

December 10, 2024 City Council Meeting

Written Public Comments

General Public Comment

Jennifer Connally

From: Janice Brownfield
Sent: Monday, December 9, 2024 6:54 PM
To: City Council Public Comment
Subject: Public Comment Non-Agenda Item

Warnings to limit our outdoor activity and to keep windows and doors closed have again been issued by the Air Quality Management District because of the harm to our health threatened by continuing pollution of the air we breathe. More air quality alerts have been issued in California this year than last year. Air pollution increases when temperatures rise, and by 2050 we could experience 25 days a year over 93.9 degrees, compared to 7 days in 1990.

Because of the high air pollution, the AQMD again banned wood burning for several days since particles in wood smoke can get deep into the lungs and cause asthma attacks and other respiratory problems that require emergency medical treatment. On Saturday a small brush fire started at Santiago Creek near the east side of South Cambridge Street. Because of large areas of dry grass, brush and tree branches at Santiago Creek it is a continuing fire danger, especially if combined with strong winds.

Reducing air pollution includes protecting and preserving green spaces such as Santiago Creek and also reducing methane emissions. To help prevent our air quality from deteriorating from "poor" and "unhealthy" to "very unhealthy," it is critical that organic waste carts be provided to all residents and businesses to help reduce methane emissions at landfills. Instead of just "Landfill" containers at Sunday's tree lighting activities, the addition of recycling bags to collect aluminum cans and plastic bottles was a welcome sight.

Also welcome was the City's creation of the Santiago Creek Commission last year and the appointment of seven inaugural members this year which has so far led to the development of a vision for the creek that includes dividing it into three workable segments. A written vision draft is expected at the commission's next meeting on January 22. The City should also adopt the Citywide Sustainability Plan to increase eligibility for financial grants such as from the California Natural Resources Agency to enhance our green spaces, including Santiago Creek, which absorb pollutants and help improve our air quality.

Item 2.5



City of Orange
City Clerk
12/10/2024
3:19 PM

Dec 10, 2024

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Re: Proposed Code Amendment - Objective Design Standards

Dear Orange City Council,

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the Council of its obligation to abide by all relevant state and federal laws when considering the proposed Objective Design Standards (“ODS”), 24-0695, calendared as agenda item 2.5 for the meeting of December 10, 2024. Specifically, the Council must comply with the terms of SB 330.

We thoroughly appreciate the City’s attention to and robust revision of its municipal code to implement its Housing Element. However, the proposed code, as currently drafted, does not adhere to state laws in some places.

Impermissible Downzoning

SB 330 prohibits downzoning below what was permitted on January 1, 2018. Government Code section 66300, subdivision (b)(1)(A) (emphasis added):

Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district in effect at the time of the proposed change, below what was allowed under the land use designation or zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B) or subdivision (h). For purposes of this subparagraph, “reducing the intensity of land use” includes, but is not limited to, reductions to **height**, density, or **floor area ratio**, new or increased open space or lot size requirements, **new or increased setback**

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requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site's residential development capacity.

The proposed ODS impose new setback requirements in multiple ways. The ODS require setbacks above a certain story when facing a street or adjacent uses, and they also require facade plane breaks in the form of a setback from the street. Such setbacks dramatically increase construction costs without clear benefit to the public, as each setback requires extensive structural underpinning to support the weight of the additional facade. The ODS also require setbacks of parking areas. This results in unusable setback space on the parcel.

In various forms, the ODS imposes new setback requirements on pages 6, 7, and 14 of the Multi-Family Objective Design Standards. The ODS also imposes new setback requirements on pages 6, 7, 9, and 16 of the Mixed-Use Objective Design Standards. None of these increased setback requirements are allowed by state law.

Additionally, the proposed ODS impose impermissible downzonings on buildings located in historic districts.

On page 17 of Historic Preservation Design Standards Updates, the ODS includes the following restrictions:

- New buildings in front of a historic building are prohibited.
- New buildings along the side of a primary building are prohibited.

These are increased setback requirements prohibited by SB 330.

Page 17 of Historic Preservation Design Standards Updates also includes the following standards:

- New buildings that are taller than surrounding existing buildings shall break up their mass into smaller components or modules. Step down the height of a taller new building when located adjacent to an existing shorter building.
- The height and roof form of a new building shall match the surrounding historic buildings.
- The height, mass and scale of new secondary buildings shall be subordinate to the primary historic building and/or to an adjacent contributor to a historic district.
- The height of secondary buildings shall not exceed the height of the primary historic building.

These are new height limits prohibited by SB 330. Furthermore, these are non-objective standards prohibited by Code section 66300, subdivision (b)(1)(C).

Page 17 of Historic Preservation Design Standards Updates also includes the following standards:

New buildings shall match in massing, scale, and form to surrounding contributing buildings in the historic district on the same block.

- a. Properties with new construction shall use the average Floor Area Ratio of historic properties on the surrounding street as a model for compatible new development.

This is a new floor area ratio limit, prohibited by SB 330. Furthermore, this is a non-objective standard prohibited by Code section 66300, subdivision (b)(1)(C).

The City may enact these rules only if, at the same meeting of the City Council, “changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.” (Gov. Code, § 66300, subd. (h).) If the proposed changes are crucial to the City’s approach to design standards, then it must compensate for them elsewhere in its ordinances.

Housing Element Inconsistency

The City’s adopted Housing Element contains the following programs relevant to this zoning proposed code change:

Housing Policy Action 2E: Facilitate Infill Construction

- Within 12 months of adoption of the Housing Element, the City shall evaluate and amend the existing provisions in the Zoning Code to provide additional regulatory relief (i.e., streamlined review, reduced and objective development standards, lot consolidation, and other methods deemed appropriate) to further encourage infill housing development.

The proposed code change is the opposite of regulatory relief. Instead, it dramatically increases costs for multifamily housing for unclear public benefit.

Furthermore, the above identified setback requirements, height constraints, and floor area ratio limits are all constraints not analyzed in the City’s Housing Element.

Please note that HCD retains authority to review the City’s actions for consistency with its housing element. (Gov. Code, § 65585, subd. (i).) If HCD finds an action inconsistent with the City’s housing element, it may issue a determination that the City has fallen out of compliance with the Housing Element Law, exposing it to possible legal penalties and the

builder's remedy. (*Id.*) HCD may also refer the matter to the Attorney General for legal action. (*Id.* at subd. (j).)



CalHDF appreciates the City's effort to change its zoning to implement its Housing Element. We remind the City, however, that it must take care to follow the law in doing so. The current proposal needs revisions before it can be finalized and implemented in accordance with state law.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dylan Casey', with a long horizontal flourish extending to the right.

Dylan Casey
CalHDF Executive Director

A handwritten signature in black ink, appearing to read 'James M. Lloyd', with a long horizontal flourish extending to the right.

James M. Lloyd
CalHDF Director of Planning and Investigations

City Council

Meeting Time: 12-10-24 18:00

eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
City Council	12-10-24 18:00	22	6	6	0	0

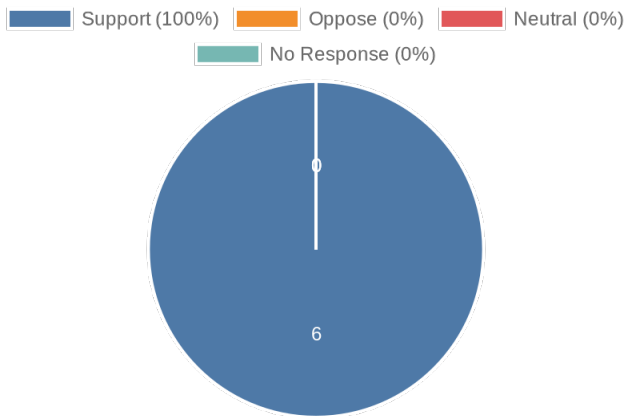
City Council

12-10-24 18:00

Agenda Name	Comments	Support	Oppose	Neutral
2.5. Second Reading and adoption of an Ordinance of the City Council of the City of Orange adopting Objective Design Standards by reference in Title 17 for qualified housing projects. Ordinance No. 31-24.	6	6	0	0

Agenda Item: eComments for 2.5. Second Reading and adoption of an Ordinance of the City Council of the City of Orange adopting Objective Design Standards by reference in Title 17 for qualified housing projects. Ordinance No. 31-24.

Overall Sentiment



Jeannette McClain

Location:
Submitted At: 10:51am 12-09-24

Please approve this ordinance.

Guest User

Location:
Submitted At: 3:50pm 12-06-24

I support Staff and OTPA's recommendation to approve the Objective Design Standards as they have been presented.

Collette Rowley

Location:
Submitted At: 6:24am 12-06-24

I support Staff and OTPA's recommendation to approve the Objective Design Standards as they have been presented.

Guest User

Location:
Submitted At: 8:35pm 12-05-24

I request you approve Agenda item 2.5 as is. Thank you.

Christine Richters

Location:
Submitted At: 5:01pm 12-05-24

I support Staff and OTPA's recommendation to approve the Objective Design Standards as they have been presented.

Ben Kendall

Location:

Submitted At: 4:26pm 12-05-24

I fully support the adoption of these Objective Design Standards as an ordinance by the City of Orange. Thank you.