

CC 12-02-2025

#2

Proclamation
recognizing Dr.
Darrel Lum

Desk Item



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
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CUPERTINO.GOV

CITY COUNCIL STAFF REPORT DESK ITEM

Meeting: December 2, 2025

Agenda Item #2

Subject

Proclamation recognizing Dr. Darrel Lum for His Exemplary Contributions to
Grassroots Democracy and Civic Engagement

Recommended Action

Present proclamation recognizing Dr. Darrel Lum for His Exemplary Contributions to
Grassroots Democracy and Civic Engagement

Background:

A revised proclamation has been issued. The revised version replaces the previous draft
and is included as Attachment B.

Attachments Provided with Original Staff Report:

A – Proclamation

Attachments Provided with Desk Item:

B – Revised Proclamation



Proclamation

- WHEREAS,** Dr. Darrel Lum, a longtime Cupertino resident and beloved local dentist, moved to Cupertino in the mid-1970s and opened his dental practice on Pacifica Drive near City Hall, where he served generations of Cupertino families with kindness, professionalism, and integrity; and
- WHEREAS,** Beyond his professional excellence, Dr. Lum devoted his life to civic engagement and grassroots democracy; and
- WHEREAS,** As Cupertino experienced rapid growth in the late 1990s and early 2000s, Dr. Lum became a leading voice for citizen participation in local government, working tirelessly to expand public notifications, transparency, and community awareness of proposed developments and planning decisions; and
- WHEREAS,** His dental office became an informal civic classroom, where city plans and project maps adorned the walls and where countless residents—including future community leaders—first learned about the General Plan, the Planning Commission process, and how to engage meaningfully in city decision-making; and
- WHEREAS,** Dr. Lum was instrumental in fostering grassroots organizations, encouraging residents to study issues, attend public meetings, and advocate respectfully for policies that reflected the community’s voice; and
- WHEREAS,** Together with his wife, Cherryl, Dr. Lum worked persistently to place referendums and initiatives on the ballot, empowering Cupertino voters to directly shape the city’s future; and
- WHEREAS,** For more than 25 years, Dr. Lum’s research, public testimony, and advocacy were characterized by depth, precision, and respect for differing views; and
- WHEREAS,** Though Dr. Lum passed away in early 2024, his legacy lives on in the vibrant civic spirit of Cupertino, in the generations of residents he mentored, and in the enduring principle that government functions best when citizens are informed and engaged.
- THEREFORE,** I, Mayor Liang Chao, and the Cupertino City Council do hereby recognize Dr. Darrel Lum for his exemplary contributions to Cupertino and declare him

Champion of Grassroots Democracy and Civic Engagement

And encourage all residents to honor his remarkable life, his commitment to democracy at the grassroots level, and his lasting contributions to the civic fabric of Cupertino.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Cupertino to be affixed this Tuesday, December 2, 2025.

The Honorable Liang Chao
Mayor, City of Cupertino

CC 12-02-2025

#11

OpenGov Budget Format Review

Supplemental Report



ADMINISTRATIVE SERVICES DEPARTMENT

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CITY COUNCIL STAFF REPORT SUPPLEMENTAL 1

Meeting: December 02, 2025

Agenda Item #11

Subject: OpenGov Budget Format Review Presentation and Finalized Recommendations

Recommended Action:

- a. Receive Budget Format presentation as outlined in the Budget Format Implementation Action Plan (IAP) recommendation numbers 15, 17, 18,19, and 30
- b. Approve OpenGov budget format recommendations

Staff's responses to questions received from councilmembers are shown in italics.

Q1: I do support the request to put the blackberry farm pool/picnics, and the senior center as their own separate enterprise funds.

It's true that such requests have been made repeatedly over the years. How hard is it to do it? Does it require a Council vote?

Staff Response: You are correct that the request to establish separate enterprise funds for Blackberry Farm Pool/Picnics and the Senior Center has come up several times over the years. The reason it has not been implemented is that these activities do not meet the definition of an enterprise fund under Governmental Accounting Standards Board (GASB) guidance.

GASB Codification Section 1300.109 states that an activity must meet at least one of the following criteria to be reported as an enterprise fund:

- *It is financed with debt secured solely by the revenues of that activity.*
- *Laws or regulations require the activity to recover its full costs, including capital costs, through fees and charges.*
- *The activity's pricing policy is designed to recover its full costs, including capital costs.*

Blackberry Farm Pool/Picnics and the Senior Center do not meet any of these criteria. Their fees do not recover full operating and capital costs, they are not legally required to do so, and they are supported in large part by the General Fund. This is fundamentally different from activities like the golf course, which has distinct operations and cost-recovery requirements that align with enterprise

fund criteria.

If the intent is simply to understand the full cost of providing these services and compare those costs to the revenue generated, that analysis is already presented each year in the City's operating budget. The budget clearly reflects total costs, total revenues, and the degree of General Fund subsidy required. That transparency reinforces why these activities would not be appropriate for enterprise fund reporting.

For reference, the relevant GASB codification text is included below:

Governmental Accounting Standards Board (GASB) Codification, Part I, Section 1300, paragraph .109 is:

Enterprise funds may be used to report any activity for which a fee is charged to external users for goods or services or fiduciary activities that have the characteristics in paragraph .116 of this section. Activities are required to be reported as enterprise funds if any one of the following criteria is met. Governments should apply each of these criteria in the context of the activity's principal revenue sources.⁴

- a. The activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity. Debt that is secured by a pledge of net revenues from fees and charges and the full faith and credit of a related primary government or component unit—even if that government is not expected to make any payments—is not payable solely from fees and charges of the activity. (Some debt may be secured, in part, by a portion of its own proceeds but should be considered as payable "solely" from the revenues of the activity.)*
- b. Laws or regulations require that the activity's costs of providing services, including capital costs (such as depreciation⁵ or debt service), be recovered with fees and charges, rather than with taxes or similar revenues⁶.*
- c. The pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service).⁷*

⁴*These criteria do not require insignificant activities of governments to be reported as enterprise funds. For example, state law may require a county's small claims court to assess plaintiffs a fee to cover the cost of frivolous claims. However, taxes, not fees, are the principal revenue source of the county's court system, and the fees in question cover only the cost of frivolous small claims court cases. In this case, the county would not be required to remove its court system or the small claims court activity from its general fund and report it in an enterprise fund. Conversely, a state department of environmental protection regulation may require a water utility to recover the costs of operating its water plant, including debt service costs, through charges to its customers—the utility's principal revenue source. Because these charges are the activity's principal revenue source and because the water utility is required to recover its costs, the utility should be reported as an enterprise fund. [GASBS 34, fn33]*

⁵*As used in this section, the term depreciation (and related forms of the term) includes amortization of intangible assets. [GASBS 51, ¶5]*

⁶*Based on this criterion, state unemployment compensation funds should be reported in enterprise funds. [GASBS 34, fn34]*

⁷*The focus of these criteria is on fees charged to external users. [GASBS 37, ¶14]*

Q2: I do wish to know the funding for BlackBerry farm pool/picnics area, including the CIP projects over the past 10 years. Where do I find such info?

Staff Response: The City has had only one Capital Improvement Project (CIP) for Blackberry Farm Pool in the past 10 years: 420-99-073 BBF Park Pool Improvements. This can be found on OpenGov, by accessing the Capital Improvement Plan data set and then filtering the department to include "pool" in the search bar.

CC 12-02-2025

#12

Study Session on the
Mary Avenue
Project

Desk Item



COMMUNITY DEVELOPMENT DEPARTMENT

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CITY COUNCIL STAFF REPORT DESK ITEM

Meeting: December 2, 2025

Agenda Item #12

Subject

Conduct Study Session on the Mary Avenue Project ("Project"), including project history, project siting, the conditional transfer of City-owned property rights, affordability restrictions, and remaining steps prior to entitlement and closing on the Project; and 2) Consider Appointing Negotiator(s) for the possible transfer of certain rights to City-owned property (APN: 326-27-053), in the form of a ground lease or a sale with the City's future right to repurchase

Recommended Action

Consider Mary Ave. project and provide direction on next steps including appointing the City Manager and Interim City Attorney as Negotiators with the Nonprofit Public Benefit Corporations Cupertino Rotary Housing Corporation, Housing Choices Coalition for Persons with Developmental Disabilities, Inc., and Charities Housing Development Corporation of Santa Clara County (collectively, the "Developer"), regarding the possible transfer of property rights in the form of a ground lease or sale with the City's future right to repurchase on terms established by the City Council.

Staff's responses to questions received from councilmembers are shown in italics.

Q1: I went through each attachment, and I cannot find any information on the parking space and street configuration. This information was missing in the last study session on Mary Avenue also. Do we plan to schedule another study session to discuss that issue? Or can we discuss that on Dec. 2?

Staff Response: An informational memo was submitted to City Council per their direction on August 12, 2025 by the Director of Community Development Benjamin Fu (Supplemental Attachment J, Titled: Parking along Mary Ave. Resulting from the Mary Ave. Villas Project). This memo provided an overview of the project and addressed the parking modifications to the Mary Avenue Right-of-Way (ROW). City Council can ask staff at the Study Session on December 2

about the Mary Avenue parking modifications.

Q2: Would the removal of any on-street parking need to be approved by the City Council? When would that be done? Before the project approval or after?

Staff Response: If the Council adopts a resolution approving the street vacation, that portion of the public street ceases to be a public street; therefore, any on-street parking that existed there naturally disappears. No additional legislative action is typically required.

Q3: When would the street be reconfigured to remove street parking? Before project approval or construction or after?

Staff Response: The street reconfiguration would likely be approved as part of the development approval for the Mary Avenue Villas Project.

Q4: Regarding the vacation of the public-right of way, the staff report and the FAQ states "the City remains within the permissible timeframe to undertake the vacation process and will do so at the appropriate stage". When exactly would the city undertake the vacation process? Before the Admin Hearing for the project or after? Before the lease/sale agreement or after?

Staff Response: A real estate transaction has two key milestones: (1) signing the transaction document, in this case the Disposition and Development Agreement ("DDA"), along with the initial entitlements, which often carry conditions to approval, and (2) what is commonly referred to as the "closing," when all DDA conditions and entitlement requirements have been satisfied and the property can be conveyed to the new owner.

The DDA and entitlements are usually handled concurrently, so that the DDA is signed at the same time the initial entitlements are granted. The City Council typically approves the finalized DDA prior to signing. The street vacation and Surplus Land Act ("SLA") requirements can be satisfied at this stage, but it is not mandatory to do so. Like the entitlements, the DDA is often executed with various closing conditions, such as completion of the vacation, fulfillment of SLA requirements, and award of tax credits, which must be satisfied to reach the second milestone, the closing.

Since the Mary Avenue Project is seeking tax credits in connection with its financing, the tax credit application would be submitted at this stage. Typically, an award or denial of a tax credit application requires approximately 4-8 months following submission of the application.

After all DDA and entitlement conditions are satisfied and the tax credit award is received, the property is conveyed and financing secured through the concurrent execution of the grant deed or ground lease, affordability covenant, construction loan documents, and tax credit paperwork.

Since disposition of the property occurs at closing, as described above, the City will have fulfilled its statutory obligations so long as the street vacation and SLA requirements are completed prior to disposition. Although these steps are typically completed closer to closing, to avoid undertaking them prematurely if a project does not proceed, the City has intentionally coordinated and adjusted the timeline as the transaction has developed. Since the developer anticipates submission of a tax credit application, and completion of the street vacation and SLA requirements prior to application may strengthen the submission, City staff currently anticipates completing both requirements before the developer's April 2026 tax credit application. If completion is delayed for any reason, the City would still remain within the statutory timeframe to satisfy these requirements.

Q5: The answer to the question number 5 "Has the City complied with the Brown Act as it relates to a decision to sell or lease the property to the developer?" did not answer the question about the Brown Act though. The public should know that the Council has met in closed sessions on the matter to discuss options and the legal risks associated with each option.

Staff Response: The City has fully complied with the Brown Act, which permits a City Council to hear matters in closed session that present facts and circumstances involving the risk of litigation against the City, which facts and circumstances need not be disclosed.

Q6: The FAQ appears to be missing a question on which issue related to Mary Ave Villa will be placed on the Council agenda and which issue would not? This matter is confusing since the public has been told that the project approval will be by-right, without council approval. But the other issues, like the vacation of public right of way and the SLA declaration, would need to come to the Council.

Staff Response: The response to question 4 above outlines the general transaction timeline. For clarity, we will specify here which items will be brought forward for City Council action.

- ***Approval of the final DDA, prior to signature***
- ***Approval of the vacation of the public right-of-way***
- ***Declaration of exempt surplus land pursuant to the SLA***
- ***Approval of the form of Grant Deed (or Ground Lease), Affordability Covenant, and related Financing Documents*** (this approval is typically concurrent with the DDA but may occur after DDA execution and before closing).
- ***Approval of any documents that materially deviate from the previously approved forms***

Most of these approvals are typically completed at or around the time the DDA is approved, and the same approach is anticipated with the Mary Avenue Project. The reason that "project approval" is considered by-right is because "project approval" is referring to the closing, or disposition of the property. At this later stage, council will have typically already approved of at least a form of the transaction documents and will often authorize the City Manager to finalize and execute

documents subject to review by the City Attorney, once the conditions are met and the transaction is ready to move toward closing.

As I mention above, in the case that a material deviation from the approved forms is contemplated, additional approval from City Council may be sought. Presently, the City Staff anticipates that approvals will be sought concurrently from Council in late January or possibly by early March.

Q7: Although the project approval does not need to come to the City Council, can the City Council request that the project approval to come to the Council, since this is a city-funded project, built on a city property?

Staff Response: As noted in the responses to Questions 4 and 6, all approvals related to the transaction documents and the City's funding commitments will be brought before the City Council. The only reason the final documents are executed at closing without returning to Council is that the Council will have already approved the forms of those documents in advance. If any material deviation from the approved forms is required, those documents must be returned to Council for approval. Accordingly, the Council will have a full opportunity to review and approve the transaction documents before closing.

Q8: In case the city decides to sale the land at a price significantly below the market value, what are the legal requirements/steps when gifting public property?

Staff Response: State law explicitly permits the gift of public land for affordable housing projects pursuant to Cal. Gov. Code Section 37364.

Q9: In reviewing the staff report on the Mary Avenue Villas, can staff clarify that this site was discussed during the Housing Element development process. The first mention of the site in connection with the HE process in the staff report is October of 2022, when the draft HE was released.

Staff Response: As stated in the Staff Report, the first draft of the Housing Element was made public with the Mary Avenue parcel identified as a Housing Element Site on October 10, 2022. However, prior to this, the Mary Avenue site was identified as a Housing Element Site at the following meetings:

- December 9, 2021 – Housing Commission received an introduction to the Housing Element Update Process & Preparation for Mapping Exercise. Please see the meeting details and materials. The need for ELI and Special needs housing was discussed.*
- April 26, 2022 - The Planning Commission met to discuss the establishment of a housing sites selection inventory and strategies to promote the development of new housing. The*

Mary Avenue Site was introduced at this [hearing](#).

- *May 24, 2022 – The Planning Commission met to discuss the establishment of a housing sites selection inventory and strategies to promote the development of new housing. Mary Avenue continued to be included at this [hearing](#).*
- *June 28, 2022 –The fifth Planning Commission [meeting](#) on the Housing Element update focusing on the establishment of a housing sites selection inventory jointly with the Housing Commission. The Mary Avenue site was called out specifically in the consultant memo (Site 3b).*
- *The following City Council Meetings discussed the proposed Housing Sites:*
 - *August 16, 2022 – Meeting materials [here](#).*
 - *August 29, 2022 – Meeting materials [here](#).*
 - *August 30, 2022 – Meeting materials [here](#).*

Attachments Provided with Original Staff Report:

- A – Staff Report dated March 15, 2022
- B – Parcel Map recorded on May 2, 2023
- C – Staff Report dated February 6, 2024
- D – Exclusive Negotiating Agreement executed on April 9, 2024
- E – Staff Report dated September 4, 2024
- F – Staff Report dated April 15, 2025
- G – Staff Report dated July 15, 2025
- H - Existing Conditions and Demolition Plan
- I – Mary Avenue Project FAQ

Attachments Provided with Supplemental Report:

- J - City Council Informational Memorandum: Parking along Mary Ave. Resulting from the Mary Ave. Villas Project, dated August 12, 2025



COMMUNITY DEVELOPMENT

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CITY COUNCIL INFORMATIONAL MEMORANDUM

Date: August 12, 2025

To: Cupertino City Council

From: Benjamin Fu, Director of Community Development

Re: Parking along Mary Ave. Resulting from the Mary Ave. Villas Project

Background

At the July 15 City Council meeting, the council requested an info memo to better understand the reduction of parking along the Mary Avenue right-of-way as would be impacted by the development of the Mary Avenue Villa project.

Since Fiscal Year (FY) 2020-21, the City Work program prioritized engaging with philanthropic organizations to develop very low and extremely low-income housing (ELI) for the intellectually and developmentally disabled (IDD) community. The Adopted FY 2025-27 City Work Program continues to include this ongoing project.

On May 2, 2023, the City recorded a parcel map creating a 0.79-acre site out of surplus Mary Avenue right-of-way (ROW) portions of which currently provide diagonal street parking to the public. In May 2024, the City Council adopted the 6th Cycle Housing Element, which designated this site as a Priority Housing Site (HE Site 10), with an R4 zoning designation and a residential density of 50-65 DU/acre. The proposed Mary Avenue Villas development, consistent with the adopted zoning designation, will include 40 living units in two, two-story buildings with a central parking area providing approximately 22 onsite spaces for residents and employees of the development. In April 2025, the City Council allocated funds (as discussed further in the Fiscal Impact section of this memo) to support the development of the proposed project.

To accommodate the proposed development, as well as maintain the sidewalk, bike lanes, and vehicle lanes along Mary Avenue, approximately 79 of the existing angled street parking spaces located along the west side of Mary Avenue, including those within the limits of the parcel, will be replaced by 33 parallel spaces in the ROW. Along the eastern side of Mary Avenue, 43 parallel parking spaces will also be removed, resulting in a net on-street parking loss of 89 spaces (79+43-33 spaces). Please see Attachment A Street Parking Exhibit, and Attachment B Mary Site Plans.

Sustainability Impact

No sustainability impact.

Fiscal Impact

Costs associated with this work program item are budgeted in the BMR Housing Fund 265-72-71 750-052. No additional fiscal impact would incur should the City Council direct the remaining appropriated funds to be utilized for the entitlement review. Should the City Council deny the use of the appropriated funds, the remaining budgeted amount would return to the City's BMR Affordable Housing fund for future uses.

On April 15, 2025, the City Council authorized an allocation of \$4,083,250 of cash assistance to the Project. The allocation is comprised of \$3 million of funds from the City's BMR Affordable Housing Fund, \$908,683 of Permanent Local Housing Allocation (PLHA) funds, and \$174,567.37 of CDBG funds to be used for public infrastructure improvements. These three allocations will provide a total of \$4,083,250 of cash assistance to the Project.

City Work Program (CWP) Item/Description

Preserve existing and develop new BMR/ELI Housing: Explore opportunities to preserve existing expiring BMR housing. Develop ELI (Extremely Low Income) and BMR housing units for Developmentally Disabled individuals (IDD) on City-owned property as well as the County-owned sites.

Council Goal:

Housing

California Environmental Quality Act

No California Environmental Quality Act impact.

Prepared by: Gian Paolo Martire, Senior Planner

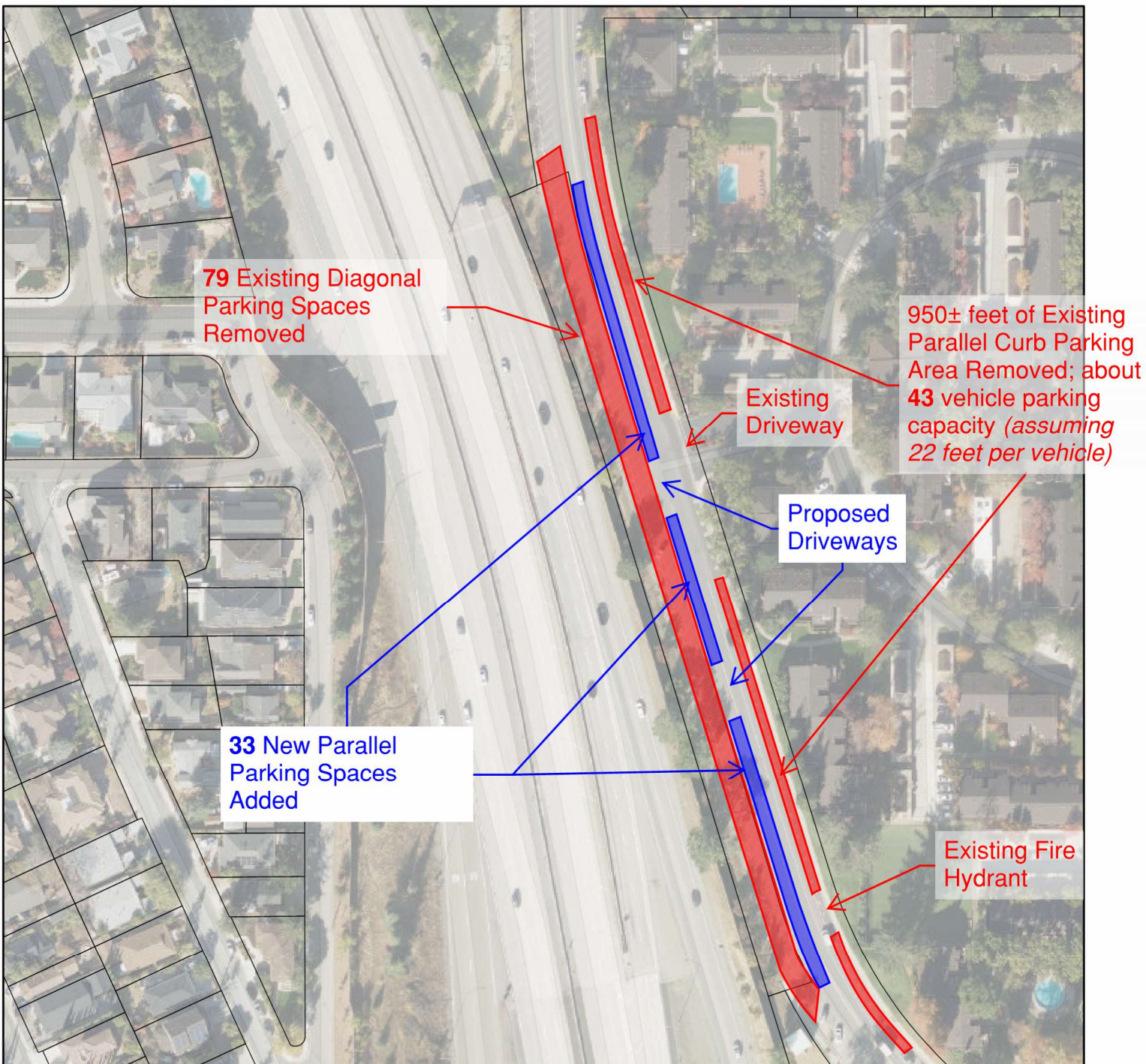
Reviewed by: Benjamin Fu, Director of Community Development

Approved for Submission by: Tina Kapoor, Interim City Manager

Attachments:

A - Street Parking Exhibit

B - Mary Avenue Villas Site Plans



Street Parking Summary

79 Diagonal Spaces Removed (West side of Mary Ave)
43 Parallel Space Capacity Removed (East side of Mary Ave)
33 New Parallel Spaces Added (West side of Mary Avenue)

Net Loss of Street Parking Capacity of 89 Vehicles

Note that the counts expressed on this exhibit are approximate based on current planning-level design documents as of the date listed. The final parking count is subject to revision after City of Cupertino review and approval, and may ultimately vary from the information presented here.

Kimley»Horn

Expect More. Experience Better.

February 2025

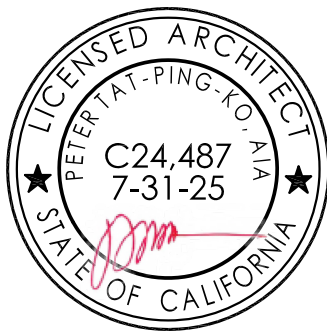
MARY AVENUE
AFFORDABLE
HOUSING

CHARITIES
HOUSING

MARY AVENUE
CUPERTINO, CALIFORNIA



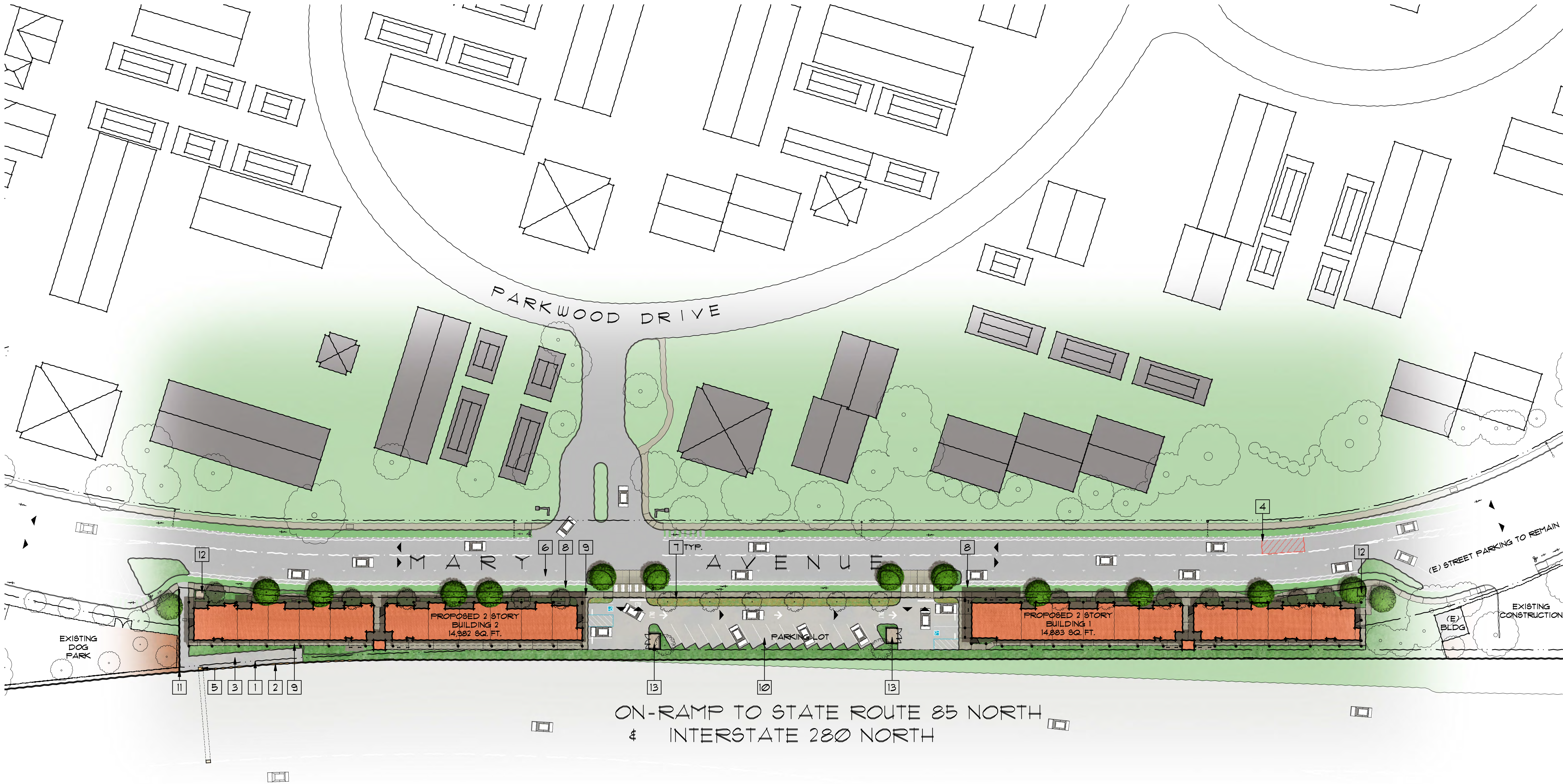
Ko Architects, Inc.
900 High Street, Suite 1
Palo Alto, CA 94301
p: 650.853.1908



REVISION	
PROJECT NO.	24-403
DATE	JULY 24, 2024
DRAWN BY	LCR
SCALE	1" = 40'-0"

OVERALL
SITE
PLAN

SHEET
AS1.0



ON-RAMP TO STATE ROUTE 85 NORTH
& INTERSTATE 280 NORTH

HIGHWAY 85

OVERALL SITE PLAN 1"=40' 1

- 1

(E) PROPERTY LINE
- 2

(E) 14'-0" TALL CMU SOUND WALL
- 3

(E) 1'-0" PUBLIC SERVICE EASEMENT ON PROPERTY
- 4

(E) FIRE LANE TO REMAIN
- 5

(E) HIGHWAY SIGN POST TO REMAIN
- 6

(N) PARALLEL OFF-SITE PARKING
- 7

(N) BIOSWALE AT EDGE OF PARKING LOT
- 8

(N) BIKE LANE
- 9

(N) CONCRETE PEDESTRIAN SIDEWALK

- 10

(N) PARKING LOT WITH ASPHALT
- 11

(N) RETAINING WALL
- 12

(N) ELECTRICAL TRANSFORMER PAD
- 13

(N) CONCRETE TRASH PAD

SITE AREA: 0.7913 ACRES
(34,412 SQUARE FEET)

PARKING:

ON-SITE PARKING:
REGULAR 20 STALLS
ACCESSIBLE 2 STALLS
TOTAL ON-SITE PARKING 22 STALLS

ON-SITE PARKING RATIO: 0.55 STALLS PER UNIT

NOTE: THERE ARE ALSO 33 OFF-SITE PARKING STALLS AT THE STREET CURB.

BUILDING AREA: 29,865 SQ. FT.

BUILDING 1: 14,883 SQ. FT.
TOTAL UNITS: 19 UNITS
STUDIO UNITS: 2 UNITS
1 BEDROOM UNITS: 8 UNITS
2 BEDROOM UNITS: 8 UNITS
3 BEDROOM UNITS: 1 UNIT

BUILDING 2: 14,982 SQ. FT.
TOTAL UNITS: 21 UNITS
STUDIO UNITS: 1 UNIT
1 BEDROOM UNITS: 14 UNITS
2 BEDROOM UNITS: 6 UNITS

TOTAL UNITS: 40 UNITS

UNIT DENSITY: 50 UNITS/ACRE
• 0.7913 ACRES ≈ 40 UNITS

KEYNOTES

TABULATIONS

CITY OF
CUPERTINO



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REVISION

REF. NORTH

PROJECT NO. 197381002

DATE JUL 2024

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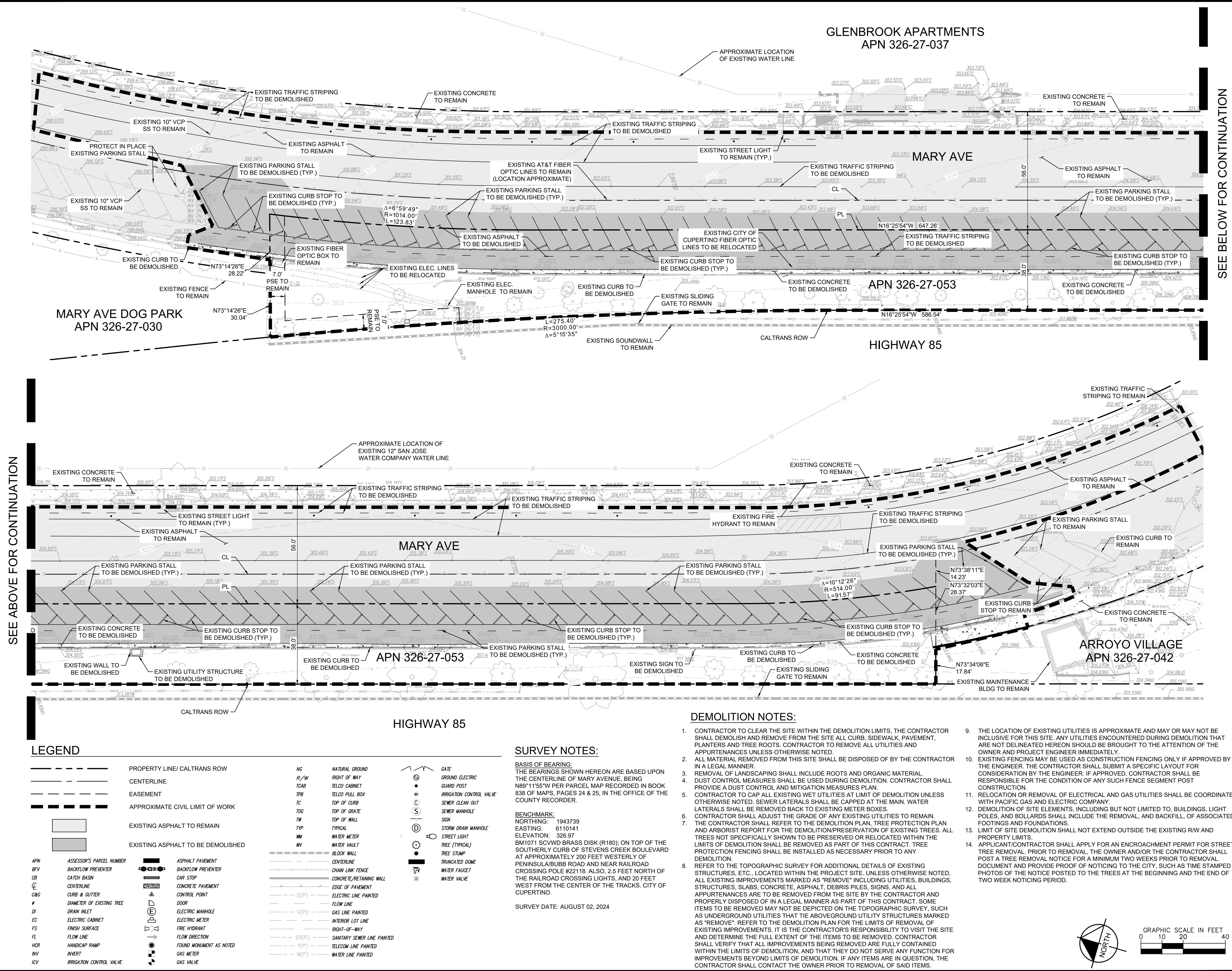
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SHEET

EXISTING CONDITIONS & DEMO PLAN

C000.0

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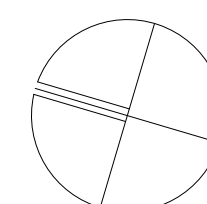
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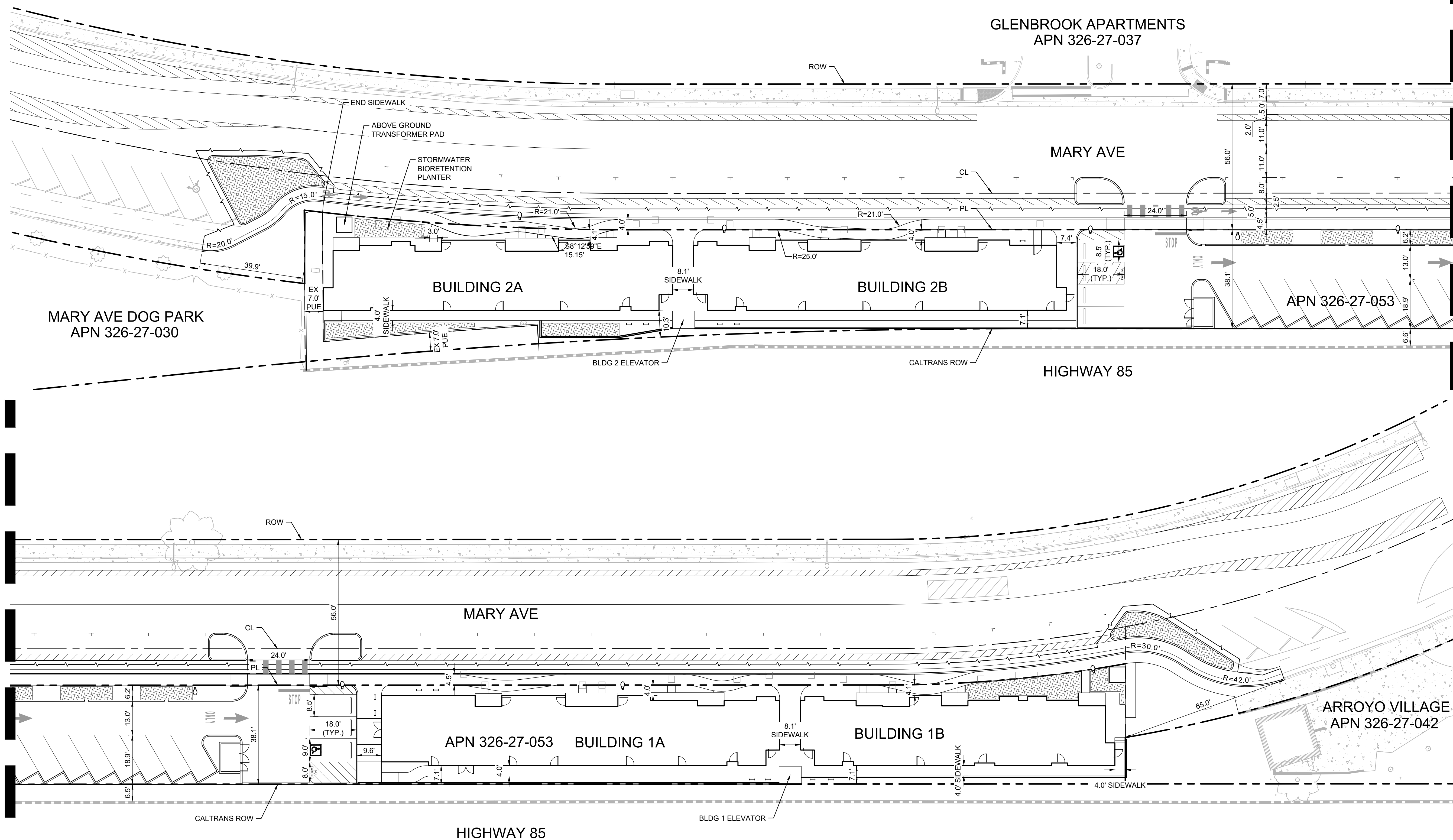
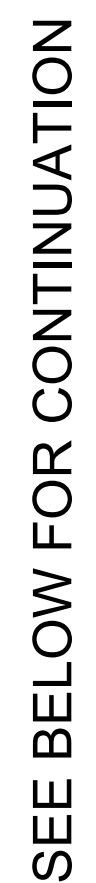
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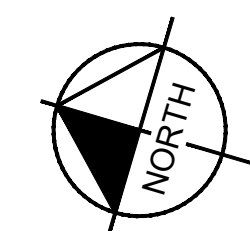
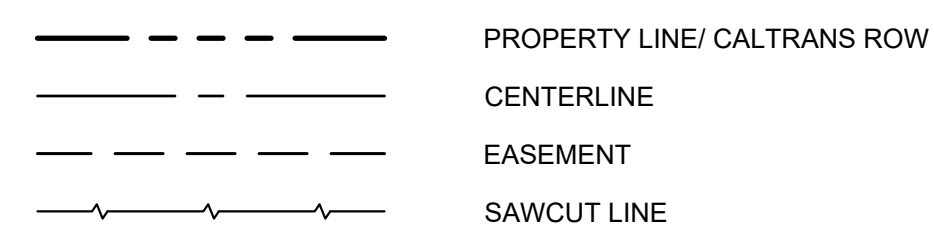
SHEET

PRELIMINARY SITE
PLAN C001.0

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LEGEND



GRAPHIC SCALE IN FEET

0 10 20 40