NOTE TO USER

1. These documents are intended to provide general information and do not constitute legal advice. Additional facts, facts specific to a particular situation, or future developments may affect the subjects discussed in these documents. Seek the advice of the city/county attorney before acting or relying upon the following information.
2. This report broadly discusses how to make zoning regulations on the whole more objective, and takes a deeper dive on how to develop objective design standards, specifically.

 **OBJECTIVE DESIGN STANDARDS**

**STAFF REPORT TEMPLATE**

**DATE:**

**TO:**

**FROM:**

**SUBJECT:**

**RECOMMENDED ACTION**

[insert jurisdiction-specific language here]

**EXECUTIVE SUMMARY**

The California State Legislature has made several changes to state housing laws in recent years to streamline housing approvals. These steps include limiting the subjective discretion jurisdictions have to deny or modify residential and residential mixed-use projects. Instead, in many contexts, jurisdictions must now rely solely on objective standards. The subjective design guidelines that [Jurisdiction Name] has relied on for project review in the past are no longer applicable to housing development proposals undergoing streamlined review.

The transition from subjective regulations to objective standards represents an opportunity to support housing production goals while maintaining [Jurisdiction Name]’s design priorities.

Objective design standards can help facilitate the development of new housing by providing clarity and consistency about community expectations for new development, while also helping to create good buildings and places that contribute to our community’s quality of life.

This report takes a broad look at how [Jurisdiction Name] can make its zoning regulations objective, so that the regulations can continue to be applied to projects undergoing streamlined review It also takes a focused look at how to develop objective design standards, specifically. This report analyzes [Jurisdiction Name]’s planning regulations to identify which regulations are currently objective and which are subjective and in need of change; describes best practices for preparing objective design standards, specifically, including relevant topics and approaches; considers financial feasibility implications of adopting certain standards; and describes public outreach efforts and environmental review.

**BACKGROUND**

**What are Objective Design Standards?**

The terms “objective design review standards” are narrowly defined by the State to mean “a design standard that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.” (Gov. Code 66330(a)(7)).

* Examples of an objective standard: The front setback shall be a minimum of 10 feet.
* Example of a subjective standard: The building’s front setback shall be consistent with other buildings in the area.

**State Law Context**

The California State Legislature has made several changes to state housing laws in recent years to streamline housing approvals. A few of these laws are briefly described below:

***Housing Accountability Act***

Originally passed in 1982, the Housing Accountability Act (HAA) (Government Code Section

65589.5) acknowledges the lack of housing as a critical problem in California. The HAA applies

to all "housing development projects" which the State defines as: “residential units; mixed-use

developments (with at least two-thirds of the square footage designated for residential use),

and transitional or supportive housing.”

The HAA states that a city cannot disapprove a project, reduce its density, or otherwise make a

project infeasible when the project complies with objective standards. The only exception to

this is when a project would have a specific adverse impact, which is narrowly defined.

Modifications to the HAA in 2018 made it easier for projects to assert compliance with

objective standards: a project must be considered consistent with objective standards if "there

is substantial evidence that would allow a reasonable person to conclude" that a project

complies.

***SB35 Project Streamlining***

Under SB35 (Government Code Section 65913.4), projects that meet physical, environmental and affordability thresholds are eligible for ministerial project review. Projects must also be consistent with objective standards. Under SB35, the review process is limited to 90 to

180 days depending on the project size. No CEQA review is required and no discretionary

review is permitted.

***SB330 Housing Crisis Act***

Effective January 1, 2020, SB330 made several changes to existing state housing law, including

the HAA and Permit Streamlining Act. For the purposes of the work described herein, the

important elements are:

* Prohibits jurisdictions from imposing (on housing projects) subjective design standards established after January 1, 2020. (Existing standards may continue to be applied.)
* States that jurisdictions can only review a housing development project based on the ordinances, policies, and standards adopted and in effect when a preliminary application is submitted (vs. when a formal application is deemed complete).
* Prohibits jurisdictions from enacting development policies, standards or conditions that would change current zoning and land use designations where housing is an allowable use. In such cases, a jurisdiction cannot lessen the intensity of housing—such as reducing height, density or floor area ratio; requiring new or increased open space, lot size, setbacks or frontage; or limiting maximum lot coverage. Effectively, this clause prohibits downzoning, though a jurisdiction may rebalance density between various districts.

In addition to these state laws, AB 2162 (Supportive Housing Streamlined Approval, effective 2019), SB 9 (Housing Opportunity and Efficiency Act, effective 2020), SB 684 (Small Sites Streamlining, effective July 2024), and AB 2011 (Affordable Housing and High Road Jobs Act, effective 2023) contain similar language mandating streamlined review for projects that are consistent with objective standards. When layered together, these laws create the policy context within which planning staff are recommending that [Jurisdiction Name] prepare objective standards.

**DISCUSSION & ANALYSIS**

This section provides an overview of how to make zoning regulations objective, so that they can continue to be applied to projects undergoing streamlined review. It begins with an overview of how [Jurisdiction Name] currently regulates housing development projects (i.e., development standards, performance standards, design review findings) and how those regulations and processes do and do not apply to projects undergoing streamlined review. This section then takes a focused look at how to develop objective design standards, specifically.

**Applicability**

Objective design standards primarily apply to multi-family housing and residential mixed-use projects and districts. Ground-floor commercial guidelines and standards are addressed insofar as retail is required as part of a mixed-use residential project. [Revise, as Appropriate, if Jurisdiction Elects to Develop Standards for Non-Residential Development and/or for Single Family housing.]

**Local Policy Context**

[Explain context for objective standards within the Housing Element or other adopted policy, if relevant]

**Existing Regulations and Potential Changes**

Table 1 analyzes [Jurisdiction Name]’s existing regulations and whether or not they represent objective standards that can be applied to housing projects undergoing streamlined review. It then generally suggests potential changes for how to make regulations objective and therefore ensure that they can be applied to projects undergoing streamlined review.

[Example Table – Revise, as Appropriate]

Table 1: Summary of Existing Framework of Regulations and Potential Changes

| *Existing Regulations & Process* | *Objective?* | *Potential Changes* [Examples – Revise, as Appropriate] |
| --- | --- | --- |
| Development Standards (e.g., setback, height, density) | Most | * No substantive changes
* Minor changes for clarification
 |
| Design Guidelines | No | * Transform subjective guidelines into design standards, where feasible
* Retain design guidelines for non-residential projects only
 |
| Other Regulations (e.g., landscaping, lighting) | Most | * Transform subjective regulations into objective standards, where feasible
 |
| Use Regulations | Yes | * No substantive changes
* Minor changes for clarification
 |
| Design Review Findings | No | * Develop objective findings for housing projects to demonstrate consistency with objective standards
* Retain discretionary findings for non-residential projects
 |
| Board and Commission Reviews | No | * Consider options for streamlining projects that meet objective standards
 |
| Conditions of Approval | Most | * No substantive changes
* Minor changes for clarification
 |

**BEST PRACTICES**

[Adapted from the ABAG Handbook. Revise, as appropriate, for your community]

1. Tailored to Local Context: Rooting objective standards in a community’s housing and urban design policies is essential to integrated and implementable standards. Nesting standards within clear intent statements can help applicants, community members and decision-makers understand the rationale behind specific standards. Although objective standards regulate design on a building level, these broader policy statements are essential for ensuring that neighborhood and citywide design principles are upheld and visions are implemented.
2. Comprehensive Topics: Generally, Bay Area jurisdictions are regulating the same sets of topics, which address the building design (i.e., massing and articulation) and site design (e.g., parking, utilities, building placement), including the relationship to the sidewalk and street.
3. Zoning Graphics: Illustrations and photographs are an important complement for explaining written standards.
4. Interdepartmental Coordination: Coordination across jurisdictions’ departments is essential, especially when it comes to regulations that span multiple divisions, such as utilities, stormwater, building code, landscaping and streets. Adopting objective standards will require input from various departments, including Public Works and Fire.
5. Balancing Costs & Benefits: Choosing how to regulate design is a delicate balance between supporting community design objectives and ensuring project feasibility. To strike the right balance, [Jurisdiction Name] must consider how adopting certain design standards could impact project feasibility in the context of supporting new housing and the long-term evolution of the community. See further discussion in the next section.

**BALANCING PROJECT FEASIBILITY & COMMUNITY DESIGN VALUES**

Design standards are an important tool that cities can use to promote high-quality, safe and visually appealing buildings and great places. However, these standards, even if made clear and objective, can increase costs and complexity for projects. If overly restrictive or too numerous, design standards can contribute to higher housing costs—or can keep projects from being built at all.

On balance, design standards can influence better project designs that can increase property and rental values. Many design standards are of critical importance for community design goals and should not be compromised. When considering adopting supplemental standards, moderation is key. The financial implications of these standards must be weighed alongside their placemaking benefits.

For example, design standards that trigger more rigorous construction techniques (e.g., upper story stepbacks) or more architectural complexity (e.g., patterns of recesses and projections) can increase design fees and construction fees and should be considered in that context.

**COMMUNITY OUTREACH**

[Add, as Appropriate]

**ENVIRONMENTAL REVIEW**

[Example – Revise, as Appropriate] Proposed ordinance revisions represent implementation of adopted plans and policy. Therefore, the revisions are anticipated to be exempt under CEQA and covered by the CEQA documents prepared for the Housing Element. The project aims to facilitate implementation of state law and does not intend to increase development beyond what was analyzed in the Housing Element.

**NEXT STEPS**

Based on the [Board/Commission/Council] direction, staff and consultants will prepare preliminary draft ordinance components and preliminary graphics to share with the [Board/Commission/Council] at a subsequent meeting.