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PLANNING DIVISION**

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PLANNING COMMISSION STAFF REPORT

Agenda Date: May 13, 2025

SUBJECT

Multifamily and Residential Mixed-Use Objective Design Standards

RECOMMENDED ACTIONS

That the Planning Commission provide feedback and recommendations regarding objective design standards for new multifamily and residential mixed-use development.

DISCUSSION:

Background:

Cupertino is preparing new residential design standards, known as objective design standards (ODS), to conform to changes in State law. The City is currently performing outreach to residents and elected officials to inform the ODS.

Legal

Beginning with the passage of Senate Bill 35 Streamlined Ministerial Approvals (SB 35, now SB 423) in 2017, State law has allowed for the streamlined, ministerial approval of eligible housing development projects with two or more dwelling units. A series of housing laws passed since 2017 has resulted in additional streamlining provisions for various multifamily housing types.

Currently, California Government Code Section 65913.4 states that streamlining eligibility criteria are limited to a group of “objective planning standards” related to the project site, land use regulation and project form. Subjective criteria, such as local design guidelines and land use priorities, may not be used to determine whether a housing project is eligible for streamlined approval.

According to California Government Code Section 65913.4(5), residential projects eligible for streamlining shall be “consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted.” State law defines “objective design review 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 before submittal.” Based on this definition, ODS must be composed of quantitative requirements, numeric thresholds, discrete options, point-based standards, and/or other approaches that facilitate ministerial, or “checklist-style” review.

Like nearly all jurisdictions in California, Cupertino had not adopted ODS prior to SB 35. The City currently regulates multifamily residential design with a series of goals, guidelines and policies adopted in multiple planning documents. These primarily subjective regulations do not have project approval authority under California Government Code 65913.4. As such, the City has no means of ensuring that housing projects streamlined under State law are consistent with local design priorities.

As noted above, multiple state laws that limit the approval criteria of housing products to objective standards have passed since SB 35. These laws further highlight the need for Cupertino to adopt ODS to maintain local design control. These laws include, but are not limited to:

- **Senate Bill 330 (SB 330) Housing Crisis Act.** SB 330 seeks to streamline housing production. It prohibits cities and counties from denying housing using subjective regulatory barriers, or by enacting new laws. Government Code Section 66300 states that jurisdictions shall not “Impos[e] or enforc[e] design standards established on or after January 1, 2020, that are not objective design standards” for lands where housing is an allowable use.
- **Senate Bill 167 (SB 167) Housing Accountability Act.** SB 167 further clarified the definition of “objective standards” and increased the amount of evidence a jurisdiction must show to legally reject an application. Per SB 167, a project must be considered consistent with objective standards as long as “there is substantial evidence that would allow a reasonable person to conclude” that the project complies.
- **Senate Bill 6 (SB 6) Middle Class Housing Act.** SB 6 is intended to permit residential development on sites currently zoned and designated for commercial or retail uses. The legislation provides that relevant projects meeting local objective standards may invoke SB 35 and SB 167 streamlining.
- **Assembly Bill 2011 (AB 2011) Affordable Housing and High Road Job Act.** AB 2011 also facilitates residential development on commercially-zoned sites. The law provides for slightly different qualifying criteria for 100-percent affordable projects and mixed-income projects located in “commercial corridors.” The law

states that eligible proposals shall apply objective standards for the closest zone that allows the multifamily residential density required for the project. If no zone exists that allows for the required residential density, the applicable objective standards shall be those for the zone that allows the greatest density within the city or county.

ODS Content

California Government Code Section 65913.4(5) does not regulate the content or structure of local ODS. Jurisdictions may decide the breadth of design topics covered and the level of specificity of the standards. As a result of this flexibility, adopted ODS vary statewide, from brief text-based standards integrated directly in zoning codes, to more comprehensive ODS booklets containing graphics and/or photographs, adopted via reference in zoning codes.

Regardless of this variation, ODS documents are generally organized into sections based on design topics. Common topics include:

- Site planning (including access and circulation)
- Parking, utilities, and services design
- Building design (including orientation, massing, articulation, and roof design)
- Ground floor design (including pedestrian orientation and activation)
- Open space design
- Lighting design
- Landscaping
- Historic sensitivity

Not all adopted ODS include all these topics; others include additional topics. How these topics are organized and presented, and the level of focus on each, also varies. ODS content is shaped by each jurisdiction's design priorities, desired level of design control, and desired level of visual consistency among applicable residential projects.

Existing City Design Direction

City staff and project consultant PlaceWorks completed a comprehensive analysis of Cupertino's existing multifamily design regulation. The intent of the analysis was to identify relevant design priorities and issues that may inform new ODS. Design goals, policies, guidelines, and standards in the following documents were reviewed:

- General Plan Land Use Element

- General Plan Community Design Element
- 2014 Heart of the City Specific Plan
- North De Anza Boulevard Conceptual Plan
- South De Anza Boulevard Conceptual Plan
- South Saratoga Sunnyvale Road Planning Area Conceptual Zoning Plan
- South Vallco Master Plan
- North Vallco Master Plan
- Monte Vista Design Guidelines
- Title 19, Zoning, Cupertino Municipal Code

The following takeaways from this process are indications of Cupertino's design preferences and may potentially be considered in ODS development:

- **Design is not "one size fits all."** City policies prioritize site identity and neighborhood context in design. Although the ODS will apply to projects citywide, the ODS should consider the surrounding context and provide flexibility, options, ranges, and other selective standards.
- **Active frontages.** Active, pedestrian-friendly frontages are foundations of high-quality building design in the City: Street-level activity and pedestrian scale are repeated themes in City documents. Cupertino ODS should include standards for building frontages, pedestrian entryways, and building orientation.
- **Minimal parking presence.** The visual impact of parking lots and structures is considered a design liability in Cupertino. The ODS should include standards to ensure that parking facilities do not deactivate project frontages.
- **Large project connectivity.** Multi-parcel or block-wide projects require careful site design. Connectivity through large project sites is a theme of the General Plan. The ODS should regulate intra-block connectivity across large developments and horizontal mixed-use projects.
- **Consistency with existing standards.** Multiple land use plans contain objective, quantifiable standards, such as the Heart of the City Plan requirement that "between 20% and 30% of common outdoor space should be in the form of unit-paved or gravel areas." These already objective design policies should be cross-referenced with citywide ODS to avoid conflicting or redundant direction.
- **Diverse architecture and building form.** The City's current land use plans include many guidelines and standards for multiple building design

components, including façade composition, building massing and increments, roof design, and fenestration. These should be consolidated into a group of ODS that preserve yet clarify existing priorities.

- **Consistency with zoning.** Per California Government Code Section 65913.4(5)(B), where ODS and other zoning standards are “mutually inconsistent” they are effectively “cancelled out,” and the project is deemed consistent if it complies only with general plan standards. Thus, care must be taken to ensure consistency between ODS and existing design-related zoning standards which currently cover:
 - Upper floor stepbacks
 - Private outdoor space
 - Scale of architectural extensions/features
 - Corner site design
 - Fenestration and screening
 - Surface parking lot siting
 - Townhome entryway and roof design
 - Bird safe façade, building and landscape design
 - Exterior lighting
 - Surface parking design, including landscaping, parking pad materials, planting strips and other features

Analysis:

What constitutes successful design is subjective by nature. As a result, jurisdictions have historically adopted design guidelines that contain language such as “should complement,” “seek compatibility with,” and “provide a high quality visual environment.” Whether or not a project complies with such criteria may be interpreted differently by different reviewers. These types of subjective criteria do not have the authority to approve or deny fast-tracked housing projects in California.

The ODS project will require Cupertino to synthesize community preferences into quantifiable standards. This Planning Commission Study Session is a key part of that process. Following a visual presentation by PlaceWorks, Commissioners will be asked to provide feedback and recommendations regarding the desired goals and content of residential ODS.

Specific study session questions may include:

1. In general, what approach to ODS do you think will benefit the City more:
 - a. Broad ODS that allow for diversity and flexibility among projects; or

- b. Detailed ODS that regulates components of residential design more tightly?
2. What are the primary impacts of poor residential design on residents and visitors? How can these impacts inform Cupertino's ODS?
3. What design trends in recent residential and mixed-use projects concern you?
4. What design trends do you feel contribute positively to Cupertino's design fabric?
5. Please identify your main design priorities for the following project types:
 - a. Large, "block-level" multifamily and mixed-use projects in Cupertino's urban areas.
 - b. Small neighborhood projects such as duplexes and triplexes in the City's neighborhoods.
6. Please provide examples of proposed or existing residential projects with either a positive or negative design presence. What are the standout design characteristics of each?

Planning Commissioner input, alongside feedback from community members (see Community Outreach, below) and results of an upcoming City Council study session, will inform the Administrative Draft Multifamily and Mixed-Use ODS document.

Environmental Review

This study session and the resulting Planning Commission recommendations will not cause a direct or indirect physical change to the environment. As such, they do not constitute a CEQA "project" pursuant to CEQA Guidelines § 21065 – Project. No environmental review is required.

COMMUNITY OUTREACH

City staff and PlaceWorks conducted an in-person Design Preference Open House on February 10, 2025, at Cupertino City Hall. Participants were also able to attend the meeting virtually. The goals of the meeting were to introduce residents to the ODS process and conduct a design preference open house. Following an introductory presentation, in-house participants were invited to participate in a "dot sticker" design preference survey. Participants viewed a series of interactive poster boards at six design stations, each covering an individual design topic.

Each board contained six design statements related to the topic. Participants had the option to "Agree," "Partially Agree" or "Disagree" with each statement, by placing sticker dots in respective columns. Virtual attendees also participated using Zoom-based polling.

The design open house covered the following topics:

1. Connectivity and Building Orientation
2. Building Form and Façade Articulation
3. Retail and Residential Ground Floors
4. Common Open Space and Landscaping
5. Small-Scale Projects: Orientation and Site Access
6. Small-Scale Projects: Neighborhood Context and Special Topics

The results of the design preference surveys are included as Attachment 1.

NEXT STEPS

City staff and PlaceWorks will conduct an ODS Study Session with City Council in July 2025, followed by preparation of Draft Objective Design Standards with expected public review and adoption of the final ODS by late 2025.

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ATTACHMENTS

1. Community Design Preference Survey Results