



## 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](mailto:jeff.ballantine@cityofsanrafael.org)) and Monica Ly, Senior Planner ([monica.ly@cityofsanrafael.org](mailto: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