

Why Do We Have to Create Objective Design Standards?

California Legislation

- Consistency with State law:
 - **HAA:** Housing Accountability Act
 - **SB 35:** Streamlined Approval Process
 - **SB 330/SB 8:** Housing Crisis Act of 2019
 - *...and now SB 9: The HOME Act*
- Remove challenges created by discretionary processes and thus streamline development of qualifying housing projects (including subdivision, multi-family, and mixed-use residential projects)
- Allow City to create tailored standards appropriate for each community

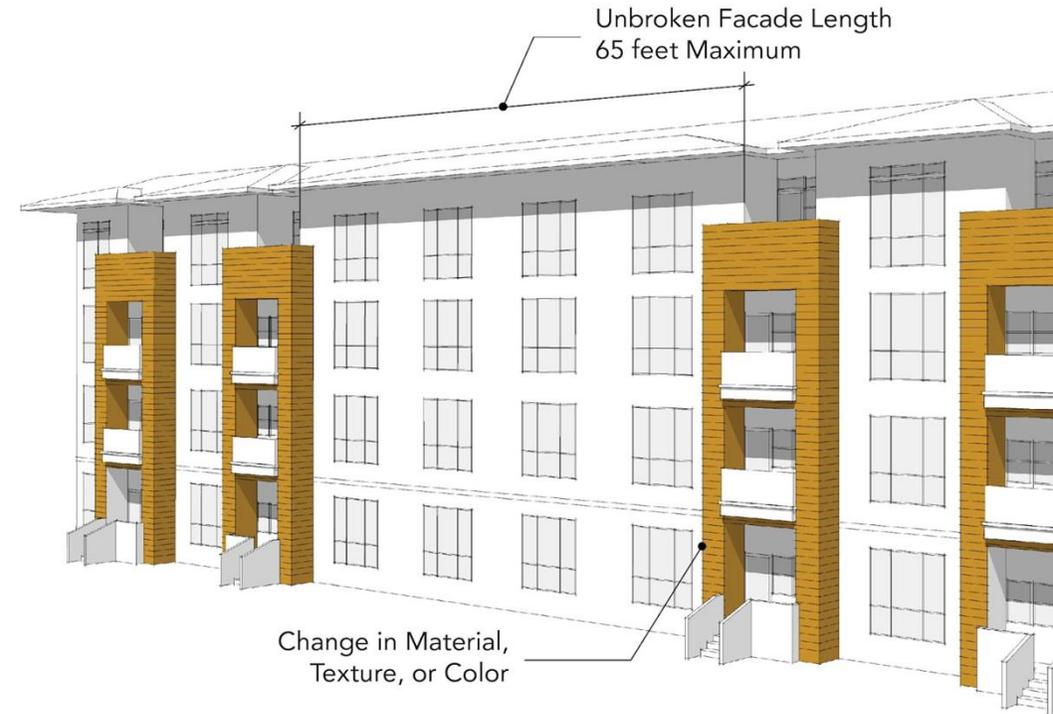
What does objective really mean?

What the Dictionary Says

Definition

“expressing or dealing with facts or conditions as perceived without distortion by personal feelings, prejudices, or interpretations”

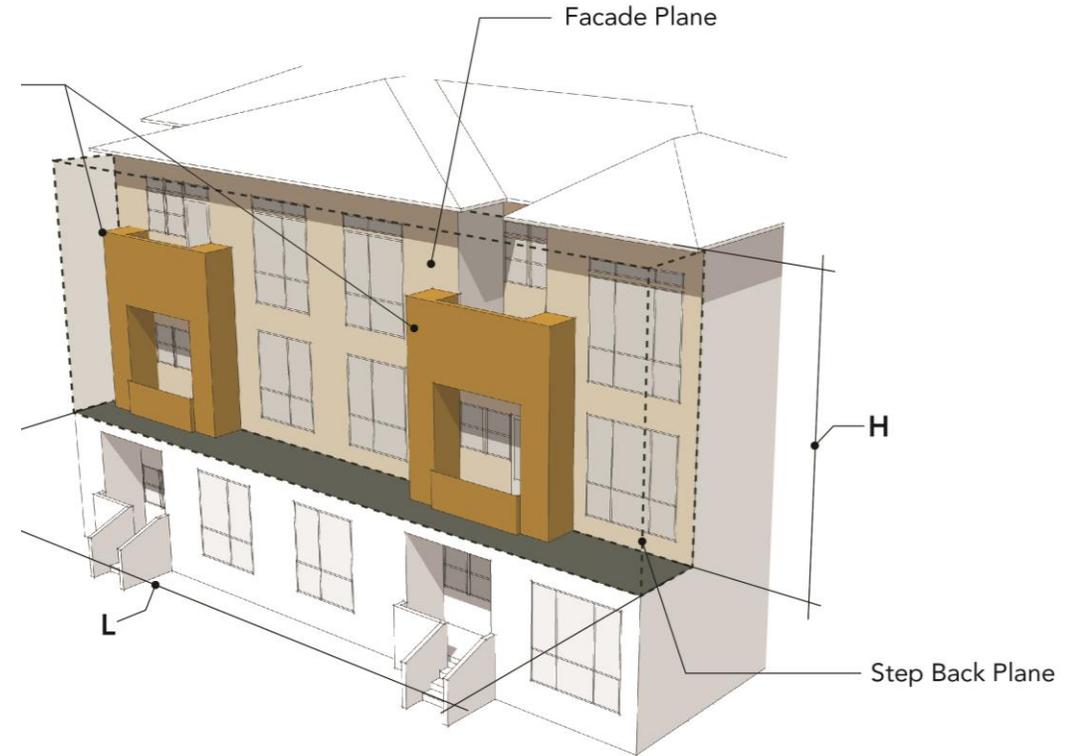
(Merriam-Webster)



What the Law Says

Text of the Law

- “involving no personal or subjective judgement”
- “uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and the public official”



What the Law Says

Case law

- can “be applied without personal interpretation or subjective judgement”

California Renters Legal Advocacy and Education Fund v. City of San Mateo (2021) 68 Cal.App.5th 820

Bankers Hill 150 v. City of San Diego (2022) 74 Cal.App.5th 755



Guidance from the Courts

California Renters Legal Advocacy and Education Fund v. City of San Mateo (2021) 68 Cal.App.5th 820

- **Objective:** “Buildings shall be set back a minimum of 15’ to a maximum of 20’ from the Fourth Avenue property line for at least 60% of the building frontage. Portions of the building over 30’ [in] height shall be stepped back 8’ minimum.”
- **Not Objective:** “Avoid changes in building height greater than one story from adjacent structures. If changes are greater, stepback upper floors to ease the transition.”



Guidance from the Courts

Bankers Hill 150 v. City of San Diego (2022) 74 Cal.App.5th 755

Not Objective:

- “sensitively and adequately transition to adjacent lower height buildings”
- “complement the natural environment”
- “enhance view”



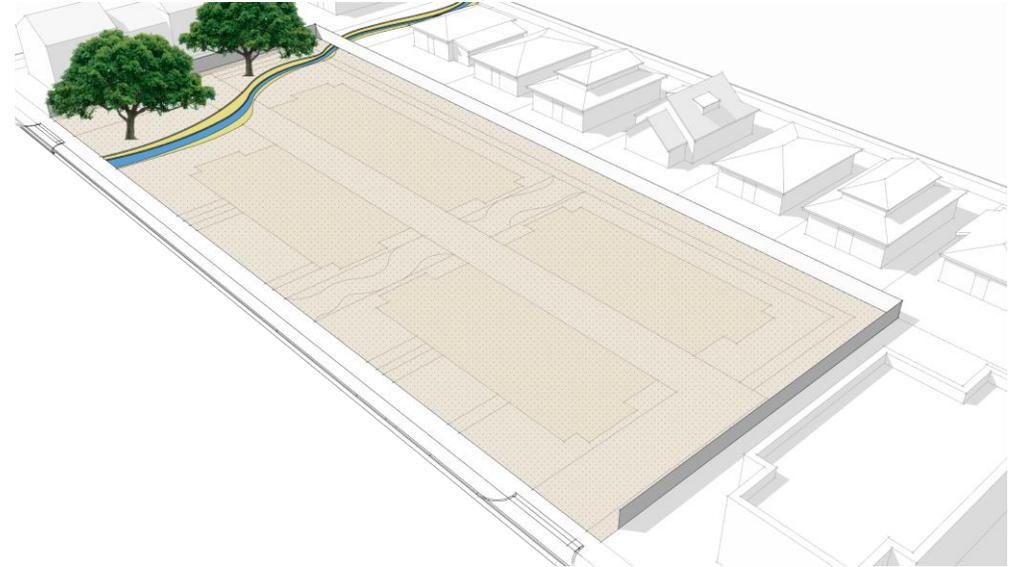
How do we apply “objective”
in practice?

Example 1

“Habitat on-site shall be preserved consistent with the open space and biological resource implementation programs referenced in the General Plan Natural Resource Element.”

- *Unless the General Plan provisions are objective (which they are often not), this is not an objective standard.*

ALT: “The project shall provide and maintain a minimum 100’ buffer on site from any on-site or off-site special status plant species...” (state what is allowed in buffer).

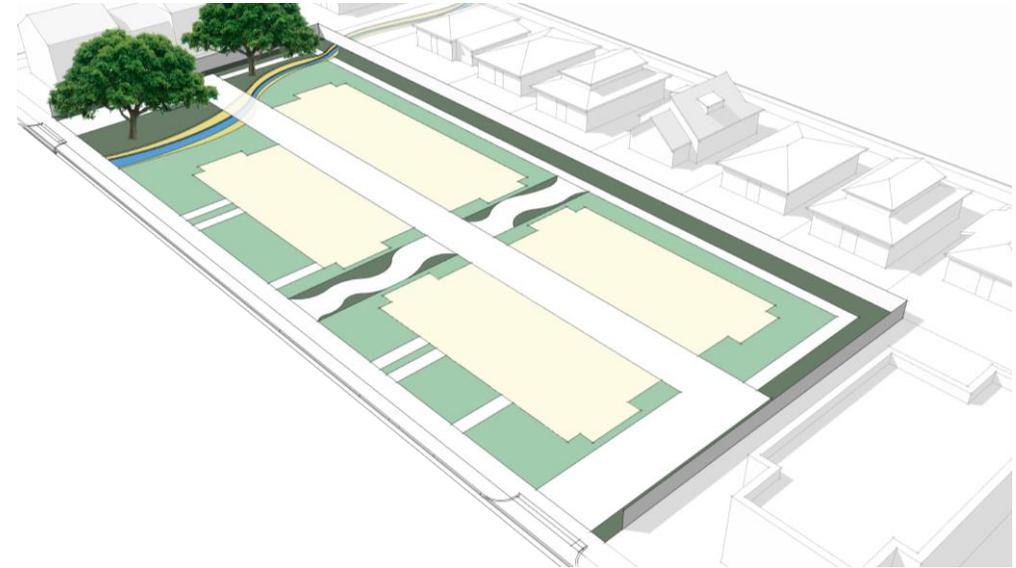


Example 2

“Ground-mounted mechanical and electrical equipment shall be placed to avoid conflicts with vehicular and pedestrian circulation.”

- *“...avoid conflicts” is not objective. It may seem obvious, but what exactly constitutes a conflict?*

ALT: “Ground-mounted mechanical, electrical, and utility equipment shall be placed a minimum of 10’ away from any pedestrian path and/or driveway.”

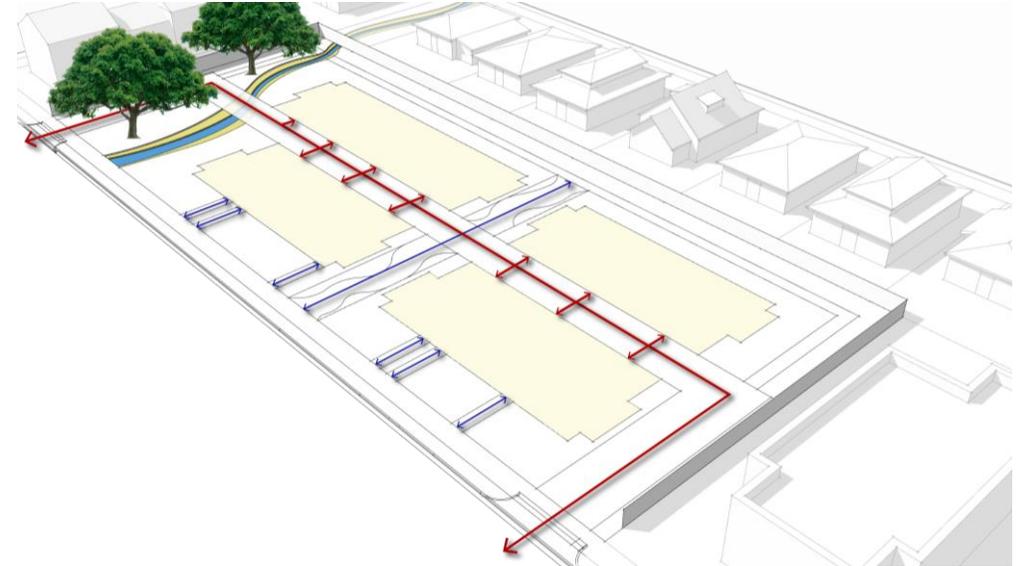


Example 3

“Front doors and facades of retail and other pedestrian-oriented ground floor uses shall be designed with windows that permit pedestrian views into the establishment.”

- *“...windows that permit pedestrian views” is not objective enough.*

ALT: “Any street level facade where retail, recreational, or civic uses are planned shall consist of at least 60% window area. Tint lower than 70% visible light transmission (VLT), mirrored, or reflective glass shall be prohibited.”



Example 4

“Roof lines shall be vertically articulated along the street frontage by architectural elements, such as parapets, varying cornices, clerestory windows and varying roof height or form.”

- *“...vertically articulated ” is not objective. When is it vertically articulated enough?*

ALT: “Roof lines shall be vertically articulated along the street frontage by at least two of the following architectural elements: a) varying cornices; b) clerestory windows; c) varying roof height; and d) varying roof form.”

Still...how much “varying roof height” is adequate?



Example 5

“Locate parking where it is least visible from public view. This may be at the interior or rear of the property, underground, or one-half level below ground.”

➤ *“...least visible” is not objective, who decides which is least visible?*

ALT: Surface parking lot(s) for residential developments shall be screened from view from adjacent streets using one or more of the follow approaches:

1. Wrapped with a residential or other program
2. Tuck under rear parking within the building
3. 75% opaque fence or landscaping



Example 6

“LEED Platinum Requirement. For the purposes of this Chapter, all multifamily residential development and mixed-use development with a residential component shall demonstrate that the design qualifies for the "Platinum Level Certification," or an equivalent standard as defined by the Leadership in Energy and Environmental Design (LEED) of the United States Green Building Council. Plans and/or supplemental information shall be provided at the time an application is submitted for preliminary or formal review as required by City application forms/checklists as established by the Director.”

