



# PLANNING DIRECTOR BULLETIN NO. 10

## REVIEW AND APPROVAL PROCEDURES FOR PROJECTS SUBJECT TO THE HOUSING ACCOUNTABILITY ACT

This Bulletin memorializes policy regarding the use of subjective criteria and discretionary standards for housing projects subject to the Housing Accountability Act.

**First Issued:**  
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**References:**

- Planning Code Section 206.6(c)
- Planning Code Article 3 and related provisions
- Residential Design Guidelines
- Urban Design Guidelines
- California Government Code Section 65589.5
- California Department of Housing and Community Development’s Policy and Practice Review

### INTRODUCTION

This Director’s Bulletin affirms and memorializes longstanding policy regarding use of subjective criteria in the City’s review of housing development projects subject to the Housing Accountability Act (“HAA”). Issued partly in response to the California Department of Housing and Community Development’s Policy and Practice Review, this Bulletin is intended to clarify and highlight particular procedures for HAA-eligible projects to expedite the delivery of housing at all levels of affordability.

### PROCEDURAL BACKGROUND

Found in California Government Code Section 65589.5, the HAA was created in 1982 to help address the State’s housing crisis by limiting the ability of local governments to deny or modify housing projects that comply with zoning. HAA-eligible projects are generally those that construct two or more dwelling units, or mixed-use developments that are at least two-thirds residential. HAA-eligible project must comply with the objective standards of the Planning Code.

Various sections of the Planning Code, particularly in Article 3, provide for subjective review and approval processes for both residential and non-residential projects. For example:

- Planning Code Section 311(c) requires the use of “applicable design guidelines,” which include the Residential Design Guidelines. Additional design guidelines, such as the Urban Design Guidelines, are applied under other provisions of the Planning Code. All of these guidelines include subjective criteria.

- Planning Code Section 309 proscribes a “design review” process (a “Downtown Large Project Authorization” or “DNX”) for many projects located in the Downtown and describes “design requirements and limitations” that can be imposed.
- Planning Code Section 329 mandates a “Planning Commission Design Review” hearing (an “Eastern Neighborhoods Large Project Authorization” or “ENX”) for many projects located south and east of Downtown at which “physical design issues” can be addressed through project modifications.

In recent years, most housing development projects that would otherwise have been subject to a subjective review and approval process under the Planning Code (e.g. DNX or ENX) have instead sought approvals under the California State Density Bonus (“SDB”) program. Pursuant to the SDB law, in exchange for providing on-site below market rate dwelling units, the City must grant a sponsor’s requests for (1) waivers from development standards that would physically preclude construction of the project at the proposed density and/or (2) incentives or concessions from development standards that lower costs or increase financial feasibility. Since the City enacted Ordinance 248-23 in January 2024, most SDB projects are explicitly exempt from any subjective, discretionary public hearings (e.g. DNX or ENX approval).

## POLICY

This Bulletin memorializes and implements the Planning Department’s practice to review projects subject to the HAA using exclusively objective standards. This review shall not impose subjective criteria or guidelines, including but not limited to the Residential Design Guidelines, the Urban Design Guidelines, or those contained in Planning Code provisions related to DNX and ENX applications. It is noted that objective design standards, while under development at the time of issuance of this Bulletin, may be employed in the review of projects upon their adoption.

Approved:



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