicable).
6. The Commission and Design Review Board Representatives (if applicable) may ask questions or obtain facts or clarification from staff, the applicant, or the public after each segment of the agenda.
7. The public hearing is closed.
8. If applicable, the Design Review Board Representatives shall make recommendations to the Planning Commission.
9. The matter is returned to the Commission for discussion and action.

d. Rules of Testimony

The rules of testimony shall be as follows:

1. Upon opening the public hearing, the Chair shall invite the public to speak by inviting each speaker (one-at-a-time) to approach the podium. For hybrid meetings, the chair will ask staff to advise the public on the different options for participating. On large or controversial projects where many people wish to provide public

testimony, the Chair may request that speaker cards be filled-out and submitted.

2. Persons presenting testimony to the Commission shall be limited to three (3) minutes for their presentation. This time limit may be limited or extended at the Chair's discretion.
3. If there are numerous people in the audience who wish to participate on the issue and it is known that all represent the same opinion, a spokesperson should be selected to speak for the entire group. At the Chair's discretion, the spokesperson may be granted additional time beyond the three (3) minute limit for his or her presentation.
4. To avoid unnecessary repetitive evidence, the Chair may limit the number of speakers or the time on a particular issue.
5. Irrelevant, defamatory, or disruptive comments will be ruled out of order.
6. No person shall address the Commission without first securing the permission of the Chair.
7. All comments shall be addressed to the Commission. All questions shall be made or directed through the Chair.

e. Applicant Presentations

Applicant presentations shall comply with the guidelines developed by the Planning Commission. Applicants shall be limited to a maximum of ten (10) minutes for their presentation, inclusive of all members of the applicant's team (if applicable). An extension of this time limit may be granted at the Chair's discretion.

f. Design Review Board Representatives (if applicable)

The Design Review Board Representatives shall provide a recommendation to the Planning Commission including any recommended conditions of approval.

J. Motions

1. A motion to adjourn shall always be in order except during roll call.
2. The Chair of the Commission, or other presiding officer, may make and second motions and debate from the Chair subject only to such limitations of debate as are imposed on all members of the Commission.

K. Voting

1. Voting Requirements

- a. A quorum shall consist of four members.
- b. The affirmative vote of a majority of the quorum present is necessary for the Commission to take action on all matters other than those listed under Section c below.

- c. Certain votes of the Commission require a majority vote of the entire Commission (4 votes) to carry. These are:
 - Adoption or amendment of a General Plan or any part thereof.
 - Adoption or amendment to any Neighborhood or Specific Plan or any part thereof.
 - Adoption or amendment to the Zoning Ordinance of the City Code or amendment thereto.
 - Adoption or amendment to a site-specific master plan for a Planned Development (PD) District.
 - Other actions as required under federal or state law. (These will be dealt with as they arise.)
- d. When a member of the Commission abstains from voting on any matter before it because of a potential conflict of interest, because the Commissioner does not believe he/she can be objective, or because the Commissioner was absent at any previous hearing on an item, said vote shall not constitute nor be considered as either a vote in favor of or opposition to the matter being considered. Abstentions shall not be allowed for any other reason.
- e. A tie vote shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.

2. Roll Call Vote

Any Commissioner, the applicant or an appellant can request a roll call vote.

For hybrid meetings a roll call vote shall be required.

3. Recording of Votes

The minutes of the Commission's proceedings shall show the vote of each member, including whether they were absent, abstained from voting, or failed to vote on a matter considered.

4. Disqualification from Voting

A member shall disqualify himself/herself from voting in accordance with the State Political Reform Act and other applicable state law. When a member is disqualified, he/she shall state, prior to the considerations of such matter by the Commission that the member is disqualifying himself/herself due to a possible conflict of interest and shall then leave the voting area.

III. Review and Amendments Procedure

- A. These Rules of Procedure shall be reviewed at the Annual Meeting of each year. On an ad hoc basis, the chair may appoint a subcommittee to review these rules prior to the meeting. The review subcommittee shall present their recommendations for amending or not amending these rules. Minor changes may be brought forward by staff for the Commission's consideration.
- B. In addition, these Rules of Procedure may be amended at any meeting of the Planning Commission by a majority of the membership of the Commission provided that notice of the proposed amendment is received by each Commissioner not less than 5 days prior to said meeting.

(Approved May 9, 2000. Revised February 26, 2002, December 14, 2004, May 29, 2007, January 27, 2009, January 9, 2018, February 11, 2020, January 12, 2021, May 24, 2022, and January 24, 2023)

A Brief Summary of Roberts Rules of Order (Parliamentary Procedures)

Robert's Rule of Order provide common rules and procedures for deliberation and debate in order to place the whole commission on the same footing and speaking the same language. The conduct of all business is controlled by the general will of the whole membership – the right of the majority to decide. Complementary is the right of the minority to require the majority to be deliberate – to act according to its considered judgment after a full and fair “working through” of the issues involved.

How Are Motions Presented?

1. Obtaining the floor

- a. Wait until the Chair recognizes you.

2. Make Your Motion

- a. Speak in a clear and concise manner, making certain that you are speaking into the microphone and that the microphone is on (by pressing the green button).
- b. Always state a motion affirmatively. Say, “I move that we...” rather than “I move that we do not...”.
- c. Motions can be made utilizing the required actions listed in the staff report. Typically, a draft resolution is included as an attachment in the staff report based on the staff recommendation (for approval or denial of an application), and includes required legal findings.
- d. Since Commission actions on a project (other than continuance or referral to the DRB) must be supported by an adopted resolution, if the action you wish to move is not supported by the draft resolution provided by staff, the motion should be to continue the item (usually to the next meeting date) with direction to staff to prepare a draft resolution supporting the desired action. Rationale for the decision should be provided to staff to assist in preparing the necessary legal findings.
- e. The motion may include desired revisions to the draft resolution, such as changes to proposed findings to more accurately reflect the Commission's decision or changes/additions to proposed conditions of approval.

3. Wait for Someone to Second Your Motion

- a. Another Commissioner will second your motion or the Chair will call for a second.
- b. If there is no second to your motion, it is lost.

4. The Chair States Your Motion

- a. The Chair will say, “it has been moved and seconded that we...”, thus placing your motion before the membership for consideration and action.

- b. The membership then either debates your motion, or may move directly to a vote if there is no one wishing to discuss the motion.
- c. Once your motion is presented to the membership by the Chair, it cannot be changed without the consent of the maker and seconder.

5. Debate

- a. This is the time for the membership to speak in favor or opposition to the motion, including the maker and seconder of the motion.
- b. All comments and debate should be directed to the Chair, and not to individual Commission members.
- c. It is highly advisable that members of the Commission describe to applicants and other members of the audience the rationale for their position. This may include responses to issues raised by the public.

6. Amending the Motion

- a. If there is a desire by any Commissioner to modify the proposed motion, that Commissioner should indicate to the Chair a desire to offer an amended motion. The amendment may suggest revisions, such as additional or modified conditions of approval, revised findings, etc., but should not constitute an entirely different direction (e.g., an amendment to deny an application when the initial motion was for approval).
- b. Once an amendment is offered, the Chair must seek approval of the proposed amendment from both the original maker and seconder of the motion.
- c. If the amendment is supported by both the original maker and seconder of the motion, it becomes the operative motion before the Commission.
- d. If the amendment is not supported by both the original maker and seconder of the motion, it is lost.

7. Putting the Question to the Membership

- a. When debate has finished, the Chair asks, "Are you ready to vote on the question?"
- b. The Chair asks those in favor to say, "aye", and those opposed to say "no".
- c. Any member may request an exact count, in which case the Chair or recording secretary will commence with a roll call, in which each member sequentially answers "yes" or "no" as his/her name is called.
- d. A tie vote results in no action. For applications in which the Planning Commission is the final decision-maker, additional motions are necessary until a majority decision is achieved (this could include a motion for continuance until an odd number of Commissioners is present, or for revisions to the project that a majority could then support). For applications in which the City Council is the final decision-maker, a split recommendation may go forward to the Council.



REPORT TO PLANNING COMMISSION

SUBJECT: Objective Design Standards – Review & recommendation of Objective Design Standards for a ministerial (“by-right”) process APN: Citywide, File No: P18-009.

SUMMARY

In response to California’s housing crisis, several state laws have been enacted to bolster the State’s Housing Accountability Act including Senate Bill (SB) 35, SB 330, and SB 9, as well as AB 2011 and SB6, with the intent of stimulating and streamlining housing production. In response to these laws, local jurisdictions are required to have a ministerial, “by-right” process for qualifying residential development projects. Qualifying projects must comply with “objective planning standards” established by the local jurisdiction, must provide specific levels of affordable housing, and must meet other specific requirements. “Objective planning standards” must be prescriptive, meaning they cannot be subjective or structured to exercise discretion.

The purpose of this item is for the Planning Commission to review and make a recommendation on the approval of the Objective Design Standards that have been prepared by staff and a consultant team.

BACKGROUND

In 2017, Governor Brown signed [Senate Bill 35 \(SB35\)](#), which established new housing development legislation under State Government Code Sections 65400, 65582.1 and 65913.4. The legislation created a mandated, ministerial (“by-right”) process for qualifying residential development projects. One of the requirements to be eligible as a qualifying project is that developers pursuing a request for streamlined ministerial review are required to pay prevailing wage for construction and meet the following requirements: 1) include two or more dwelling units; 2) must be located near a major transit stop; 3) provide certain levels of affordable housing; and 4) meet other specific requirements.

Under SB 35, cities began to be required to review qualifying projects using a ministerial, “by-right”, review process, which means that no discretionary approvals can be required, and the City is required to process applications within the time frames specified in Government Code Section 65913.4(c) (cited above).

In 2019, [Senate Bill 330 \(SB 330\)](#) SB 330, also known as Housing Crisis Act, built on the objective design standards approach, and amended the Housing Accountability Act (HAA), the Permit Streamlining Act (PSA) and added new sections to the housing laws. It created a non-discretionary “preliminary application” that vests rights upon submission and requires that changes to zoning ordinances do not result in a net loss of residential capacity within the jurisdiction. SB 330 also amended the Permit Streamlining Act as well by placing time limits on an agency’s ability to comment on a project and imposed a rule that qualifying projects must be receive a decision after no more than five hearings after the project application is complete.

The California Housing Opportunity and More Efficiency (HOME) Act, was signed into law in 2021. [Senate Bill 9 \(SB 9\)](#) allows property owners within a single-family residential zone to build two units and/or to subdivide an existing lot into two parcels, for a total of four units. It also notes that cities may only apply objective design standards to these projects, and these standards may not preclude the construction of up to two units of at least 800 square feet each.

[Assembly Bill 2011](#), the Affordable Housing and High Road Jobs Act of 2022 and [Senate Bill 6](#), the Middle Class Housing Act of 2022, permit residential development on sites currently zoned and designated for commercial or retail uses. Both bills were signed into law in 2022. AB 2011 creates a ministerial approval process for multifamily housing developments on sites within a zone where office, retail or parking are the principally permitted use. The law provides for slightly different qualifying criteria depending upon whether the project is (1) for 100-percent affordable projects or (2) for mixed-income projects located in "commercial corridors." SB 6 allows residential development on property zoned for retail and office space without needing a rezoning, and allows project applicants to invoke the Housing Accountability Act (HAA) to limit local discretion to deny or condition approval.

For San Rafael, all these regulations mean that qualifying projects would not be required to apply for Use Permits (when required by the Code) or Design Review Permit or go through DRB review or any public hearing or discretionary planning process as is typically required. Therefore, the ministerial, "by-right", process would be similar to the processing of a building permit, where staff would review the application to determine whether it qualifies and if so, confirm it meets the City's objective zoning development standards and objective design standards. There would be no public hearings, or public process for the qualifying projects.

Existing City Zoning and Design Standards

"Objective planning standards" must be prescriptive and quantifiable, meaning they cannot be subjective or structured to exercise discretion, require no personal or subjective judgment and must be verifiable by reference to an external and uniform source available prior to submittal. The City's Zoning Ordinance (Title 14 of the San Rafael Municipal Code) contains a variety of objective development standards. Minimum building setbacks, maximum building height, maximum lot coverage, and minimum off-street parking spaces are examples of existing objective standards within the City's Zoning Ordinance that are still applicable to qualifying projects.

However, City policy documents such as the San Rafael Design Guidelines (2019) and the Design Guidelines Applicable to All Hillside Residential Development Projects (1991) contain numerous guidelines that are not considered objective and therefore are not applicable to qualifying projects.

For instance, the following are examples of Design Guidelines that are not objective because they are not quantifiable, and they require subjective judgement as to whether a particular project complies with each guideline:

- Where there is an existing pattern, particular attention should be given to maintaining a consistent streetscape
- All building facades should be varied and articulated.
- Long monotonous walls should be avoided
- Adjacent buildings should be considered and transitional elements included to minimize apparent height differences

In addition, the review criteria in SRMC Section 14.25.050 for Environmental and Design Review Permits includes numerous criteria that are not considered objective. Some examples include:

- The project architecture should be harmoniously integrated in relation to the architecture in the vicinity in terms of colors and materials, scale and building design
- Design elements and approaches which are encouraged include:
 - Creation of interest in the building elevation;
 - Pedestrian-oriented design in appropriate locations

Downtown Precise Plan

The proposed Objective Design Standards would not apply to parcels located within the Downtown Precise Plan (DPP) since the DPP is a form-based development standards document adopted in August 2021 that already includes sufficient objective design standards that regulate all parcels located within the DPP area.

Previous Public Hearings

On July 16, 2019, draft objective design standards were brought to the Design Review Board for consideration. However, the Design Review Board primarily asked clarifying questions from City Staff and provided minimal comments on the proposed standards during this meeting. On August 13, 2019, draft objective design standards were then brought to the Planning Commission for consideration. Similarly, the Planning Commission primarily asked clarifying questions from City Staff and provided minimal comments on the proposed standards during this meeting. On September 7, 2022, the objective design standards were brought back to the Design Review Board for discussion. At that meeting, the DRB provided specific comments and direction to staff regarding building mass and articulation standards and requested that staff return with additional information and updates to the draft standards.

PROJECT DESCRIPTION

Tonight, staff is bringing these objective design standards forward for approval in order to complete its ministerial by-right process for qualifying projects.

The proposed Objective Design Standards are included as Exhibit 1. In developing objective planning standards staff used existing design criteria, fine tuning the criteria to be objective and quantifiable. Sources used to develop these draft standards include: [San Rafael General Plan 2020](#) (primarily the [Neighborhood](#) and [Community Design](#) Elements), San Rafael [Zoning Ordinance](#), [Downtown Vision](#), [Good Design Principles for Downtown](#), and [Residential Design Guidelines](#). Staff also contracted with an planning professionals, Rhoades Planning Group, back in 2020 to assist with development of these objective standards.

These standards are designed as a companion document to applicable City planning and zoning regulations. Upon approval of the Objective Design Standards, staff will be equipped to ministerially review qualifying projects for consistency with the following: 1) applicable zoning standards (i.e., lot coverage, setbacks, building height); 2) any existing objective standards within the San Rafael Design Guidelines (2019) and the Design Guidelines Applicable to All Hillside Residential Development Projects (1991); and 3) the Objective Design Standards (Exhibit 1). Again, projects within the Downtown Precise Plan are subject to a specific set of form-based design standards that were adopted with the DPP.

ANALYSIS

Staff believes approval of the Objective Design Standards will provide the tools necessary to review and communicate the standards applicable to future qualifying projects. Unlike the majority of the city's current design guidelines, the new standards meet the objective planning standards definition...*"Objective planning standards" must be prescriptive and quantifiable, meaning they cannot be subjective or*

structured to exercise discretion, require no personal or subjective judgment and must be verifiable by reference to an external and uniform source available prior to submittal.”

It is worth noting that staff does regret that the DRB did not have an opportunity to make a formal recommendation on these design standards. The City was awarded a grant in the amount of \$30,000 to prepare these standards, of which \$28,104 has already been expended and reimbursed by the state, and the grant requires approval of the standards by March 31, 2024. If the City does not meet this deadline, the state may request repayment for this planning effort. For these reasons, staff is bringing this item forward to the Planning Commission with some urgency to ensure the grant funding deadline is met.

ENVIRONMENTAL DETERMINATION

A recommendation of the proposed Objective Design Standards is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that they would not have a significant effect on the environment and, thus, are not subject to CEQA review.

NEIGHBORHOOD CORRESPONDENCE

Pursuant to Municipal Code Section 14.29.020 B.4, notice of this meeting was advertised in the Marin Independent Journal on February 10, 2024.

At the time of publication, staff had not received any public comments. Any comments received after the reproduction of this staff report will be forwarded to the Commission under separate cover.

RECOMMENDATION

Staff recommends that the Planning Commission conduct a public hearing, review the Objective Design Standards, and make a recommendation to the City Council for review and approval. A motion and second, followed by a vote are required.

EXHIBITS

1. Draft Objective Design Standards
2. DRB September 7, 2022, Meeting Minutes (annotated)

San Rafael Objective Standards

** Newly Proposed Standards and Guidelines are indicated with an asterisk.*

1. Site Planning and Layout

Building Orientation

When buildings are adjacent to a public street or alley, primary building entrances shall be designed to face the public street or alley.

Windows and Privacy

When a new residential development is abutting an existing residential building, windows in the new structure that are within 10 feet vertically or horizontally of facing residential bedroom windows or private open space shall have opaque or translucent glazing at or below 5 feet above finished floor or be offset a minimum of 5 feet horizontally (as measured by nearest edge of existing facing window).

Ensuring Adequate Screening*

When new residential development is adjacent to an existing residential use, the project shall provide screening between the properties to obscure direct sight lines between private yards. Such screening shall consist of a continuous view-obscuring wood fence, masonry wall, or an irrigated and maintained evergreen hedge, not less than four feet in height, and not more than six feet in height, which may be broken only for access driveways and walkways. The width of screens consisting of evergreen hedges shall be at least 40% of their height.

Trash and refuse collection and disposal facilities shall be enclosed by a solid fence or hedge that is no lower than the facilities themselves. These facilities shall also be covered.

Ground Level Utility Location* and Utility Screening

Back flow preventers, transformers, and other utilities must be out of sight or in sidewalk vaults. If a back flow preventer cannot be placed in a vault or out of sight, it must be screened from view with either architecture or landscaping. Utility transformers or boxes shall be underground or, if not allowed by PG&E, screened and not visible from the public right of way.

Parking Garage*

Parking garage and other service, utility, and loading entries shall be accessed from side streets or rear alleys, where they exist. All parking shall be located on the rear half of a lot. Any parking visible from the public right-of-way, shall be screened by continuous landscaping, or other architectural features (i.e., mesh screening, etc.).

Curb Cuts

Driveway curb cuts and vehicular access from the street to off-street parking shall be a minimum of 10 feet from the front property line, unless a greater distance is required pursuant to the City's Engineer's driveway and parking standards. For sites less than 100 feet in width, no more than one driveway curb cut is permitted. For sites that are greater than 100 feet in width, two driveway curb cuts are permitted and must be at least 40 feet separated from the inside edge to the inside edge of the curb cut.

Ramps*

Barrier free ramps shall be located on-site and not extended into public sidewalk or right-of-way

2. Building Design and Architecture

Facades/Massing

For every 50 feet of building length, there shall be a plane-break along the facade no less than 10 feet in length, which shall extend from grade to the highest story. For every 100 feet of building length, the plane break will have at least five feet of depth.

Trim Requirements* [Design Guideline]

Stucco foam trim shall be limited to one element of trim detail and shall not be used as the sole trim molding material.

Colors and Reflective Materials*

1. Facades shall include between 2 and 4 colors. One color shall be the 'main color' and be used on no less than 70% of the non-glazed area of a building's façade. The other colors shall be defined each as an 'accent color' each of which shall not be used on more than 30% of the non-glazed area of a building's façade
2. Buildings shall include the same colors and materials on all elevations. At least one accent color is required to appear on all elevations.
3. "Gloss" paint finishes shall not be used for a building's main color but may be used for accent colors and on trim. The highest sheen that may be used for a main color is semi-gloss.
4. The main color shall have a light reflective value of between 20% and 80%. Trim and accent colors may use colors of any light reflective value.
5. Fluorescent, iridescent, or metallic paints are prohibited.
6. Metal seam or other metal roofing, if used, shall be anodized, fluoro-coated, or painted with a non-gloss and non-glare finish. Copper and lead roofs shall be natural or pre-oxidized.
7. Any colors used on stucco walls shall be incorporated into the stucco mixture as an integral color.

Blank Walls *

All building walls shall have a minimum 15% transparency on each floor. Ground floors without a lobby shall exhibit a variegated façade with changes in transparencies and materials so that no one form represents more than 75% of the surface area.

- Transparency is defined as any material or area of the façade where it is possible to see through to the next wall or at least 10 ft.
- Blank walls (facades without doors, windows, vertical and irrigated landscaping treatments) shall be less than 30 feet in length.
- Any blank walls adjacent to alleyways or side-property lines shall be treated with graffiti resistance paint that does not use a glossy finish.

Corner Buildings*

For all corner buildings, the corner shall have a separate architectural treatment such as a projection or inset to define the building corner. The treatment shall be minimum of 10 feet of width along each street frontage beginning at the corner.

Clearance with Architectural Details*

Buildings shall not have architectural features that project more than 4 feet into the public right of way and minimum vertical clearance of 12 feet above sidewalk shall be maintained.

Eaves*

Horizontal eaves longer than 40 ft shall be broken-up by roof form articulations with at least a five ft variation.

Minimum Articulation*

All street-facing facades shall have at least one horizontal or vertical projection or recess at least three feet in depth, or two projections or recesses at least two feet in depth, for every 50 linear feet of wall. The articulated elements shall occupy at least 50 percent of the height of the structure and may be grouped rather than evenly spaced in 50-foot modules. Exceptions to this rule may be granted by either the Planning Commission via a use permit or through the review of the Design Review Board.

Rooftop Utility Screening

All mechanical equipment shall be screened and shall not project above its enclosure. Roof-mounted mechanical equipment shall be screened from public view by a parapet wall, decorative equipment screen, or other architectural treatment. The point of view for determining visibility shall be five feet above grade at a distance of 200 feet from any point of the structure at ground level.

3. Open Space and Landscape

Useable Outdoor Space

Quantity of Useable Open Space required shall be as shown in San Rafael Municipal Code Table 14.04.040 for the underlying zoning district. In zoning districts without a standard in Table 14.04.040, the minimum standard shall be 100 square feet per dwelling unit.

1. Accessibility and Use. Usable open space shall be accessible to all the occupants of the building for active or passive recreation use.
2. Assignment to Unit. An area which is accessible and/or usable only by the occupants of a particular dwelling unit may satisfy the usable open space area requirements only for that particular dwelling unit.

3. Minimum Dimensions. Except for balconies, a usable open space area must have a minimum clear width and length of 10 feet.
4. Balconies.
 - (a) A maximum of 50 percent of the total required usable open space area may be satisfied by balconies.
 - (b) A balcony must have a minimum clear width and length of 6 feet.
 - (c) At least one exterior side must be open and unobstructed except for required railings.
5. Uncovered. Except for balconies, usable open space shall be at least 75 percent open to the sky.
6. Slope. Usable open space must have a slope of 8 percent grade or less.
7. Landscaping.
 - (a) At least 40 percent of the total required usable open space area, exclusive of balconies above the ground floor, shall be landscaped.
 - (b) A landscaped area shall not include off-street parking spaces, driveways, and other surfaces covered by concrete or asphalt, unless integral to the design of the open space.
 - (c) For multiple dwelling uses, required landscaped areas shall incorporate automatic irrigation and drainage facilities adequate to assure healthy growing conditions for plants.
8. Amenities. Usable open space which is not planted shall be developed to encourage outdoor active or passive recreational use and shall include such elements as decks, sports courts, outdoor seating, decorative paved areas and walkways which do not serve as entrance walkways, unless integral to the design of the open space.
9. Access Features Not Included. Usable open space may not contain area designated for off-street parking and loading, service areas, driveways, required walkways or other features required for access to dwelling units.
10. Other Open Space Areas. Areas of the lot which do not qualify as usable open space and which are not designated as driveways, off-street parking spaces or required walkways, shall be retained as landscaped areas.

Storm water pollution prevention standards

Compliance with storm water pollution prevention standards (MCSTOPP). Required engineered storm water treatment facilities shall not be in areas that are counted toward meeting the minimum common open space requirements.

Street Trees

If there are no street trees on the frontage, street tree(s) are required to be installed and must be shown on the site plan. Street trees shall be installed at intervals of 30 feet on center, as sidewalk utilities and site access allow, in accordance with the City of San Rafael's Approved Street Tree List, and subject to the approval of the Department of Public Works at Building Permit review.

4. Lighting

Light and Glare*

Blinking, flashing and oscillating lights are prohibited.

Exterior lights shall have a minimum ground level illumination of 1 foot-candle at doorways and entryways. Elsewhere, exterior lights shall have a maximum ground level illumination of ½ foot-candle. Code required security or pathway lighting is an exception.

All lighting sources shall be shielded from view from the public right of way and from neighboring properties. Exterior lights shall produce with no indirect light extending 5 ft. beyond a property line. Exterior lights shall not be placed higher than the height of the principal structure. Exterior lights placed more than 6 ft high shall have a maximum angle of direct illumination of 60 degrees. Exterior lights shall be rated for 4500 Kelvins or fewer. A photometric study shall be submitted as part of a planning application.



**Design Review Board
Regular Meeting**

**Tuesday, September 7, 2022, 7:00 P.M.
AGENDA**

Virtual Meeting

Watch on Webinar: <https://tinyurl.com/drb-2022-09-07>

Telephone: 1 (669) 900 6833

Meeting ID: 880 1015 0251#

One Tap Mobile: US: + 16699006833, 88010150251#

CALL TO ORDER

Chair Rege called the meeting to order at 7:00 p.m. Chair Rege then invited Senior Planner Jeff Ballantine to call roll.

RECORDING OF MEMBERS PRESENT AND ABSENT

Present: Chair Sarah Rege
Vice Chair Sharon Kovalsky
Board Member Michael Alexin
Board Member Jeff Kent
Board Member Stewart Summers

Also Present: Jeff Ballantine, Staff, Senior Planner & DRB Secretary
Donald Blayney, Alternate Board Member

PUBLIC NOTIFICATION OF MEETING PROCEDURES

Chair Rege invited Staff & Senior Planner, Jeff Ballantine, to inform the members of the public that they can provide public comment either in person in the Council Chambers, by telephone or via zoom with the raise hand feature. Written comments submitted prior to the meeting time would be read aloud into the record during the public comment portion of each item.

Chair Rege reviewed the procedures for the meeting.

URGENT ORAL/EMAIL COMMUNICATIONS FROM THE PUBLIC

Chair Rege called for any comments from the public on items NOT on the agenda. There were no public comments.

CONSENT CALENDAR

Chair Rege invited public comment on the Consent Calendar. There was no comment on the Consent Calendar.

1. Approval of the Design Review Board Meeting Minutes of May 17, 2022

Board members indicated to Staff to bring consideration for approval of these meeting minutes for the next Design Review Board meeting since physical copies of the minutes were not provided to Board members.

ACTION CALENDAR

Chair Rege introduced the Action Calendar and invited staff to present the Staff Report.

- 1. Selection of a Public Art Review Board Representative.** Request of the Design Review Board select a Public Art Review Board representative for a two (2) year term.

Jeff Ballantine, Senior Planner, provided background information on the Public Art Review Board.

Jeff Ballantine responded to questions from Board Members.

Vice Chair Kovalsky volunteered to be the Public Art Review Board representative.

Chair Rege asked for public comments. No public comment was received.

Member Kent moved, Member Summers seconded motion for Vice Chair Kovalsky to be the Public Art Review Board representative.

AYES: Members: Alexin, Kovalsky, Kent, Rege, Summers

NOES: Members: None

ABSENT: Members: None

ABSTAIN: Members: None

Motion carried 5-0 Yes

- 2. Objective Planning Standards.** Review draft “objective” planning design standards for multifamily residential buildings located outside the Downtown Precise Plan area
Project Planner: Jeff Ballantine, Senior Planner (jeff.ballantine@cityofsanrafael.org) and Monica Ly, Senior Planner (monica.ly@cityofsanrafael.org)
Recommended Action – Review and provide input on draft objective planning design standards.

Jeff Ballantine, Senior Planner, presented the Staff Report on the project.

Jeff Ballantine responded to questions from the Board Members.

Chair Rege asked for public comments. Public Comment received from Grace Geraghty indicating that she agrees with many of the DRB members that she does not want a one size fits all approach.

Board Members provided the following general comments.

see annotated notes in ***bold italic*** text below

1. General Comments
 - a. These standards shall only apply to SB 35 applications and not to all projects. ***ODS must apply to all qualified projects per state law***
 - b. Include graphics to illustrate the proposed standards
2. Building Projections/Recesses
 - a. Propose a requirement for building projections/recesses that is scalable depending on the size of the building ***See pg 4 Minimum Articulation***
 - b. The required projection/recess needs to more than 2 feet in depth ***See pg 4 Minimum Articulation***

3. Transparency
 - a. Require 50% transparency for ground floor commercial, 30% transparency for ground floor residential and 30% transparency for upper floors. **See pg 3 Blank Walls**
 - b. This applies to all 4 sides of the building. **See pg 3 Blank Walls**

 4. Additional Building Articulation Comments
 - a. Menu of Options. Consider offering a menu of options to achieve building articulation and requiring compliance with a certain number of any of those options
 - b. Vertical Articulation. Require vertical articulation in addition to horizontal articulation. **See page 2 Facade/Massing**
 - c. Materials. Require at least two different building materials
 - d. Ground floor parking. Include provisions specifically for ground floor parking. Consider utilizing example from Alameda that requires landscaping, green screens, and/or artistic elements. Also consider requiring that parking be setback from the front property line by a certain distance. **See pg 2 Parking Garage**
 - e. Height. Consider requiring buildings that exceed the height of their base zoning district to be setback further from the required setbacks of the base zoning district.

 5. Future Focus Areas
 - a. Landscaping **See pg 4 Open Space and Landscaping**
 - b. Open Space **See pg 4 Open Space and Landscaping**
- INFORMATIONAL ITEMS** **See pg 6 Lighting**

DIRECTOR’S REPORT

City Council intends to make cleanup changes to the Design Review Board bylaws. Staff will report back at the following meeting with additional information.

BOARD COMMUNICATION

No Board communication was provided.

ADJOURNMENT

Chair Rege adjourned the meeting at 8:45 p.m.

JEFF BALLANTINE, Senior Planner

APPROVED THIS ____ DAY OF _____, 2022

SARAH REGE, DRB Chair