



OFFICE OF THE CITY CLERK

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CUPERTINO CITY CLERK

RECONSIDERATION PETITION

NOTICE: Reconsideration petitions are only accepted for adjudicatory matters that are quasi-judicial decisions by the City Council. The reconsideration petition is subject to the requirements of and must comply with section 2.08.096 of the Cupertino Municipal Code, available in the City Clerk's office or online at http://www.amlegal.com/cupertino_ca/. Please review this form carefully and provide a detailed explanation for each item. Failure to meet the requirements of section 2.08.096 may result in rejection of the reconsideration petition.

1. Project for which you are requesting reconsideration:

Application No.: Application No(s): ASA-2025-006

Applicant(s) Name: Charities Housing

3. Contact information for party requesting reconsideration:

Name: Joshua Safran, Esq.

Address: One Almaden Boulevard, Suite 700, San Jose, California 95113

Phone: 510.384.7627

Email: jsafran@strategylaw.com

4. Date of Council meeting considering the project for which you are requesting reconsideration: March 3, 2026

Reconsideration petitions must be filed within ten (10) calendar days of the date of the Clerk's notice.

5. Details of grounds for reconsideration (Cupertino Municipal Code Section 2.08.096).

A petition for reconsideration must specify, in detail, each and every ground for reconsideration. Failure to specify the particular ground(s) for reconsideration will preclude any omitted ground(s) from being raised or litigated in a subsequent judicial proceeding.

In addition, the grounds for reconsideration are limited to the criteria listed below. Failure to meet these grounds may result in rejection of the petition for reconsideration. Check all grounds that apply and provide detailed explanations

of the facts supporting each ground for reconsideration (provide supporting documentation and attach additional sheets if necessary):

- An offer of new relevant evidence which, in the exercise of reasonable diligence, could not have been produced at any earlier city hearing.

Explanation of new evidence and why it could not have been produced earlier: Please see the attached Letter, dated March 12, 2026, entitled "Petition for Reconsideration per Cupertino Municipal Code § 2.08.096 of City Council Actions of March 3, 2026, Including: (i) Resolution No. 26-024 (Mary Avenue Vacation) ("Vacation"); and (ii) Resolution No. 26-025 (Mary Avenue Surplus Land) ("Surplus Designation") re Mary Avenue Villas Project (the "Project") (File #: 26-14737)" which letter and all of its exhibits are incorporated herein by this reference.

- An offer of relevant evidence which was improperly excluded at any prior city hearing.

Explain relevant evidence and how, when it was excluded at a prior hearing: Please see the attached Letter, dated March 12, 2026, entitled "Petition for Reconsideration per Cupertino Municipal Code § 2.08.096 of City Council Actions of March 3, 2026, Including: (i) Resolution No. 26-024 (Mary Avenue Vacation) ("Vacation"); and (ii) Resolution No. 26-025 (Mary Avenue Surplus Land) ("Surplus Designation") re Mary Avenue Villas Project (the "Project") (File #: 26-14737)" which letter and all of its exhibits are incorporated herein by this reference.

- Proof of facts which demonstrate that the City Council proceeded without, or in excess of its, jurisdiction.

Explain facts and how those facts show that the Council operated outside its jurisdiction: Please see the attached Letter, dated March 12, 2026, entitled "Petition for Reconsideration per Cupertino Municipal Code § 2.08.096 of City Council Actions of March 3, 2026, Including: (i) Resolution No. 26-024 (Mary Avenue Vacation) ("Vacation"); and (ii) Resolution No. 26-025 (Mary Avenue Surplus Land) ("Surplus Designation") re Mary Avenue Villas Project (the "Project") (File #: 26-14737)" which letter and all of its exhibits are incorporated herein by this reference.

- Proof of facts which demonstrate that the City Council failed to provide a fair hearing.

Explain facts and how those facts demonstrate failure to provide a fair hearing:

Please see the attached Letter, dated March 12, 2026, entitled "Petition for Reconsideration per Cupertino Municipal Code § 2.08.096 of City Council Actions of March 3, 2026, Including: (i) Resolution No. 26-024 (Mary Avenue Vacation) ("Vacation"); and (ii) Resolution No. 26-025 (Mary Avenue Surplus Land) ("Surplus Designation") re Mary Avenue Villas Project (the "Project") (File #: 26-14737)" which letter and all of its exhibits are incorporated herein by this reference.

- Proof of facts which demonstrate that the City Council abused its discretion by:
- (a) Not preceding in a manner required by law; and/or
 - (b) Rendering a decision which was not supported by findings of fact; and/or
 - (c) Rendering a decision in which the findings of fact were not supported by the evidence.

Explain facts and how those facts demonstrate abuse of discretion related to items (a)-(c): Please see the attached Letter, dated March 12, 2026, entitled "Petition for Reconsideration per Cupertino Municipal Code § 2.08.096 of City Council Actions of March 3, 2026, Including: (i) Resolution No. 26-024 (Mary Avenue Vacation) ("Vacation"); and (ii) Resolution No. 26-025 (Mary Avenue Surplus Land) ("Surplus Designation") re Mary Avenue Villas Project (the "Project") (File #: 26-14737)" which letter and all of its exhibits are incorporated herein by this reference.

6. Signature(s) _____



Please complete form, include reconsideration fee of \$376.05 pursuant to Resolution No. 24-040 payable to City of Cupertino and return to the attention of the City Clerk, 10300 Torre Avenue, Cupertino, California (408) 777-3223.

Acceptance of a petition by the City Clerk is for timeliness purposes only and does not constitute a determination that the petition meets the requirements for reconsideration under section 2.08.096 of the Municipal Code. The City reserves the right to review petitions after submission and reject those that do not meet the criteria set forth in Cupertino Municipal Code Section 2.08.096.

STRATEGY LAW, LLP

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P: (408) 478-4100 F: (408) 295-4100 www.strategylaw.com

March 12, 2026

JOSHUA SAFRAN, ESQ.
jsafran@strategylaw.com

Acting City Clerk Lauren Sapudar
Office of the City Clerk Office
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

By Hand Delivery & Email (LaurenS@cupertino.gov; cityclerk@cupertino.gov)

**Petition for Reconsideration per Cupertino Municipal Code § 2.08.096 of
City Council Actions of March 3, 2026, Including:**
(i) Resolution No. 26-024 (Mary Avenue Vacation) (“Vacation”); and
(ii) Resolution No. 26-025 (Mary Avenue Surplus Land) (“Surplus Designation”)
re Mary Avenue Villas Project (the “Project”) (File #: 26-14737)

Dear Acting City Clerk Sapudar:

We represent the Garden Gate Coalition ~~for Mary Avenue Safety~~ (the “Coalition”), an unincorporated association of residents and community members directly and adversely affected by the Project and the City’s related approvals and commitments affecting the Mary Avenue right-of-way and public parking and other resources.

To the extent required, pursuant to Cupertino Municipal Code § 2.08.096, the Coalition hereby submits this formal Petition for Reconsideration of the City Council’s March 3, 2026 approvals and determinations for the Project (the “Decision”). This Petition, if required, is timely because it is filed within ten (10) calendar days of the City Clerk’s mailing of notice of the Decision (dated March 5, 2026).

This Petition diligently specifies the grounds for reconsideration under CMC § 2.08.096, and is intended to fully preserve all issues for any subsequent judicial proceeding. The Coalition requests that the City Council grant reconsideration, vacate the Decision, reopen the record, and proceed only after full compliance with all applicable procedural and substantive requirements, including CEQA, General Plan law, right-of-way vacation statutes, disqualifications due to conflicts of interest, and public land disposition requirements.

I. Decision for Which Reconsideration Is Requested

The Coalition seeks reconsideration of the City Council’s March 3, 2026 actions for Agenda Items 8 and 9, including (without limitation):

- A. The Council’s determination that the Vacation is exempt from CEQA;

- B. Adoption of Resolution No. 26-024 approving the Vacation of a portion of Mary Avenue (APN 326-27-053);
- C. Adoption of Resolution No. 26-025 declaring the Mary Avenue property (APN 326-27-053) to be exempt surplus land pursuant to Government Code section 54221(f)(1)(F)(i); and,
- D. Any related findings, determinations, directives, and commitments that enable, facilitate, or further entrench the City's prior commitments to vacate public right-of-way and convey public property for the Project.

II. Record and Incorporation of Prior Objections

To avoid unnecessary repetition, the Coalition expressly incorporates by reference, as though fully set forth herein, the Coalition's Petition for Reconsideration dated February 27, 2026 (the "Prior Petition"), including all exhibits incorporated therein by reference, together with the Coalition's March 3, 2026 demand letter regarding Agenda Items 8 and 9 and all prior written and oral objections submitted by or on behalf of the Coalition concerning the Project, the proposed right-of-way vacation, the proposed exempt-surplus declaration, CEQA compliance, General Plan consistency, sequencing under Government Code section 65402, the DDA's legal defects, and fair-hearing/disqualification issues.

Without limiting the breadth of that incorporation, the following sections of the Prior Petition are specifically incorporated because they remain directly applicable to the March 3 Decision:

1. Prior Petition § II (Record and Incorporation of Prior Objections);
2. Prior Petition § III, Ground 2 (Offer of Relevant Evidence Improperly Excluded at a Prior City Hearing);
3. Prior Petition § III, Ground 3(1)-(3) (Council Proceeded Without, or in Excess of, Its Jurisdiction);
4. Prior Petition § III, Ground 4(1)-(4) (Failure to Provide a Fair Hearing);
5. Prior Petition § III, Ground 5(a)(1)-(7) (Not Proceeding in a Manner Required by Law);
6. Prior Petition § III, Ground 5(b)(1)-(3) (Decision Not Supported by Findings of Fact);
7. Prior Petition § III, Ground 5(c)(1)-(4) (Findings Not Supported by the Evidence); and
8. Prior Petition § IV (Relief Requested).

In addition, the Coalition submits and incorporates by reference as supplemental exhibits:

- Two contemporaneous presentation decks previously presented to the City regarding the Project: “Mary Avenue Villas Housing Project: The Wrong Site” (Sept. 3, 2025) and “Mary Avenue Villas Housing Project: Don’t Take Away Our Public Space” (Sept. 16, 2025). These materials provide contemporaneous photographic and demonstrative evidence corroborating the Coalition’s prior objections concerning Mary Avenue’s existing public use for parking, circulation, bicycle and pedestrian travel, event-related spillover demand, and related safety concerns, including safety concerns affecting the Project’s intended residents.
- A September 26, 2025 email to Tina Kapoor et al., titled ‘Follow-up to meeting: Requests for Traffic Circulation and Parking Analysis for Mary Ave Villas,’ together with the attached photographs, as contemporaneous evidence regarding large-vehicle operations on Mary Avenue, including truck widths, off-tracking, shy-distance, bottleneck, and operational safety concerns.
- The City’s August 28, 2025 memorandum titled “Parking Along Mary Ave. Resulting from the Mary Ave. Villas Project,” together with its attached plans and diagrams. These materials provide additional contemporaneous record evidence regarding the reconfiguration of the Mary Avenue frontage, including demolition of existing striping and depiction of a future bicycle-lane alignment around the Project, and thus further corroborate the Coalition’s objections concerning the loss and rerouting of active public transportation and circulation functions.

The March 3 actions did not cure those previously identified defects. Rather, they reasserted and entrenched them through two new resolutions that again invoked the same challenged CEQA exemption theory, again relied on the same unlawful sequencing, and again attempted to convert prior unlawful commitments into supposed justification for further approvals.

III. Grounds for Reconsideration (CMC § 2.08.096)

Ground 1: Offer of Relevant Evidence Improperly Excluded at a Prior City Hearing

The Coalition offers the following ground under “improperly excluded evidence,” which independently warrants reconsideration: The City’s March 3 agenda procedures materially constrained the Coalition’s ability to present responsive documentary and visual evidence at the hearing itself. The agenda prohibited speakers from connecting personal devices at the podium and required documents to be emailed to the City Clerk by 3:00 p.m. if the speaker wished staff to display them during oral comment. To the extent the City relied on those procedures to limit presentation of responsive evidence concerning final resolution language, rebuttal points, or hearing developments, those procedures functionally excluded relevant evidence from meaningful consideration at the hearing.

The prejudice was concrete. For example, the March 3 materials and incorporated project plans contemplated removal of the existing bicycle-lane/frontage segment within the parcel to be vacated while depicting a different, future bicycle alignment curving around the Project buildings. Yet the City did not provide the public with a clear apples-to-apples exhibit showing the existing active bicycle facility to be removed and the future rerouted alignment proposed to replace it. The City's own August 28, 2025 memorandum and attached plans reflected both demolition of the existing frontage configuration and a future bike-lane layout associated with the Project. Under these circumstances, the hearing procedures materially impaired the Coalition's ability to present responsive evidence regarding the circulation and safety consequences of removing and rerouting an existing active bicycle facility.

The Coalition does not rest solely on this ground. Reconsideration is independently warranted for the jurisdictional, fair-hearing, and abuse-of-discretion grounds set forth below.

Ground 2: Proof of Facts Demonstrating the City Council Proceeded Without, or in Excess of, Its Jurisdiction

Reconsideration is warranted because the Council proceeded without or in excess of jurisdiction, including, without limitation, the following:

1. The March 3 actions cannot cure or retroactively validate the jurisdictional defects identified in the Prior Petition. See Prior Petition § III, Ground 3(1)-(3); Ground 5(a)(1)-(5). As explained there, the City unlawfully approved and committed itself to the Project through the February 3 approvals and DDA before completing antecedent Planning Commission review, lawful CEQA analysis of the whole action, and the legally required findings for vacation and public land disposition.
2. The City's own March 3 staff report confirms that, under the already-executed DDA, the City could not perfect the transfer of City-owned property unless the City first declared the property exempt surplus land and first vacated 0.79 acres of public right-of-way. Thus, the March 3 actions were not ministerial "follow-through" or mere implementation. They were substantive, discretionary prerequisite approvals that the City was attempting to supply after having already committed itself through the DDA.
3. A belated Planning Commission action on February 10, 2026 could not retroactively legitimize an invalid CEQA process, cure improper segmentation, or supply by ratification the antecedent findings required by Government Code section 65402. See Prior Petition § III, Ground 3(1); Ground 5(a)(3). The City's continued reliance on that post-hoc process underscores, rather than cures, the jurisdictional defect.
4. Resolution No. 26-024 likewise confirms the continuing entrenchment of the prior unlawful commitment. It recites the DDA, asserts that the DDA had "no binding effect or limitation" on Council discretion, and then directs City staff to record the vacation resolution upon notification that the developer has met all precedent conditions in the DDA. In substance, the Resolution treats the Vacation as a DDA contingency to be carried out once the developer satisfies the agreement's

conditions. That is further proof that the City proceeded on a legally backward theory of commitment first, findings later.

5. The same is true of Resolution No. 26-025. It recites the prior DDA, treats exempt-surplus status as another contingency needed to carry out the already-approved transaction, and improperly declares as “exempt surplus” land that the record shows is functionally active public infrastructure, including an existing public right-of-way resource serving bicycle travel, public parking, circulation, and access. *See* Prior Petition § III, Ground 5(a)(4)-(5); Ground 5(c)(1), (3). If the Property remains necessary for present or foreseeable public use, the City could not lawfully deem it exempt surplus merely by characterizing those existing public functions as nonessential to the City’s preferred redevelopment objective. That is not a lawful exercise of fresh, uncommitted discretion.

These defects go to the Council’s fundamental authority to proceed as it did and require reconsideration and vacation of the Decision.

Ground 3: Proof of Facts Demonstrating the City Council Failed to Provide a Fair Hearing

The Coalition requests reconsideration because the Council failed to provide a fair hearing, including, without limitation, the following:

1. The Coalition expressly incorporates the fair-hearing objections set forth in the Prior Petition, including the Coalition’s showing that a fair quasi-judicial hearing requires decisionmakers to maintain an “open mind,” to decide based on law and evidence, and not to proceed based on animus, moral condemnation, prejudice, or demonstrated bias. *See* Prior Petition § III, Ground 4(1)-(4); Ground 5(a)(7); Ground 5(b)(3); Ground 5(c)(4).
2. The Coalition renewed those objections in writing before the March 3 hearing and requested that the Council proceed only after recusal of any Councilmember with a disqualifying conflict of interest, including prejudice or bias inconsistent with an open mind. The City nevertheless proceeded with consequential new adjudicatory actions that further implemented and entrenched the challenged approvals, and those actions again passed by the same three-member majority.
3. The City also continued to proceed in the same accelerated, deadline-driven manner previously identified in the Prior Petition and again described in the Coalition’s March 3 demand letter. The March 3 actions were pursued because the City had already committed itself and now sought to fulfill the remaining contingencies necessary to keep pace with the Project’s financing schedule, rather than because the City had lawfully reset the process and cured the underlying defects.
4. To the extent the City relied on agenda-imposed restrictions on live presentation of documentary material, those restrictions further impaired the Coalition’s ability to present responsive evidence at the March 3 hearing.

The cumulative effect of these circumstances deprived the Coalition of the fair hearing required for quasi-judicial decisionmaking.

Ground 4: Proof of Facts Demonstrating the City Council Abused Its Discretion

Reconsideration is warranted because the Council abused its discretion by (a) not proceeding in a manner required by law; (b) rendering decisions not supported by findings of fact; and/or (c) rendering findings not supported by the evidence.

Ground 4(a): Not Proceeding in a Manner Required by Law

Without limitation, the Council failed to proceed as required by law in the following ways:

1. CEQA: Invalid reliance on exemption and improper segmentation/“whole of the action” defects. The Coalition incorporates Prior Petition § III, Ground 5(a)(1)-(2) and Ground 5(c)(1)-(2). The March 3 resolutions expressly repeated the same challenged CEQA rationale. Resolution No. 26-024, section 3 and Resolution No. 26-025, section 2 both invoke the Class 32 exemption, both assert there would be no significant effects relating to traffic, both assert no CEQA exceptions apply, and both characterize the Vacation and exempt-surplus declaration as not separate projects but implementation actions within the scope of the broader housing development. Those are the same legally defective theories previously challenged in the Prior Petition and renewed in the March 3 demand letter.

2. Sequencing and predetermination. The Coalition incorporates Prior Petition § III, Ground 3(1)-(3) and Ground 5(a)(3)-(5). The March 3 staff report confirms that the City had already entered into a contingent DDA and that the City was now attempting to satisfy the contingencies needed to perfect the transfer. That is the very essence of unlawful predetermination and backward sequencing.

3. Right-of-way vacation law. The City failed to proceed in the manner required by Streets and Highways Code section 8324(b) and related law. A lawful vacation requires supported findings that the Vacation Area is unnecessary for present or prospective public use, and California case law further requires that the abandonment be in the public interest. Yet Resolution No. 26-024 provides only conclusory reasoning: that the post-development roadway design would include sidewalks, travel lanes, and bicycle lanes meeting design standards, and that the Council deemed the Vacation Area unnecessary. Adequacy of a future redesign is not the same thing as substantial evidence that an existing public right-of-way, currently used for parking, circulation, and access, is unnecessary for present or prospective public use. Nor did the Council identify or make any finding addressing the public interest in the Vacation. *See Heist v. County of Colusa* (1984) 163 Cal.App.3d 841. Nor did the Council proceed in the manner required by law when it failed to grapple with record evidence that the narrowed configuration would create unresolved truck off-tracking and clearance conflicts while impairing existing bicycle and pedestrian safety functions. That defect is especially pronounced where the City’s own plans contemplated demolition of the existing frontage striping and substitution of a different future bicycle alignment around the

Project, yet the resolutions did not squarely analyze the legal and factual significance of eliminating the existing on-parcel bicycle facility as part of an active public right-of-way.

4. Surplus Land Act / public disposition requirements. The Coalition incorporates Prior Petition § III, Ground 5(a)(5) and related discussion of the Surplus Land Act in the Prior Petition and March 3 demand letter. Resolution No. 26-025, section 3 improperly bootstraps the “not necessary for the City’s use” determination from (i) the City’s prior decision to designate the site for affordable housing, (ii) the future roadway design after vacation, and (iii) the added statement that public parking is not “essential” to the agency’s operational needs. That is not the analysis the statute requires. The question is whether the Property is necessary for present or foreseeable public use based on its actual, functional use. *See* Prior Petition § III, Ground 5(a)(4)-(5). Here, the record showed continuing public infrastructure functions, including the Mary Avenue bicycle facility, public parking serving Memorial Park and surrounding uses, and right-of-way circulation/access functions. That conclusion is further undermined by the City’s own project materials showing that the existing Mary Avenue frontage configuration, including the on-parcel bicycle-lane segment, would be removed and replaced with a rerouted future alignment around the Project buildings - confirming that the Property was serving active, present transportation functions rather than lying idle or unnecessary for public use. The City could not lawfully deem land “exempt surplus” simply because it preferred to repurpose active public infrastructure for redevelopment.

5. Mere citation to *Airport Business Center* does not cure the defect. The Council amended Resolution No. 26-025 to add a citation to *Airport Business Center v. City of Santa Rosa*, but an added case citation does not substitute for findings supported by record evidence. The Resolution still does not grapple with the Property’s actual current function as public right-of-way and parking, nor with the substantial evidence that those public functions remain necessary.

Ground 4(b): Rendering Decisions Not Supported by Findings of Fact

The City Council’s findings are inadequate and/or conclusory in multiple respects, including:

1. Resolution No. 26-024 contains no finding addressing the public interest in the Vacation, notwithstanding that public-interest component of the governing law.
2. Resolution No. 26-024 does not identify findings addressing the actual functional public uses being eliminated, including public parking, neighborhood circulation, event-related parking spillover, and the role of Mary Avenue as a Neighborhood Connector.
3. Resolution No. 26-025 does not identify findings explaining how an active public right-of-way and parking resource is suddenly unnecessary for present or foreseeable public use. Instead, it largely recites the City’s redevelopment objective and future regulatory commitments.
4. Both resolutions presuppose that the City lawfully could continue implementing the DDA and prior approvals without first curing the defects identified in the Prior Petition. They contain no meaningful findings confronting those defects.

Ground 4(c): Rendering Findings Not Supported by the Evidence

Even where findings are stated, they are not supported by substantial evidence, including:

1. The repeated CEQA finding that approval of the Project would not result in significant effects relating to traffic is contradicted by the evidentiary showing incorporated through the Prior Petition, including the Krupka report and the Westport-related parking/circulation materials discussed in Prior Petition § III, Ground 5(a)(2) and Ground 5(c)(1). Those materials directly undermine the City's "no significant traffic effects" and "no exceptions apply" conclusions.

2. The finding in Resolution No. 26-024, section 6 that the Vacation Area is unnecessary for present or prospective public use is not supported by substantial evidence. The record instead contains substantial evidence that the right-of-way presently serves public parking, circulation, access, bicycle travel, and neighborhood buffering functions, and that those functions remain relevant prospectively as well. The record also included project materials showing demolition of the existing Mary Avenue frontage striping and a future bicycle-lane alignment rerouted around the Project, which further undercuts any finding that the existing right-of-way segment was unnecessary or that its removal would not materially affect ongoing public circulation and bicycle uses. The incorporated record also included specific evidence that Mary Avenue carries approximately 16 Public Works/service vehicles per hour, including utility trucks, boom trucks, garbage trucks, and semi-trucks with trailers, some up to 10 feet wide, and that the narrowed geometry would create off-tracking, shy-distance, bottleneck, and passing conflicts. *See Supplemental Exhibit C* (Sept. 26, 2025 email to Tina Kapoor); see also Prior Petition § III, Ground 5(c)(1). The Council did not identify substantial evidence rebutting those operational hazards or explaining how degrading an active bicycle facility at this location remains consistent with the Mobility Element policies incorporated through the Prior Petition, including policies supporting a safe pedestrian and bicycle network for users of all ages and abilities.

3. The finding in Resolution No. 26-025, section 3 that the Property is not necessary for the City's use, including the amended recital that public parking is not essential for the City's operational needs, is likewise unsupported by substantial evidence. That conclusion is further undermined by the City's own related parking materials, incorporated through the Prior Petition, which contemplated "overflow" parking at nearby Oakmont properties 6.5-8.0 miles away in San Jose. *See* Prior Petition § III, Ground 5(a)(2). Reliance on parking located miles away in another city is not substantial evidence that Mary Avenue public parking is unnecessary; it underscores that Mary Avenue's existing public parking and circulation functions remain locally necessary and functionally important. The City's conclusion rests on redevelopment preference and future design assumptions, not on evidence showing the absence of present or foreseeable public use.

4. To the extent the Council purported to find that the March 3 actions were merely implementation actions within the scope of earlier approvals, that finding is contradicted by the staff report itself, which states that the transfer could not be perfected unless the City separately approved the Vacation and separately declared the Property exempt surplus land.

IV. Relief Requested

For the foregoing reasons, and for the reasons incorporated by reference from the Prior Petition and the Coalition's March 3 demand letter, the Coalition respectfully requests that the City Council:

1. Grant reconsideration of the March 3, 2026 Decision;
2. Vacate the CEQA exemption determinations reflected in Resolution No. 26-024 and Resolution No. 26-025;
3. Vacate Resolution No. 26-024 and Resolution No. 26-025;
4. Reopen the record and continue the matter to a properly noticed hearing;
5. Direct staff to proceed only after full compliance with applicable law, including:
 - a. lawful CEQA compliance addressing the whole of the action;
 - b. lawful sequencing and antecedent determinations required by Government Code section 65402 and related law;
 - c. legally required findings and procedures for any right-of-way vacation, including supported findings that the right-of-way is unnecessary for present or prospective public use and that any abandonment is in the public interest; and
 - d. lawful Surplus Land Act and public-disposition compliance based on the Property's actual functional use and supported findings, not bootstrapping from prior redevelopment commitments;
6. Ensure that any rehearing occurs only before a fair and impartial decisionmaking body, including recusal of any Councilmember who has demonstrated prejudgment or bias inconsistent with an open mind;
7. Provide the Coalition with written notice of the Council's action on this Petition and include this Petition, the Prior Petition, the March 3 demand letter, and all incorporated materials in the administrative record; and
8. Grant such other and further relief as the City Council determines is just and proper to cure the defects identified herein.

This Petition is submitted without waiver of any rights, claims, objections, arguments, or remedies available to the Coalition. The Coalition expressly reserves all such rights.

Very truly yours,

STRATEGY LAW, LLP



Joshua Safran, Esq.

cc: Tina Kapoor, City Manager (Tinak@cupertino.gov; citymanager@cupertino.gov)
Kirsten Squarcia, Interim Deputy City Manager (kirstens@cupertino.gov;)
Benjamin Fu, Director of Community Development (BenjaminF@cupertino.gov;
planning@cupertino.gov)
Floy Andrews, Interim City Attorney (fandrews@awattorneys.com;
cityattorney@cupertino.gov)

Supplemental Exhibits Attached and Incorporated Herein by Reference:

Supplemental Exhibit A: *Mary Avenue Villas Housing Project: The Wrong Site* (Sept. 3, 2025 presentation deck)

Supplemental Exhibit B: *Mary Avenue Villas Housing Project: Don't Take Away Our Public Space* (Sept. 16, 2025 presentation deck)

Supplemental Exhibit C: *September 26, 2025 email to Tina Kapoor et al.*

Supplemental Exhibit D: August 28, 2025 memorandum, *Parking Along Mary Ave. Resulting from the Mary Ave. Villas Project.*

SUPPLEMENTAL
EXHIBIT

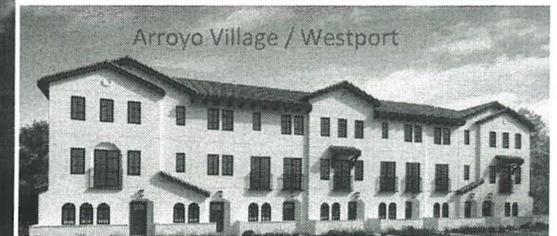
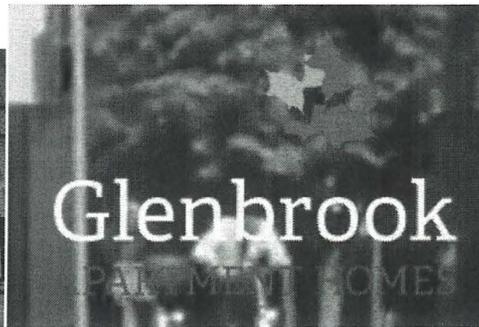
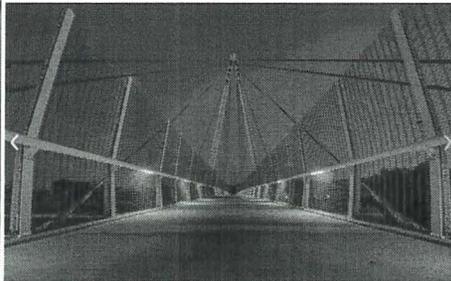
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Mary Avenue Villas Housing Project: The Wrong site

(APN: 326-27-053)

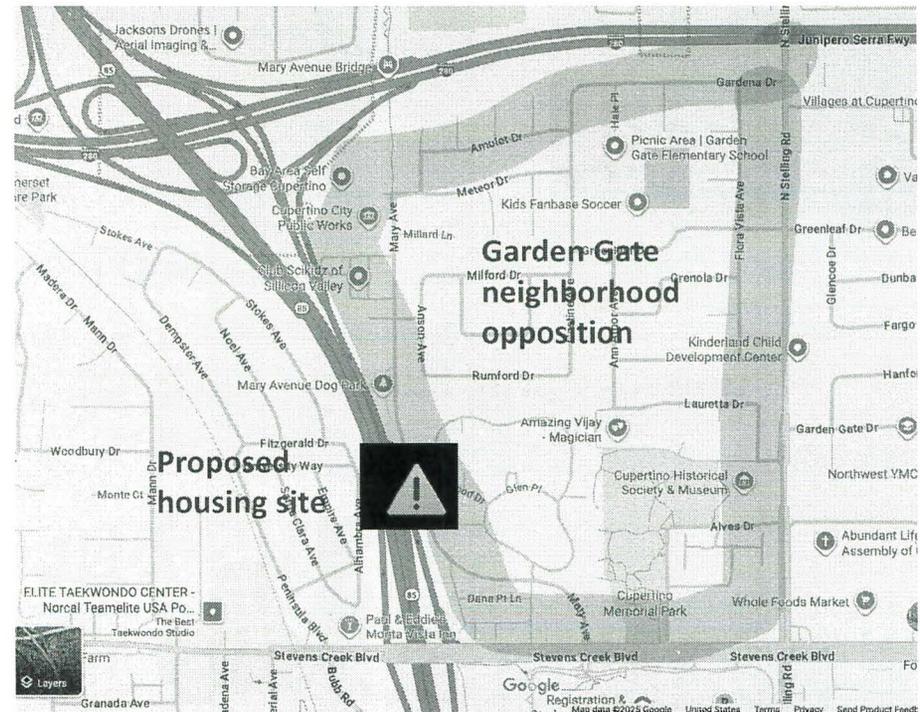
A Response to the July 15, 2025 City Council Meeting Study Session
(Item 11)

Cupertino residents and citizens
Garden Gate Coalition



Our voice: over 350 residents and visitors signed a petition opposing this project

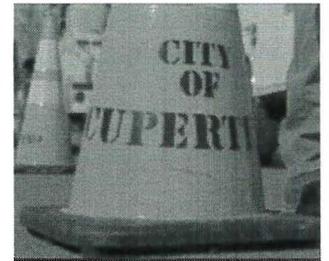
- Casa De Anza
- Glenbrook Apt
- Arroyo Townhomes
- Garden Gate single family homes
- Dog Park visitors
- Don Burnett bridge visitors
- Memorial Park visitors
- Realtors
- <https://www.change.org/p/halt-the-mary-avenue-villas-project-at-this-unsuitable-location>



1. Mary Ave is a bustling artery, serving as a main route for school/family traffic, and a key recreational path.



Main route for school traffic and truck route for the Cupertino Public Works Service Center

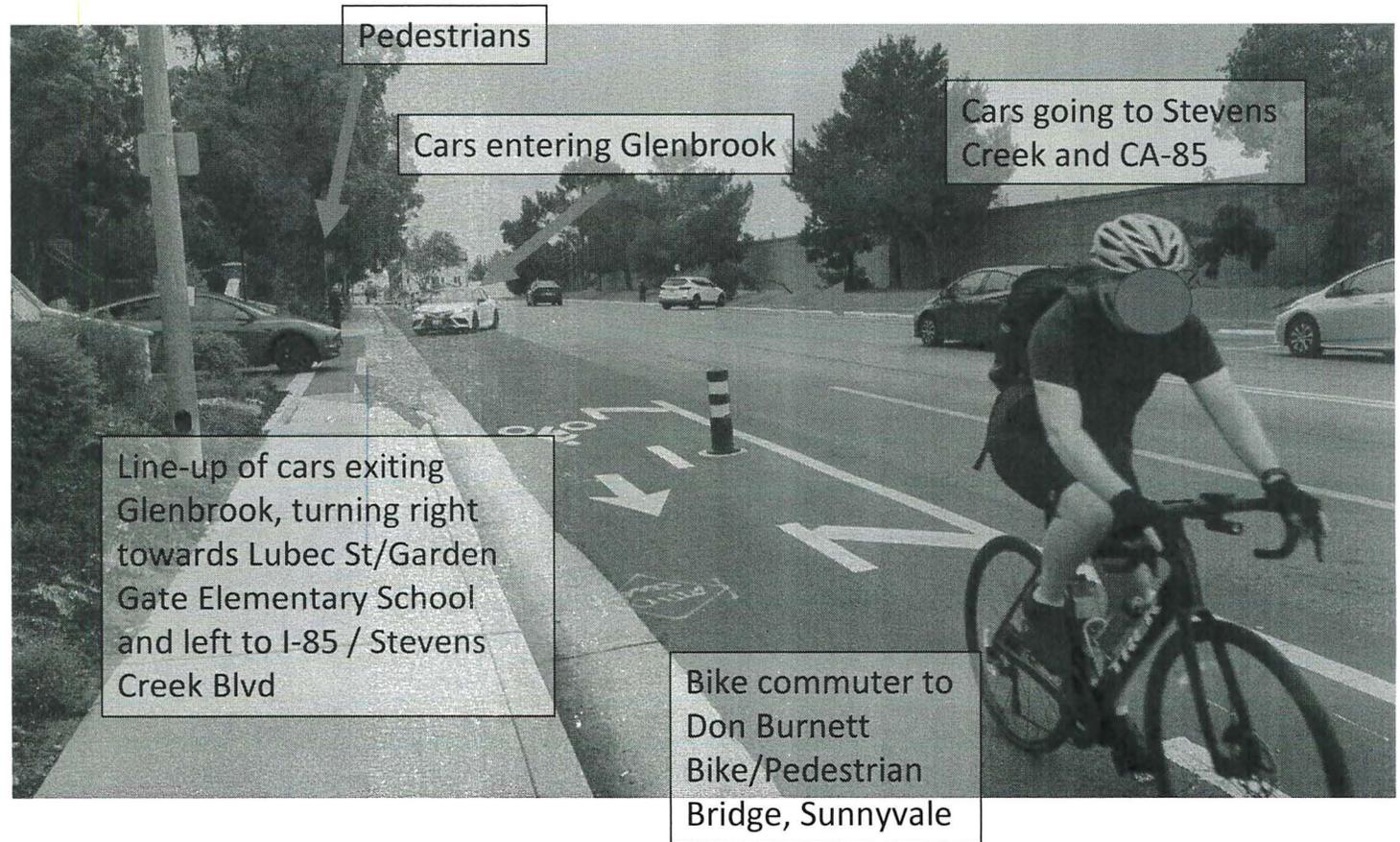


2. Mary Ave is bustling: cyclists, pedestrians, joggers, young children utilize Mary Ave bike paths to Don Burnett Bridge



3. Multimodal transportation routes fully utilized daily

This is a Friday morning at 8am outside Glenbrook Apt and Mary Ave Dog Park

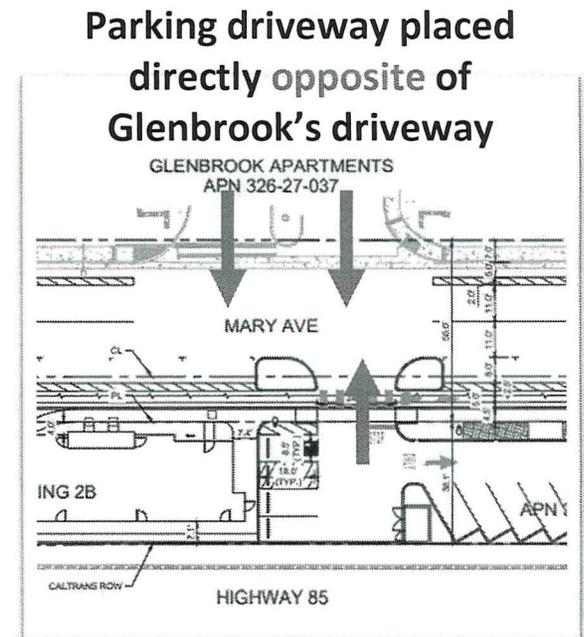


4. Homestead High School track & field students train along Mary Ave daily



5. Plan poses pedestrian and bike safety hazards

- **Poor ingress/egress** (*figure on right*)
- **No loading zones** for Amazon trucks, service vehicles
 - Increased cars **stopping** in middle of the road
- **No bypass lane / too narrow**
- **Jaywalking problem**
 - Parallel parking on only **one side** of Mary Ave but **no crosswalk**
 - Danger for IDD population: walkers, canes, wheelchair



<https://www.cupertino.gov/Your-City/City-Council/Council-Informational-Memos>

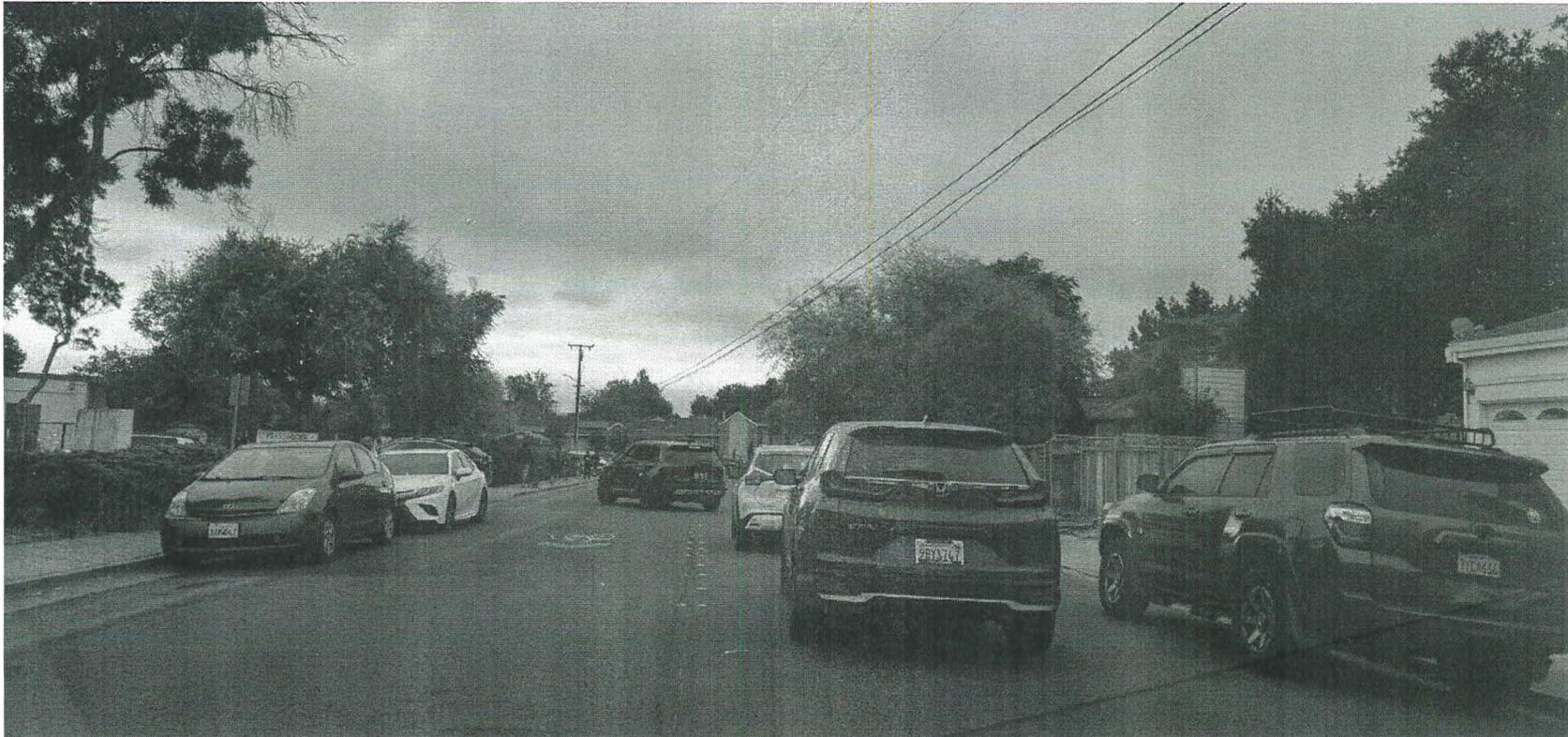
6. Narrowed roads and lack of bypass lane will pose safety hazards for emergency vehicles



Photo taken on Mary Ave in 2025

7. Mary Ave is the main route out to Stevens Creek Blvd and CA-85 for >1,000 Garden Gate residents.

Shown below: Bypass route Greenleaf Dr. is congested with **daily** school traffic (Garden Gate Elementary School)



8. Parking shortage- we cant stand to lose 89 more!

Mary Ave Parking is at maximum capacity during City-sponsored events

- *despite* availability of De Anza College Parking Lot
- *despite* Westport Building 1 (136 units) *not yet built* at former Oaks Center

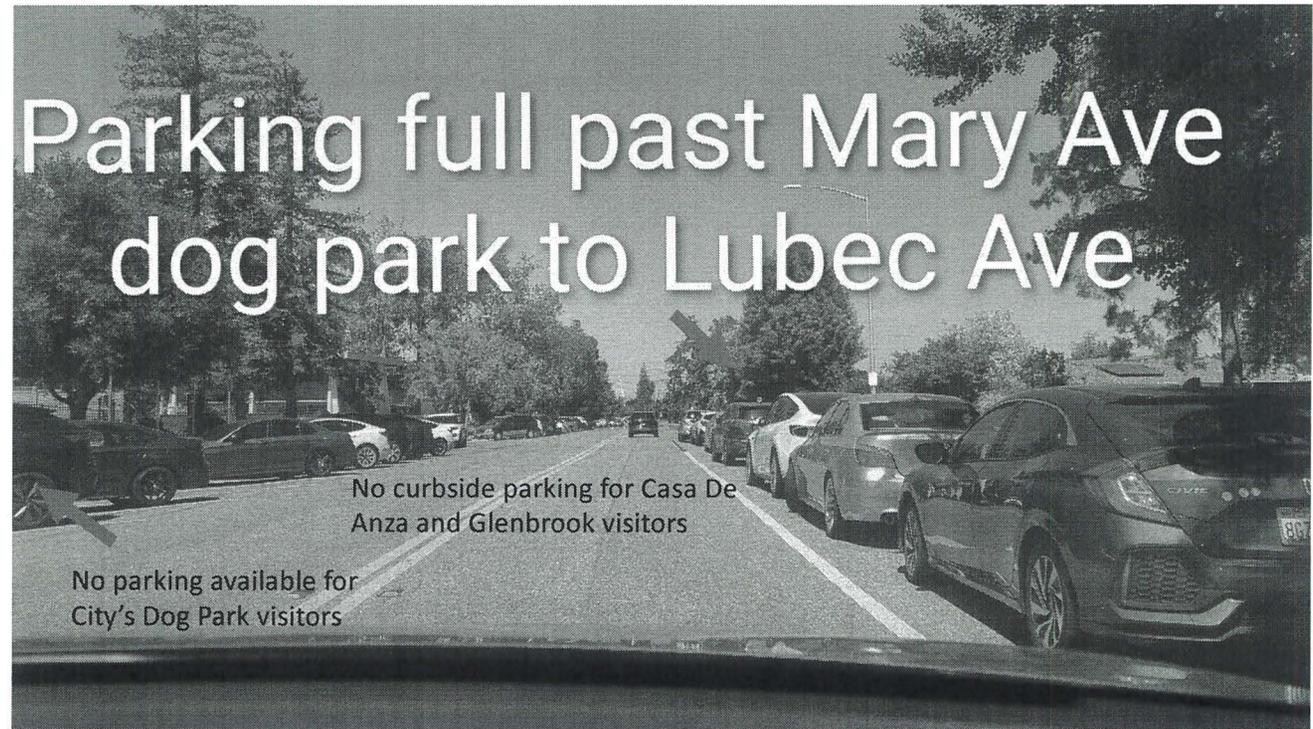


Photo taken during Kids 'N Fun Festival Saturday Aug 23, 2025

9. Mary Ave traffic will worsen after Westport project (136 units) completed



Photo taken on Mary Ave during Memorial Park community event 2025

10. Lack of long term parking solutions for Memorial Park & Quinlan Event visitors



- Will **harm** the quality and attendance of City and Community Events for ALL residents
- De Anza College parking is not a fool-proof “solution” currently
 - “All parking at De Anza **requires a paid fee or permit**, except in spaces designated for disabled parking or 30-minute visitor parking.”
 - *“The parking fee for special events on campus, including the Flea Market and some Flint Center events, is \$5. Parking for select Flint Center events is \$10.”*
 - *Mary Ave can’t handle the parking needs, and most certainly not after Westport is finished*

<https://www.deanza.edu/parking/permits.html>

Take-home points

- ⚠ This is too small (and polluted/noisy) a parcel for such a large project
 - ESPECIALLY for the vulnerable, IDD population
- ⬡ Adds major community safety concerns
- ★ Taking over public right-of-way and narrowing roads will lead to accidents
- 💡 Our City desperately needs long term ELI/IDD housing solutions, but...
 - This site plan is *not* suitable
 - Complete mitigation is *not* feasible

SUPPLEMENTAL
EXHIBIT

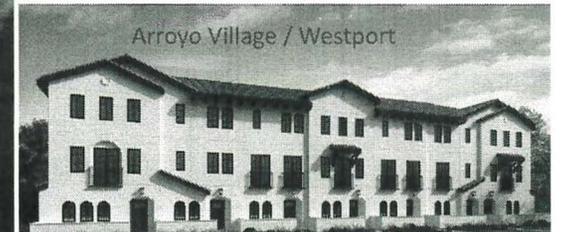
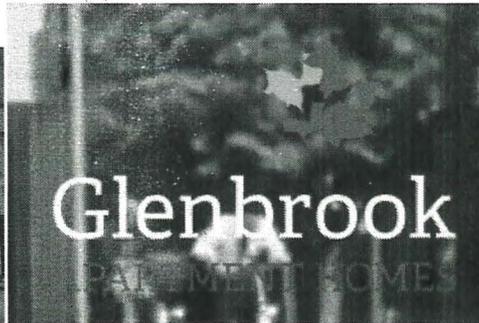
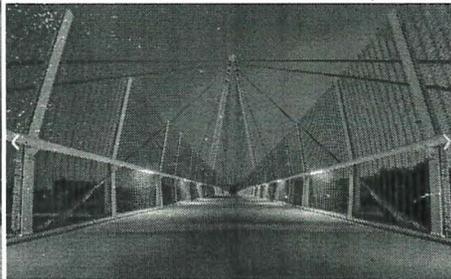
B

Mary Avenue Villas Housing Project: Don't take away our public space

(APN: 326-27-053)

A Response to the July 15, 2025 City Council Meeting Study Session
(Item 11)

Cupertino residents and citizens
Garden Gate Coalition



**Narrowing the road
by 26% or 19.5 ft is
too much!**

**It will harm
neighborhood
enjoyment of the
space.**



**The proposed plan
narrows the west bike
lane from 8 to 5 feet**

<https://www.mary-ave-villas.com/faq>

**Bikers
commonly ride
side to side in
groups
On Mary Ave
They will be
squeezed by the
street
narrowing**



**Family of bikers
frequently pass
utilize Mary
Ave's bike route.**

**They will be
squeezed by the
street
narrowing**



Photo taken 9/13/2025

Kids and their families bike along Mary Ave between Memorial Park and the Bike Bridge. They need space and safety.



Residents are frustrated at the lack of access and parking on Event days.

Photo taken 9/13/2025, Silicon Valley Fall Festival



Photo taken 9/13/2025,
Silicon Valley Fall Festival

**Let's talk
about traffic,
parking, and
circulation.**

**Illegal parking on bike
lanes obstructs Mary
Ave, the major road
leading to CA-85**

**It also poses dangers
to bikers, pedestrians,
and families**

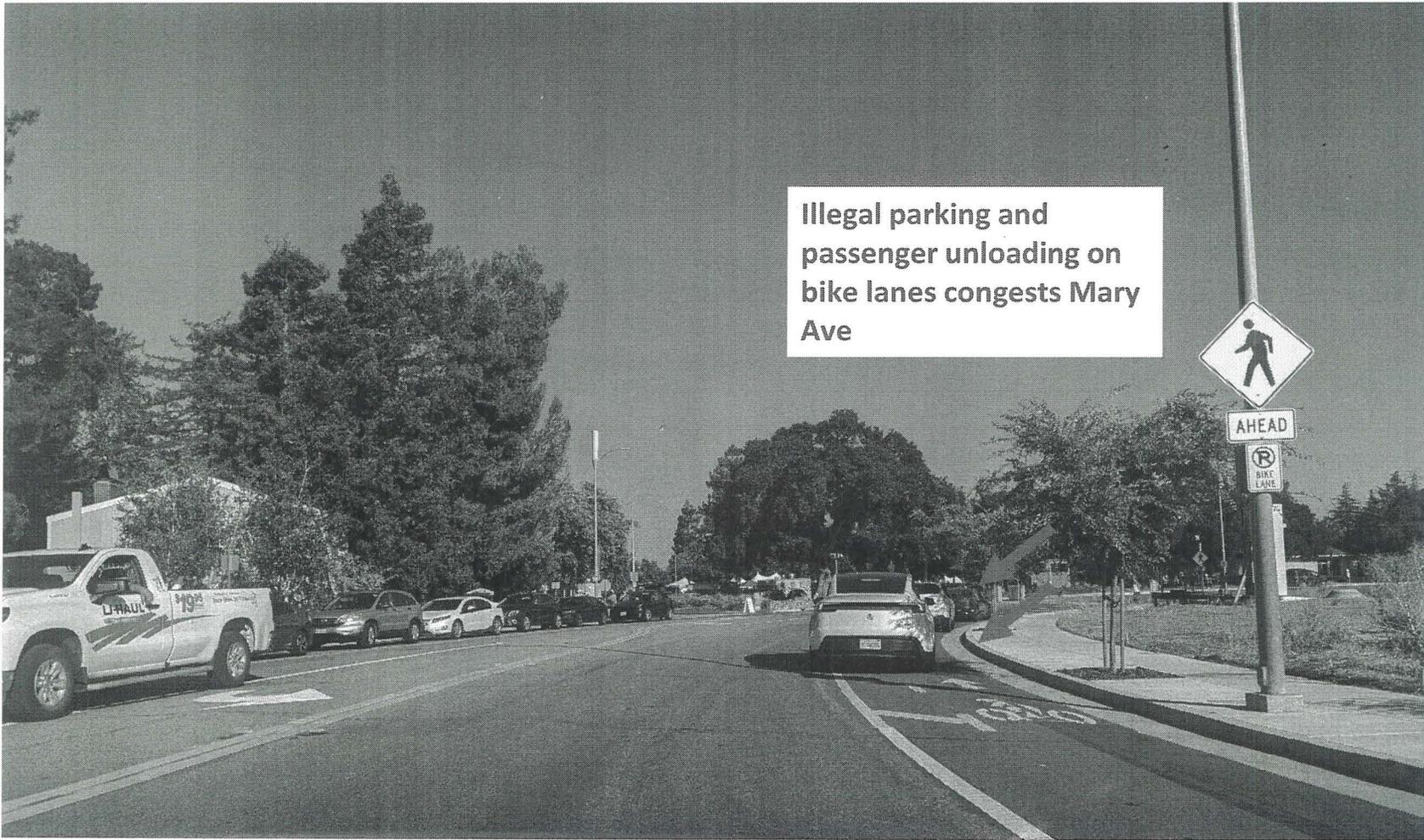


Photo taken 9/13/2025, Silicon Valley Fall Festival

Visitors are using bike lanes as loading zones.

We need NEW parking solutions during City Events.

Current system is NOT working. Proposed plans will make things WORSE.

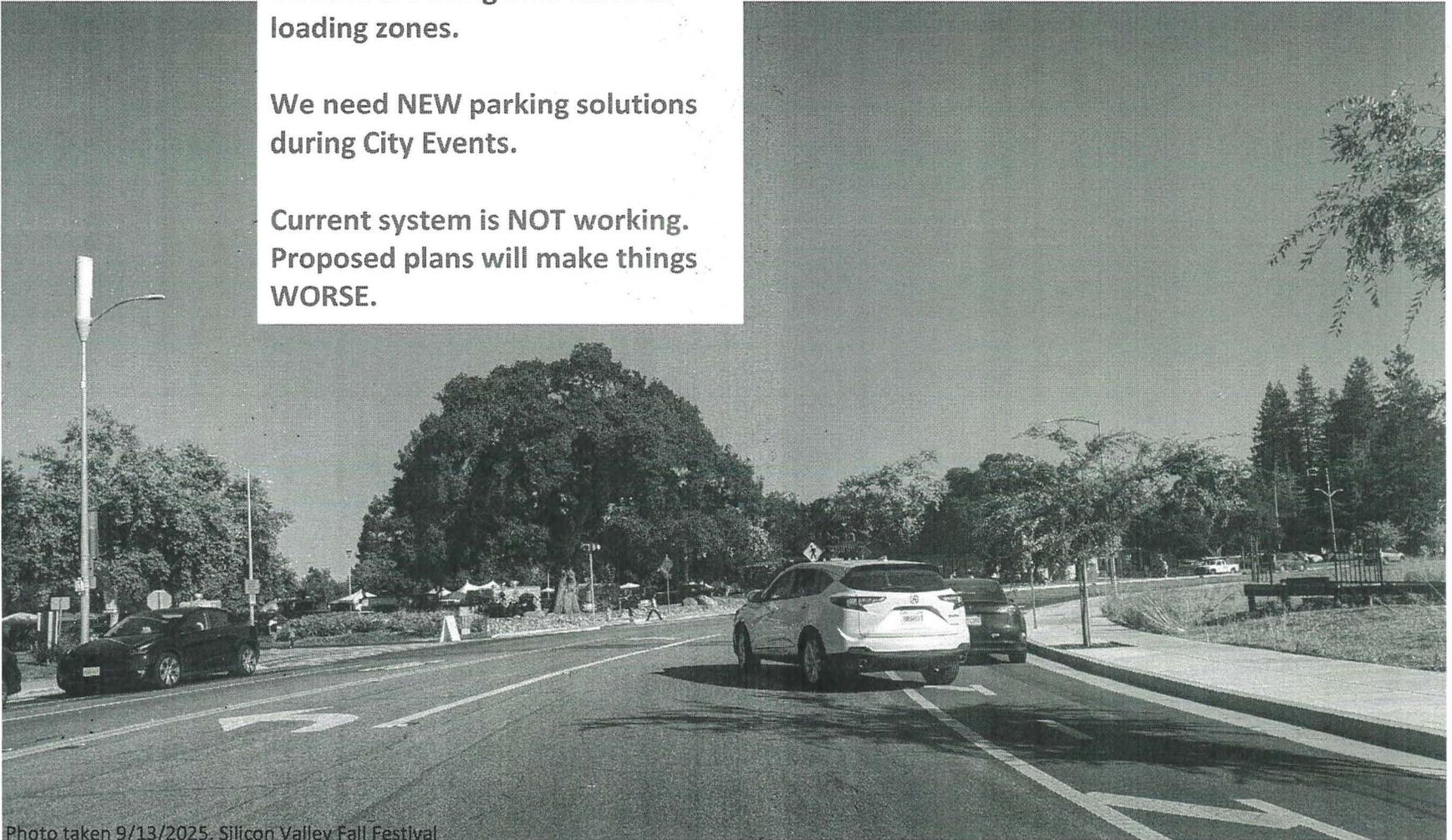


Photo taken 9/13/2025, Silicon Valley Fall Festival



Photo taken 9/13/2025, Silicon Valley Fall Festival

It is stressful for drivers to pass such a congested area with multiple hazards.

Residents and their visitors don't want to face this chaos.

Soon their quality of life will be further hampered by more traffic generated by the Villas project

**Narrowing Mary Ave
by 26% doesn't make
sense. And is unsafe.**

**Another road hazard:
car doors swinging into
traffic.**

**The current parking
lane is already narrow.**

**8 ft is not wide
enough.**



Photo taken 9/13/2025, Silicon Valley Fall Festival

**This project's removal
of parking spots will
eliminate this
Recycling Center from
serving our residents**



Photo taken 8/23/2025 Kids 'N Fun Festival

Mary Ave is a main truck route for the Cupertino Public Works Service Center



Taking away 89 parking spots on Mary Ave will strain what's left.

New IDD housing will bring new service vehicles on Mary Ave = traffic ↑

Take-home points

⚠️ Mary Ave functions as a free parking lot for Memorial Park and De Anza College visitors.

Taking away 89 spots along ~1000 ft will worsen this problem

★ Taking over public right-of-way and narrowing roads will lead to accidents and decrease our quality of life

● New traffic from the Villas housing project will add major community safety concerns and will hamper access for Garden Gate residents

💡 Our City desperately needs long term ELI/IDD housing solutions, but...

- This site plan is *not* suitable

City Council: please support your residents and constituents in finding better solutions.

SUPPLEMENTAL

EXHIBIT

C

Follow-up to meeting: Requests for Traffic Circulation and Parking Analysis for Mary Ave Villas

Lina <lina.lang41@gmail.com>

Fri, Sep 26, 2025 at 9:10 AM

To: Tina Kapoor <TinaK@cupertino.gov>, Chad Mosley <ChadM@cupertino.gov>, FloyA@cupertino.gov, Gian Martire <GianM@cupertino.gov>, Benjamin Fu <BenjaminF@cupertino.gov>, Luke Connolly <LukeC@cupertino.gov>, MichaelW@cupertino.gov

Cc: Brian Avery <brianbavery@gmail.com>, Sblend Sblendorio <sblend.sblendorio@hogefenton.com>

Dear Tina and City Staff,

This email is a follow-up to our previous correspondence regarding the Traffic Report and mitigation suggestions. We would like to elaborate on a few key points for your consideration:

1. Project Downsizing: We propose reducing the project to only the 19 IDD units and relocating the remaining affordable housing units. Sheila Mohan previously indicated that subtracting units from this specific site would not cause the City to fall below the overall housing threshold. The project developer told our residents that up to 5 people are allowed per unit. Neighbors are concerned that 22 parking spots will not be sufficient. Downsizing to mainly IDD units would be one way to help minimize parking demand in the area, along with traffic circulation impact, etc.

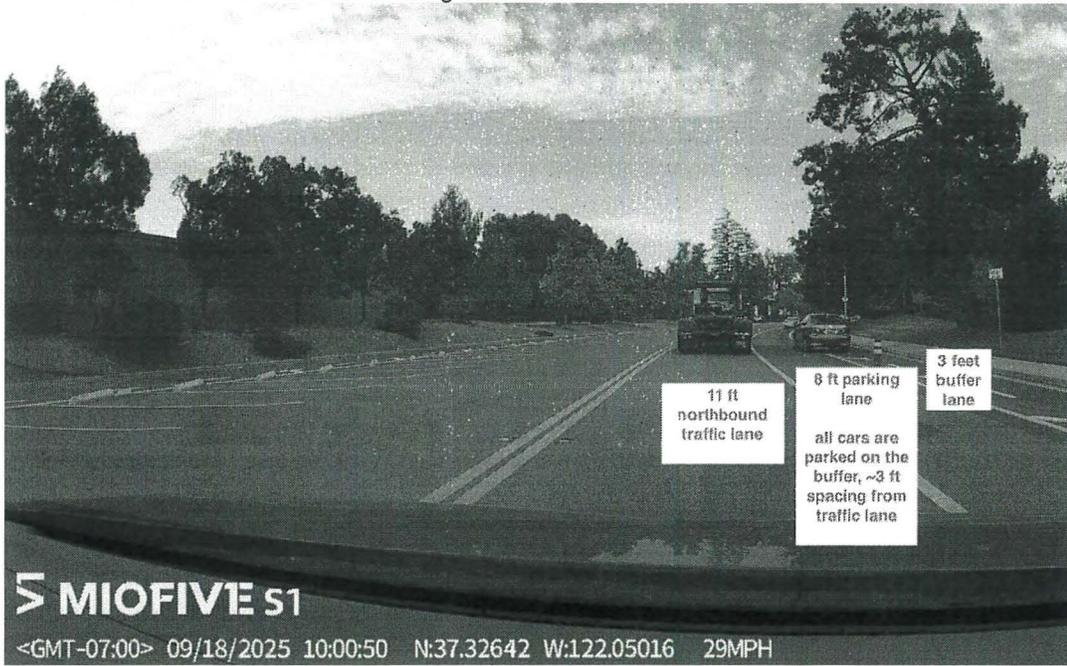
2. Traffic Study during Major Festival Dates: We recommend including observation on Saturday Oct 11 for the Traffic Study, if observation on a festival date has not already been done. Diwali is anticipated to attract over 13,000 visitors.

The screenshot shows the Cupertino Chamber of Commerce website. The header includes the logo and navigation links: EVENTS, FIND A MEMBER, MEMBERSHIP, THE CHAMBER, MEMBERS ONLY, NEWS, STORE, and a JOIN NOW button. The main content area features the title "Bay Area Diwali Festival of Lights" and "Multicultural Event". A highlighted text block reads: "The 23rd Annual Bay Area Diwali Festival of Lights is a free public event that brings over 13,000 people to our Cupertino Memorial Park. This event is a showcase of multicultural music, dance, workshops, arts and crafts, and delicious food with a fun kid's zone. The purpose of the festival is to bring the community together and celebrate multicultural understanding that promotes economic prosperity." Below this, a promotional message says: "Get ready for an unforgettable Diwali! Over 70 vendors are waiting for YOU with the best in merchandise, decorations, jewelry, clothing, artwork, and mouth-watering food! Don't miss out on this vibrant celebration. Join us and light up your life with amazing finds and festive vibes!" The event date is "October 11th, 2025" from "11 am to 6 pm" at "Cupertino Memorial Park".

3. Re-evaluation of Lane Narrowing: We request that the traffic engineer reassess the appropriateness of narrowing the traffic lanes to 11 feet and the buffer lanes given the site's proximity to the Public Works Service Center. Should the traffic lane adjacent to the parking lane be wider? Are the proposed, narrowed buffer lanes a safe width?

- Approximately 16 Public Works vehicles per hour, including utility trucks, boom trucks, garbage trucks, and semi-trucks with trailers (some up to 10 feet wide), travel through Mary Avenue. (Data: neighbor observation)
- Vehicle Sweep and Turning Radii: Will wide vehicles, such as a 10-foot-wide garbage truck or a semi-truck with a trailer, be able to safely navigate an 11-foot travel lane without encroaching on the 8-foot parking lane? What is the "shy distance" between the traffic lane and parked vehicles, and is it sufficient to prevent sideswipes?
- Off-tracking: How will off-tracking—where the rear wheels of a large vehicle follow a tighter path than the front wheels—impact this single-direction lane, particularly at curves? Could it cause trucks to cross into the adjacent parking lane, potentially damaging parked cars?

- Operational Safety: Will there be enough room for a passenger car to safely pass a stopped utility or garbage truck? Is there a risk of creating bottlenecks that could lead to driver frustration and unsafe maneuvers?



Semi-truck with trailer: up to 10 feet wide. Parked cars are seen on Mary Ave parked into the buffer lane, appearing to avoid the traffic lane.



Utility truck 8 to 10 feet wide

8:48:59 AM
Today



Garbage truck 8 to 10 feet wide

8:55:49 AM
Today



Flatbed utility trailer 8-10 feet wide

9:29:43 AM
Today



Boom truck 8 to 10 feet wide

Thank you for your time and consideration of these important issues.

Sincerely,

Lina and Brian Avery for the Glenbrook Apartments, 10100 Mary Avenue

[Quoted text hidden]

SUPPLEMENTAL

EXHIBIT

D



COMMUNITY DEVELOPMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3403 • FAX: (408) 777-3366
CUPERTINO.GOV

CITY COUNCIL INFORMATIONAL MEMORANDUM

Date: August 28, 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

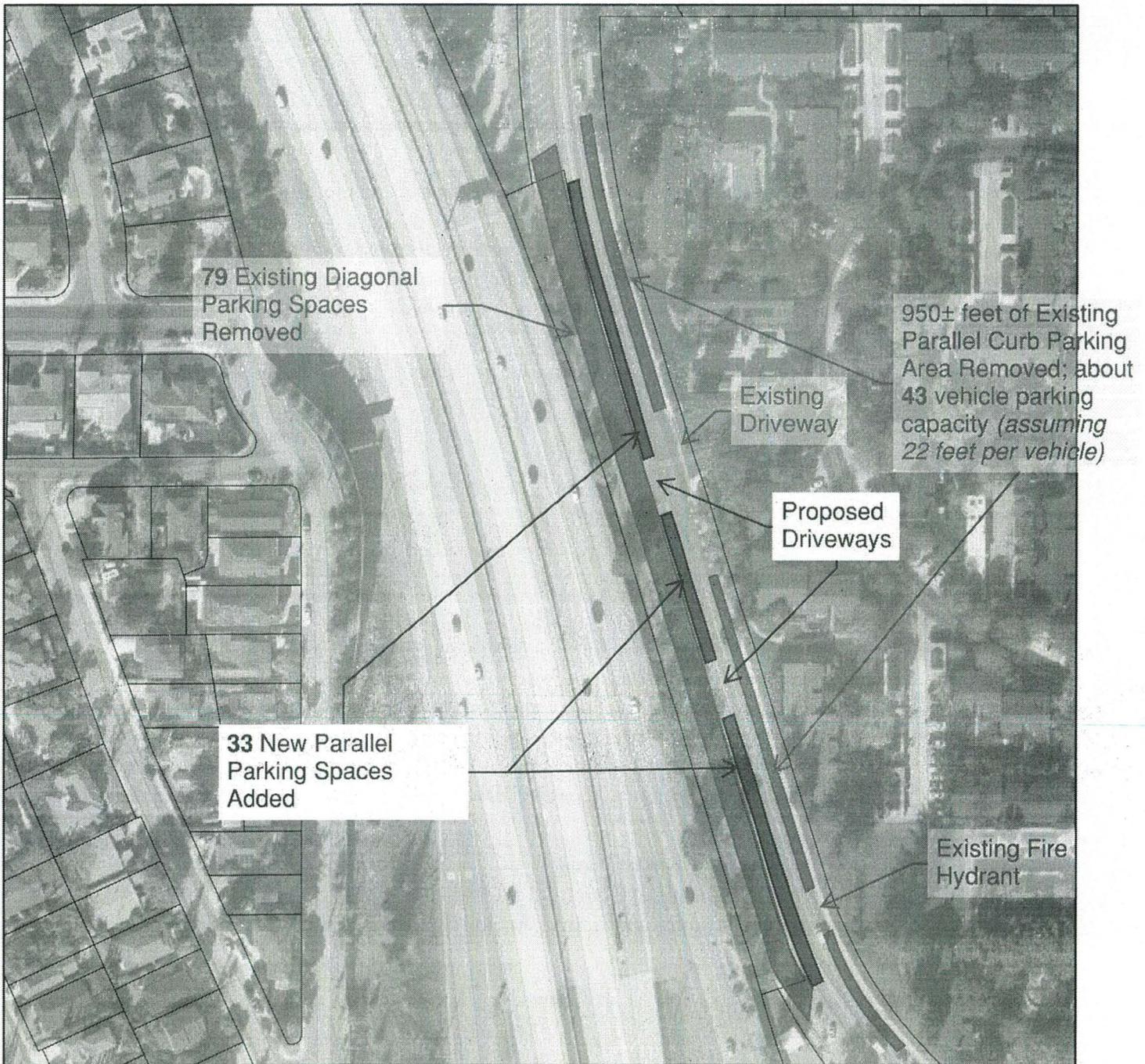
Approved for Submission by: Tina Kapoor, Interim City Manager

Attachments:

A - Street Parking Exhibit

B - Mary Avenue Villas Site Plans

Street Parking Exhibit
Mary Avenue Affordable Housing, Cupertino CA



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.

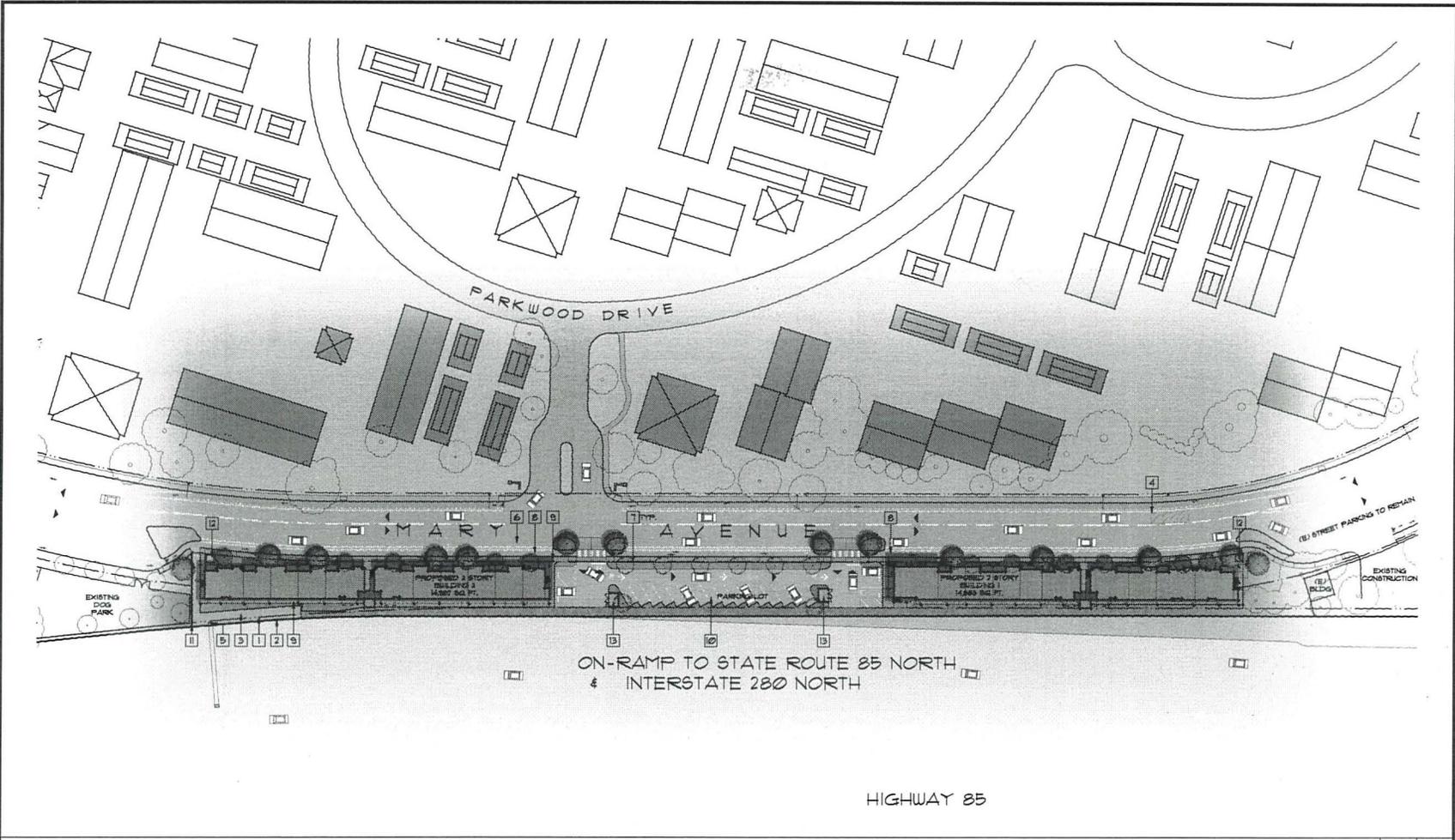
February 2025

MARY AVENUE
AFFORDABLE
HOUSING

CHARITIES
HOUSING

MARY AVENUE
CUPERTINO, CALIFORNIA

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



OVERALL SITE PLAN 1" = 40' 1

1	(E) PROPERTY LINE	10	(N) PARKING LOT WITH ASPHALT
2	(E) 4'-0" TALL CMU BOUND WALL	11	(N) RETAINING WALL
3	(E) 1'-0" PUBLIC SERVICE EASEMENT ON PROPERTY	12	(N) ELECTRICAL TRANSFORMER PAD
4	(E) FIRE LANE TO REMAIN	13	(N) CONCRETE TRASH PAD
5	(E) HIGHWAY SIGN POST TO REMAIN		
6	(N) PARALLEL OFF-SITE PARKING		
7	(N) BIOWALK AT EDGE OF PARKING LOT		
8	(N) BIKE LANE		
9	(N) CONCRETE PEDESTRIAN SIDEWALK		

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 - -



REVISION	

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

OVERALL SHEET
SITE PLAN AS1.0

MARY AVENUE
AFFORDABLE
HOUSING

CITY OF
CUPERTINO

MARY AVENUE
CUPERTINO, CA



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

Kimley»Horn

10 S ALMADEN BLVD, SUITE 1250, SAN JOSE, CA 95113
PHONE: 858-880-4130
WWW.KIMLEY-HORN.COM

PRELIMINARY,
NOT FOR
CONSTRUCTION



REVISION

REF. NORTH PROJECT NO. 197381002

DATE JUL 2024

DRAWN BY

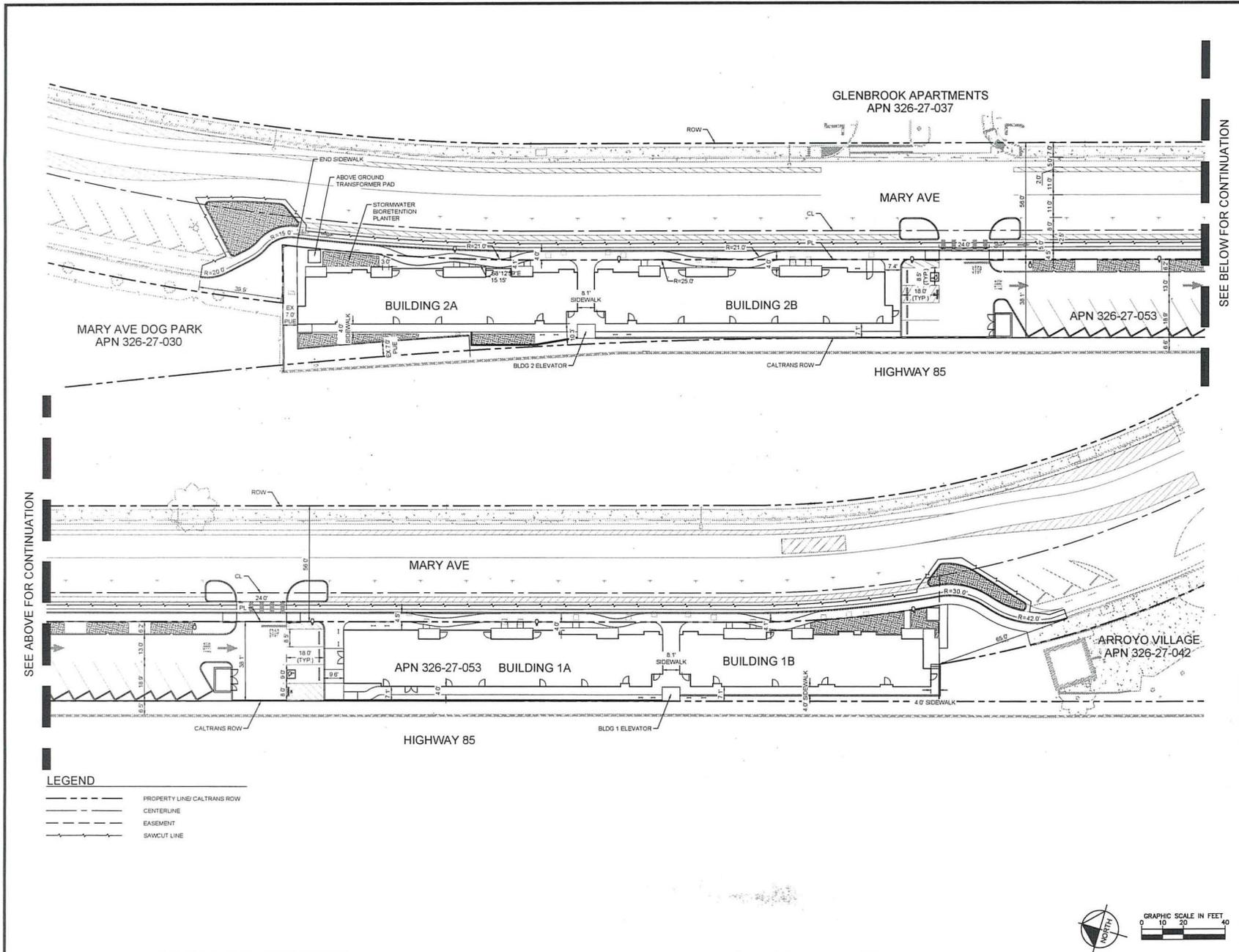
SCALE SEE SHEET



SHEET

PRELIMINARY SITE PLAN C001.0

© KO ARCHITECTS, INC.



SEE ABOVE FOR CONTINUATION

SEE BELOW FOR CONTINUATION

LEGEND

	PROPERTY LINE/CALTRANS ROW
	CENTERLINE
	EASEMENT
	SAWCUT LINE

