

## memorandum

To: City of Capitola  
From: Ben Noble  
Subject: Objective Standards for Multifamily and Mixed-Use Development

This memorandum describes the approach to prepare new objective standards for multifamily and mixed-use residential development in Capitola (the “Objective Standards project”). In addition to this project approach, this memorandum also provides background information about the Objective Standards project and describes recently adopted state housing law relevant to the project.

### PROJECT BACKGROUND

In 2017 the State of California established the SB2 grant program to fund city planning efforts to streamline housing approvals and accelerate housing production. Capitola is using part of its SB2 grant for the Objective Standards project. As described further below, new objective standards for multifamily and mixed-use development will help to protect the City and ensure quality development in light of new state housing laws. The City hired consultants Ben Noble and Bottomley Design and Planning to assist with this project.

### Process and Schedule

The Objective Standards project includes the following three main tasks:

- **Task 1: Existing Regulation Review & Recommended Approach.** Summarize existing regulations and recommend approach to new objective standards.
- **Task 2: Objective Standards Drafting.** Prepare new objective standards for multifamily and mixed-use residential development.
- **Task 3: Public Review and Adoption.** Hold public hearings and adopt new objective standards.

### Public Engagement

Information about the Objective Standards project will be posted online at [www.cityofcapitola.org/communitydevelopment](http://www.cityofcapitola.org/communitydevelopment). The public will be able to participate in the project in the following ways:

- Planning Commission and City Council study sessions (2)
- Stakeholder meetings (2)
- Planning Commission and City Council public hearings

For the stakeholder meetings, the City will invite interested architects, builders, property owners, and residents to review and comment on project materials. At the first meeting planned for April 2021,

stakeholders will review a draft outline of new objective standards. Stakeholders will meet a second time in May 2021 to review the draft standards prior to public hearings.

## **STATE LAW**

Recent changes to state housing law aim to facilitate housing production by streamlining the approval of housing projects that comply with established local standards. These laws include Senate Bill (SB) 35, the Housing Accountability Act, and SB 330. The Regional Housing Needs Allocation (RHNA) requirement in state housing element law is also relevant to the Objective Standards project.

### **SB 35**

In 2017 the California legislature adopted SB 35, which was part of a 15-bill housing package aimed at addressing the state's housing shortage and high housing costs. SB 35 requires local governments that have not met their RHNA to approve by right without a discretionary process qualifying multifamily and mixed-use residential projects. A qualifying project in Capitola must be consistent with all objective standards, contain at least 50 percent affordable units, agree to pay prevailing wages for construction work, and meet other requirements. Projects in the coastal zone are not eligible for streamlined approval under SB 35.

If an applicant requests streamlined approval for a qualifying project under SB 35, the City must approve the project if it is consistent with objective standards in effect at the time the application was submitted. The City must review and act on the application through a ministerial process without a use permit, design review, or public hearings. SB 35 defines objective standards as "standards that involve no personal or subjective judgment by a public official and are 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 prior to submittal."

### **Housing Accountability Act and SB 330**

The Housing Accountability Act (HAA), Government Code Section 65589.5, limits a local government's ability to deny or reduce the density of housing development projects that are consistent with objective standards. The HAA was originally enacted in 1982 and amended in 2017, 2018, and 2019 to expand and strengthen its provisions.

The HAA applies to any development project with two or more units, including multifamily housing, mixed-use residential development and projects with two or more detached single-family homes. Under the HAA, a local government may deny or reduce the proposed density of a project only if it finds that 1) the project "would have a specific, adverse impact upon the public health or safety" and 2) "there is no feasible method to satisfactorily mitigate or avoid the adverse impact."

SB 330, adopted in 2019, amended the HAA to establish vesting rights for projects that use a new pre-application process. SB 330 also added a new chapter to the Government Code, the "Housing Crisis Act of 2019," which prohibits local governments from:

- Reducing the allowed intensity on a property below what was allowed under the general plan or zoning in effect on January 1, 2018;
- Imposing a moratorium or similar restriction or limitation on housing development;

- Establishing or imposing growth control measures that meter the pace of housing construction or limit the jurisdiction’s population; and
- Establishing new design standards that are not “objective.” The definition of an objective standard in SB 330 is the same as in SB 35.

The HAA and SB 330 apply within the coastal zone, but do not alter or lessen the effect or application of Coastal Act resource protection policies. Government Code Section 65589.5(e) states “Nothing in this section shall be construed to relieve the local agency from complying with...the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code)”

### Regional Housing Needs Allocation (RHNA)

State housing element law requires Capitola to accommodate its fair share of new housing units during a specified planning period. This fair share requirement is determined by the Association of Monterey Bay Area Governments (AMBAG) and known as the Regional Housing Needs Allocation (RHNA). Table 1 shows Capitola’s RHNA for the 2015-2023 planning period, including units affordable at different income levels. Since January 1, 2015, Capitola has not approved any very low or low-income units. One moderate income unit, a town house in Tera Court located behind OSH, was approved.

**Table 1: RHNA and Permits Issued for 2015-2023 Planning Period**

Income Group	RHNA
Very Low-Income (<50% of Median Family Income)	34
Low-Income (50-80% of Median Family Income)	23
Moderate-Income (80-120% of Median Family Income)	26
Above Moderate-Income (>120% of Median Family Income)	60
<b>Total</b>	<b>143</b>

In 2022, Capitola will be assigned a new RHNA for the 2024-2032 planning period and will update its Housing Element and Zoning Code (if needed) to provide adequate sites for these units. Based on preliminary information from AMBAG, Capitola’s new RHNA will likely be two to three times greater than the RHNA for the prior planning period. AMBAG will release its draft RHNA in January 2022 and approve the final RHNA in June 2022.

To accommodate the new RHNA, Capitola may need to identify new housing sites, increase the allowed density of existing sites, or both. Recently approved state law also may limit Capitola’s ability to carry forward previously identified sites where housing was not approved during prior planning periods. If Capitola adds new sites for multifamily housing, it becomes increasingly important for the City to have quality standards in place.

## EXISTING REGULATIONS

### Objective Standards

Table 2 on the following page shows Capitola’s existing Zoning Code requirements for multifamily and mixed-use residential development that meets the state definition of an objective standard. Table 2 shows objective standards in all zoning districts where multifamily and mixed-use residential development is allowed. A gray cell in Table 2 means that there is no objective standard in the zoning district.

Objective standards may also be found in the in the General Plan, Subdivision Ordinance, and other similar regulatory documents. The General Plan contains few objective standards as it was written to provide a policy foundation for land use and development in Capitola. Objective standards in the General Plan are limited to allowed land uses and density in RM designation, allowed land use and FAR in mixed-use and commercial designations, and noise standards in Policy SN-7.4.

Subdivision Ordinance Chapter 16.24 contains design standards that apply to proposed subdivisions. Standards in Chapter 16.24 that qualify as objective standards include new street standards (street alignment, intersection angles, intersection cure radius, street grade) and lot configuration standards (property line angles, minimum frontage width).

If a qualifying project requests streamlined review under SB 35, the City must approve the project ministerially if it conforms with these standards. The City may not require project changes to comply with subjective requirements, such as the City’s design review criteria in Zoning Code Section 17.120.070. The Housing Accountability Act and SB 330 may also limit the City’s ability to require changes to a proposed project if the project complies with all objective standards

**Table 2: Existing Zoning Code Objective Standards**

Standard	Zoning District			
	MF	MU-V	MU-N	C-C & C-R
Allowed Land Uses	17.16.020	17.20.020	17.20.020	17.24.020
Development Standards				
Parcel Size and Dimensions			17.20.040	17.24.030
Floor Area Ratio		17.20.030	17.20.040	17.24.030
Building Coverage	17.16.030			
Open Space	17.16.030			17.24.030
Density	17.16.030			17.24.030
Setbacks	17.16.030	17.20.030	17.20.040	17.24.030
Build-to Line		17.20.030.D	17.20.040	
Height	17.16.030	17.20.030	17.20.040	17.24.030
Design Standards				
Building Orientation		17.20.030.E	17.20.040.B	17.24.040.B.3
Blank Walls		17.20.030.E		17.24.040.B.4
Storefront Width	N/A	17.20.030.E		17.24.040.B.5
Ground Floor Transparency		17.20.030.E		17.24.040.B.6
Retail Depth	N/A			17.24.040.B.7
Ground Floor Height				17.24.040.B.8
Parking Placement and Screening		17.20.030.E	17.20.040.E	17.24.040.B.9
Driveway Width		17.20.030.E	17.20.040.F	
Garbage and Recycling Screening		17.20.030.E		
Residential Transitions			17.20.040.D	17.24.030.E
Landscaping				
Required landscape areas	17.72.050.A	17.72.050.B	17.72.050.B	17.72.050.B
General standards [1]	17.72.060.A	17.72.060.A	17.72.060.A	17.72.060.A
Irrigation and Water Efficiency	17.72.060.B	17.72.060.B	17.72.060.B	17.72.060.B
Maintenance	17.72.070	17.72.070	17.72.070	17.72.070
Parking				
Required Spaces	17.76.030	17.76.030	17.76.030	17.76.030
Parking in Setbacks	17.76.040.B	17.76.040.B	17.76.040.B	17.76.040.B
Parking Design Standards [2]	17.76.060	17.76.060	17.76.060	17.76.060
Landscaping [3]	17.76.070	17.76.070	17.76.070	17.76.070
Bicycle Parking	17.76.080	17.76.080	17.76.080	17.76.080
Outdoor Lighting [4]	17.967.110	17.967.110	17.967.110	17.967.110

**Notes:**

[1] Includes plant selection, turf limitations, maximum slope, plant groupings, water features, watering times

[2] Includes parking space dimensions, parking lot dimensions, surfacing, pedestrian access, screening

[3] Includes minimum amount of required landscaping, shade trees

[4] Includes maximum height, prohibited lighting types, fixture types, light trespass

## **Subjective Requirements**

Proposed multifamily and mixed-use residential development requires a Design Review Permit and, in certain zoning districts, a Conditional Use Permit. To approve these permits, the Planning Commission must make findings in Section 17.120.080 for Design Permits and Section 17.124.070 for Conditional Use Permits. These findings are provided in Attachment A.

Design Permit Finding E requires compliance with all applicable design review criteria in Zoning Code Section 17.120.070. These design review criteria, also provided in Attachment A, address a broad range of building and site design issues and were recently developed as part of the Zoning Code Update. These criteria reflect public desires for new development and are based on design-related policies in the General Plan such as community character, neighborhood compatibility, mass and scale, articulation, and visual interest.

In addition to permit findings, the Zoning Code contains a number of requirements for multifamily and mixed-use residential development that do not meet the state definition of an objective standard. These subjective requirements are identified in Attachment B. Some requirements apply in all zoning districts (e.g., fence color and material) while others apply only in certain zoning districts or locations (e.g., 3-story building requirements on Capitola Road).

For projects requiring a Design Review Permit or Conditional Use Permit, the City can require compliance with subjective requirements through the discretionary process. For a project requesting streamlined review under SB 35, the City cannot enforce these requirements. Under the Housing Accountability Act and SB 330, the City also cannot require compliance with these standards for any multifamily or mixed-use residential project in a manner that disallows or reduces the density of the proposed project.

## **PROJECT APPROACH**

Given the project goals and relevant state law, this section describes the City's approach to prepare new objective standards for multifamily and mixed-use residential development.

### **1. Translate Design Review Criteria to New Standards**

As described above, a qualifying project requesting streamlined approval under SB 35 must be approved ministerially without Design Review or a public hearing. Instead, the City may only require compliance with objective standards in effect at the time the application was submitted. The City would not be able to require changes to the project to address Design Review criteria in Section 17.120.070.

For this reason, we will translate Design Review criteria into objective standards as needed to ensure quality design for all multi-family and mixed-use residential projects, including projects qualifying for streamlined approval under SB 35. Table 3 below lists Design Review criteria appropriate for translation into objective standards. Translating Design Review criteria into objective standards will also benefit applicants, decision-makers, and the public by providing greater certainty on City requirements and expectations for all proposed projects.

**Table 3: Design Review Criteria to Translate into New Objective Standards**

<p><b>B. Neighborhood Compatibility.</b> The project is designed to respect and complement adjacent properties. The project height, massing, and intensity is compatible with the scale of nearby buildings. The project design incorporates measures to minimize traffic, parking, noise, and odor impacts on nearby residential properties.</p> <p><b>C. Historic Character.</b> Renovations and additions respect and preserve existing historic structure. New structures and additions to non-historic structures reflect and complement the historic character of nearby properties and the community at large.</p> <p><b>E. Pedestrian Environment.</b> The primary entrances are oriented towards and visible from the street to support an active public realm and an inviting pedestrian environment.</p> <p><b>F. Privacy.</b> The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.</p> <p><b>H. Massing and Scale.</b> The massing and scale of buildings complement and respect neighboring structures and correspond to the scale of the human form. Large volumes are divided into small components through varying wall planes, heights, and setbacks. Building placement and massing avoids impacts to public views and solar access.</p> <p><b>J. Articulation and Visual Interest.</b> Building facades are well articulated to add visual interest, distinctiveness, and human scale. Building elements such as roofs, doors, windows, and porches are part of an integrated design and relate to the human scale. Architectural details such as trim, eaves, window boxes, and brackets contribute to the visual interest of the building.</p> <p><b>L. Parking and Access.</b> Parking areas are located and designed to minimize visual impacts and maintain Capitola’s distinctive neighborhoods and pedestrian-friendly environment. Safe and convenient connections are provided for pedestrians and bicyclists.</p> <p><b>S. Mechanical Equipment, Trash Receptacles, and Utilities.</b> Mechanical equipment, trash receptacles, and utilities are contained within architectural enclosures or fencing, sited in unobtrusive locations, and/or screened by landscaping.</p>
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Design Review criteria excluded from Table 3 will not be translated into new objective standards. New standards to translate Design Review Criteria M (Landscaping), N (Drainage), O (Open Space and Public Places), P (Signs), Q (Lighting), and R (Accessory Structures) are not needed because existing standards are sufficient to address these issues. We will not translate Design Criteria I (Architectural Style) and K (Materials) to avoid establishing overly prescribe building design standards. We also will not translate G (Safety) as this criterion does not easily lend itself to objective standards.

Many of the Design Review criteria in Table 3 are already addressed in existing objective standards for some zoning districts. For example, Mixed-Use Village design standards in Section 17.20.030.E contain building orientation, blank walls, storefront width, ground floor transparency, and parking location and buffer standards that address aspects of Design Review Criteria E (Pedestrian Environment), H (Massing and Scale), J (Articulation and Visual Interest), L (Parking and Access), and J (Articulation and Visual Interest). As we prepare the new standards, we will consider if any existing standards should be applied in other zoning districts. We will also consider if existing standards should be augmented or modified to more fully implement the Design Review criteria.

## **2. Consider New Standards for Other Subjective Requirements**

As described above, the City may not require compliance with subjective requirements in Attachment B for projects requesting streamlined approval under SB 35. For this reason, we will review the requirements in Attachment B to determine which, if any, should be translated into an objective standard. Some of these existing requirements are relatively minor and may not need an objective standard (e.g., MU-V pavement material in 17.20.030.E.7). Other requirements may be important to the community and warrant a new objective standard (e.g., 3-story buildings on Capitola Road).

## **3. Provide Options to Achieve Objectives**

Design standards can establish a single method by which all proposed projects must achieve a design objective. For example, to provide variation in facade articulation, the design standards could require all building walls to feature a wall modulation or increase setback every 30 feet. Alternatively, design standards could allow projects to choose from different options to achieve the objective. With this approach, a project could achieve the facade articulation objective by selecting from options such as changes in material and color, vertical accent lines, wall modulation, balconies, bay windows, and changes in building height.

New objective standards will include options to achieve design objectives where appropriate. The facade articulation standard above is an example of where providing options is appropriate. For other standards, options may not be needed or desirable. As we prepare the standards, we will look for opportunities to incorporate options into standards so that individual projects can determine the best design solutions to achieve the City's objectives. In unique circumstances, applicants will also be able to request a deviation from a standard, as described below.

## **4. Allow Deviations with Design Review**

The design standards need to specify if a proposed project may deviate from the standards through a discretionary process. If deviation is allowed, the standards need to identify who approves the deviation, the criteria to allow the deviation, and if deviation is allowed from all standards, or just certain ones.

We will allow deviation from all standards with Planning Commission approval of a Design Permit. This approach matches allowed deviations for accessory dwelling units in Zoning Code Section 17.74.100. However, the default assumption should be that projects will comply with all standards, with deviations allowed only due to unique circumstances.

Findings required to approve the deviation will allow for flexibility when needed but ensure that all projects achieve quality design. We will clearly identify the intent of the standards, and allow for deviation only if the Planning Commission finds that 1) the project, with the deviation, achieves the intent of the standard to the extent possible; and 2) unique circumstances on the property require the deviation.

For example, the new design standards may include a requirement for buildings to be oriented towards a public street with the primary entrance to the building directly accessible from an adjacent sidewalk. The new standards will identify the intent of the standard, which is to provide for an active public realm and an inviting pedestrian environment. On certain sites, complying with this standard may not be feasible or desirable due to unique circumstance such as the location of existing buildings or an unusual



parcel configuration. In such a case, the Planning Commission could allow for an alternative entrance orientation upon finding that the project incorporates alternative design features to support a pedestrian-friendly environment and active/inviting public realm.

## **5. Locate Standards in Zoning Code**

New standards may be located in the Zoning Code or adopted separately by resolution. We plan to locate new standards in the Zoning Code so that all similar development and design standards are found together in one place. With this approach, users will not need to consult a separate document to find the standards, and the standards are less likely to be overlooked by City staff and applicants.

Within the Zoning Code, the new standards may be added to individual zoning district chapters (e.g., Chapter 17.16: Residential Zoning Districts) or placed in a new separate chapter in the Zoning Code. The best location will depend on the details of the standards once they are drafted. If the standards vary considerably across zoning districts, the best location for the standards will likely be individual zoning district chapters. If the standards are more generally applicable to all zoning districts, a separate new chapter may be preferable.

Because new standards will be tailored to different areas of the city and types of development, we expect that we will add the standards to individual zoning district chapters. As we proceed with drafting the standards, we will confirm that this approach works best. The goal should be to locate standards where readers expect to find them while minimizing unnecessary repetition where possible.

### **Attachments:**

- A. Design Permit Findings, Conditional Use Permit Findings, and Design Review Criteria
- B. Additional Subjective Zoning Code Requirements