

RESOLUTION NO. _____

OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
APPROVING AN ARCHITECTURAL AND SITE APPROVAL PERMIT FOR A
PROPOSED RESIDENTIAL DEVELOPMENT WITH 59 TOWNHOME STYLE
CONDOMINIUM UNITS AND THE REMOVAL AND REPLACEMENT OF 45
DEVELOPMENT TREES LOCATED AT 20770, 20830, AND 20840 STEVENS CREEK
BLVD (APNS: 359-08-025, -026, -027, AND-028 (PARTIAL))

SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2024-005
Applicant: SummerHill Homes, LLC
Property Owner: Byer Properties, LP
Location: 20770, 20830, and 20840 Stevens Creek Blvd
(APNs: 359-08-025, -026, -027, and-028 (partial))

SECTION II: FINDINGS FOR ARCHITECTURAL AND SITE APPROVAL:

WHEREAS, the Planning Commission of the City of Cupertino received an application for an Architectural and Site Approval Permit as described in Section I of this resolution; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the CEQA Guidelines; and

WHEREAS, on June 10, 2025 the Planning Commission recommended on a 5-0 vote that the City Council approve the Development Permit (DP-2024-002) in substantially similar form to the Resolution presented (Resolution No. 2025-09), approve the Architectural and Use Permit (U-2024-007) in substantially similar form to the Resolution presented (Resolution No. 2025-10), approve the Architectural and Site Approval Permit (ASA-2024-005) in substantially similar form to the Resolution presented (Resolution No. 2025-11), approve the Vesting Tentative Map (TM-2024-001), in substantially similar form to the Resolution presented (Resolution No. 2025-12), and approve the Tree Removal Permit (TR-2024-024) in substantially similar form to the Resolution presented (Resolution No. 2025-13); and

WHEREAS, all necessary public notices having been given as required by the City of Cupertino Municipal Code and the Government Code, and the Planning Commission held at least one public hearing in regard to this application; and

WHEREAS, on June 10, 2025, the Planning Commission held a duly noticed public hearing to receive staff's presentation and public testimony, and to consider the

information contained in the Infill Exemption Memorandum along with all staff reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution; and

WHEREAS, the applicant has met the burden of proof required to support the application for an Architectural and Site Approval Permit; and

WHEREAS, the City Council finds as follows with regard to this application:

1. The proposal, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

The project is consistent with the relevant land use designations in the General Plan, Zoning Ordinance, and the Heart of the City Specific Plan. It has been designed to be compatible with adjoining land uses, including but not limited to having wider building setbacks from the single-family residences south of the subject property, as well as providing landscaping along the building frontages to help offset any potential building massing impacts and to ensure compatibility with the existing streetscape. The project is conditioned to comply with the Environmental Protection Standards of Cupertino Municipal Code Chapter 17.04. In addition, under the CEQA Guidelines section 15332 (Infill Development Projects), the project has been found to be Categorical Exempt from CEQA, as further documented in the memorandum prepared by the City's environmental consultant, PlaceWorks. The project must meet all Fire and Building Code requirements, which will be further reviewed prior to issuance of building permits. Therefore, the project will not be detrimental or injurious to properties or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience.

2. The proposal is consistent with the purposes of Chapter 19.168, the General Plan, any specific plan, zoning ordinances, applicable planned development permit, conditional use permits, variances, subdivision maps or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:

- a) Abrupt changes in building scale should be avoided. A gradual transition related to height and bulk should be achieved between new and existing buildings.

The proposed project is the redevelopment of three commercial buildings (the tallest of which is approximately 30 feet), two of which have been vacant for several years, with eight, new three- to four-story townhome-style buildings. The adjacent commercial center building immediately to the east of the property has a similar massing and the church building to the west incorporates a tall steeple feature. The proposed buildings are

approximately 15 feet taller than the existing commercial buildings. Additionally, the townhomes are setback from the street and have vegetation and trees planted along Stevens Creek Boulevard, in accordance with the Heart of the City Specific Plan, for visual screening. Landscaping is also proposed at the perimeter of the property, which will help reduce the apparent mass and bulk of the proposed buildings.

- b) In order to preserve design harmony between new and existing building and in order to preserve and enhance property values, the materials, textures and colors of new building should harmonize with adjacent development by being consistent or compatible with design and color schemes with the future character of the neighborhoods and purposes of the zone in which they are situated. The location, height and materials of walls, fencing, hedges and screen planting should harmonize with adjacent development. Unsightly storage areas, utility installations and unsightly elements of parking lots should be concealed. The planting of ground cover or various types of pavements should be used to prevent dust and erosion, and the unnecessary destruction of existing healthy trees should be avoided. Lighting for development should be adequate to meet safety requirements as specified by the engineering and building departments, and provide shielding to prevent spill-over light to adjoining property owners.

The design quality of the development is consistent with the high-quality standards encouraged by City Staff. The buildings meet the design qualities of a contemporary Spanish, or Mediterranean style development. The architectural style is consistent throughout the development and is complementary to the mix of contemporary Mediterranean/Mission architectural theme of the previous upgrades to the adjacent Crossroads Shopping Center. Utility installation has been designed to be screened by landscaping and/or incorporated into the building design. The lighting for the development will be reviewed as part of the project construction documents to ensure that they meet safety requirements while avoiding spill-over light to adjacent properties and meet applicable Dark Sky standards. The proposed windows are consistent with the City's bird-safe ordinance as well.

- c) The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures shall minimize traffic hazards and shall positively affect the general appearance of the neighborhood and harmonize with adjacent development; and

No signage is proposed as part of this project.

- d) With respect to new projects within existing residential neighborhoods, new development should be designed to protect residents from noise, traffic, light and visually intrusive effects by use of buffering, setbacks, landscaping, walls and other appropriate design measures.

While the project abuts an existing single-family residential neighborhood to the south, it is surrounded on all other sides by commercial uses. The townhome buildings have been designed in accordance with many of the non-objective design guidelines outlined in the Heart of the City Specific Plan. Further, the project incorporates a row of evergreen trees along the rear property line to provide privacy screening and a larger setback between the two buildings closest to the adjacent single-family residential neighborhood/properties. Additionally, since the subject property is located north of the single-family neighborhood, it will not cast shadows on either the residences or their adjacent backyards.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter and the MND, subject to the conditions which are enumerated in this Resolution, beginning on PAGE 4 herein, and subject to the conditions contained in all other Resolutions approved for this Project.

The application for an Architectural and Site Approval, Application No. ASA-2024-005, is hereby approved, and that the subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application no. ASA-2024-005 as set forth in the Minutes of the City Council Meeting of July 1, 2025 Meeting, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set entitled "20840 Stevens Creek Boulevard" dated March 25, 2025 consisting of 124 sheets labeled as, A00– A24, C1.0 – C7.0, L1.1 – L10.1, INT1-INT4, PrSL1, PrSL2, PS-1, and TM-1, drawn by SDG Architects Inc., R3 Studios, Giacalone Design Services, Inc., Associated Lighting Representatives, Inc., and Carlson, Barbee & Gibson, Inc., except as may be amended by conditions in this resolution.

2. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

3. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. DP-2024-002, TM-2024-001, ASA-2024-005, and TR-2024-024 shall be applicable to this approval.

4. ANNOTATION OF THE CONDITIONS OF APPROVAL

The conditions of approval set forth shall be incorporated into and annotated on the first page of the building plans.

5. PUBLIC ACCESS REQUIREMENTS

In accordance with Mobility Element Policies M-2.5 and M-3.2 of the 2015-2040 Cupertino General Plan in effect in January 2024, the applicant shall maintain public access to the privately maintained streets and walkways and shall maintain fence openings and pedestrian access to the neighboring shopping center as outlined on approved plans.

6. COMMON OPEN SPACE

The residential common open space shall provide amenities for passive and/or active recreation including but not limited to play structures, barbeque areas, picnic tables etc. and shall not be retained as or converted to only a passive hardscaped or landscaped area.

7. SETBACK AND LANDSCAPE AREAS

Approved setback and landscaped areas shall remain free and clear of any accessory structures that have not been approved as part of this project.

8. FINAL ARCHITECTURAL DETAILS AND EXTERIOR BUILDING MATERIALS

The final building exterior plan shall closely resemble the details shown on the original approved plans. The final building design and exterior treatment plans (including but not limited to details on exterior color, materials, architectural treatments, doors, windows, lighting fixtures, and/or embellishments) shall be reviewed and approved by the Director of Community Development prior to issuance of building permits and through an in-field mock-up of colors prior to application to ensure quality and consistency. Any exterior changes determined to be substantial by the Director of Community Development shall either require a modification to this permit or a new permit based on the extent of the change.

9. LANDSCAPE INSTALLATION REPORT

The project is subject to all provisions delineated in the Landscape Ordinance (CMC, Chapter 14.15). A landscape installation audit shall be conducted by a certified landscape professional after the landscaping and irrigation system have

been installed. The findings of the assessment shall be consolidated into a landscape installation report.

The landscape installation report shall include but is not limited to: inspection to confirm that the landscaping and irrigation system are installed as specified in the landscape and irrigation design plan, system tune-up, system test with distribution uniformity, reporting overspray or run-off that causes overland flow, and preparation of an irrigation schedule.

The landscape installation report shall include the following statement: "The landscape and irrigation system have been installed as specified in the landscape and irrigation design plan and complies with the criteria of the ordinance and the permit."

10. LANDSCAPE AND IRRIGATION MAINTENANCE

Per the Landscape Ordinance (CMC, Chapter 14.15), a maintenance schedule shall be established and submitted to the Director of Community Development or his/her designee, either with the landscape application package, with the landscape installation report, or any time before the landscape installation report is submitted.

- a. Schedules should take into account water requirements for the plant establishment period and water requirements for established landscapes.
- b. Maintenance shall include, but not be limited to the following: routine inspection; pressure testing, adjustment and repair of the irrigation system; aerating and de-thatching turf areas; replenishing mulch; fertilizing; pruning; replanting of failed plants; weeding; pest control; and removing obstructions to emission devices.
- c. Failed plants shall be replaced with the same or functionally equivalent plants that may be size-adjusted as appropriate for the stage of growth of the overall installation. Failing plants shall either be replaced or be revived through appropriate adjustments in water, nutrients, pest control or other factors as recommended by a landscaping professional.

11. RESIDENTIAL SCREENING COVENANT

The property owner shall record a covenant on this property to inform future property owners of the residential screening measures and tree protection requirements consistent with the approved plans and reference these in the Property Owner Association documentation. The precise language will be subject to approval by the Director of Community Development. Proof of recordation must be submitted to the Community Development Department prior to final occupancy of the residence.

12. LANDSCAPE PROJECT SUBMITTAL

Prior to issuance of building permits, the applicant shall submit a full Landscape Documentation Package, per sections 14.15.050 A, B, C, and D of the Landscape Ordinance, **for projects with landscape area 500 square feet or more** or elect to submit a Prescriptive Compliance Application per sections 14.15.040 A, B, and C **for projects with landscape area between 500 square feet and 2,500 square feet**. The Landscape Documentation Package or Prescriptive Compliance Application shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits, and additional requirements per sections 14.15.040 D, E, F, and G or 14.15.050 E, F, G, H, and I will be required to be reviewed and approved prior to final inspections.

13. LANDSCAPE AND IRRIGATION PLANS

The applicant shall submit detailed landscape and irrigation plans to be reviewed and approved by Community Development prior to issuance of building permits. The landscape plan shall include water conservation and pesticide reduction measures in conformance with Chapter 14.15, Landscape Ordinance, and the pesticide control measures referenced in Chapter 9.18, Stormwater Pollution Prevention and Watershed Protection, of the Cupertino Municipal Code.

14. SITE IMPROVEMENTS

All proposed site improvements shall be completed prior to final occupancy of any structures approved in conjunction with the project.

15. EXTERIOR BUILDING MATERIALS/TREATMENTS

The final building exterior plan shall closely resemble the details shown on the original approved plans. Final building exterior treatment plan (including but not limited to details on exterior color, materials, architectural treatments, doors, windows, lighting fixtures, and/or embellishments) shall be reviewed and approved by the Director of Community Development prior to issuance of building permits to ensure quality and consistency. Any exterior changes determined to be substantial by the Director of Community Development shall either require a modification to this permit or a new permit based on the extent of the change.

Future changes to the exterior building materials/treatments must be reviewed and approved by the Property Owner's Association. However, any changes to the building materials that do not match the approved materials shall require an amendment to this permit or a new permit.

16. DARK SKY COMPLIANCE AND/OR BIRD SAFE COMPLIANCE

Prior to issuance of Building Permits, the applicant/property owner shall submit final plans in compliance with the approved lighting plans to comply with development standards of Cupertino Municipal Code Section 19.102.030 Bird-Safe Development Requirements and Section 19.102.040 Outdoor Lighting Requirements. In the event changes are proposed from the approved plans, said changes must be reviewed and approved by the Director of Community Development or their designee. The applicant shall provide all documentation required to determine compliance with the Municipal Code. The final lighting plan (including a detailed photometric plan) shall be reviewed and approved by the Director of Community Development prior to building permit issuance. A report from a licensed lighting engineer may be required to confirm all exterior lighting throughout the site complies with the City's Ordinance.

17. TRANSFORMERS

Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults. The developer must receive written approval from both the Public Works Department and the Community Development Department prior to installation of any above ground equipment. Should above ground equipment be permitted by the City, equipment and enclosures shall be screened with fencing and landscaping such that said equipment is not visible from public street areas, as determined by the Community Development Department. Transformers shall not be located in the front or side building setback area.

18. UTILITY STRUCTURE PLAN

Prior to issuance of building permits, the applicant shall work with staff to provide a detailed utility plan to demonstrate screening or undergrounding of all new utility structures [including, but not limited to backflow preventers (BFP), fire department connections (FDC), post-indicator valves (PIV), and gas meters] to the satisfaction of the Director of Community Development, Public Works, Fire Department, and applicable utility agencies.

19. GREEN BUILDING

The project shall be constructed in accordance with the City's Green Building Ordinance (Chapter 16.58 of the Cupertino Municipal Code). The applicant shall obtain LEED Silver certification or an alternative reference standard in accordance with the ordinance since the building size is over 50,000 square feet. Third party LEED certification or alternative reference standard is required per the ordinance criteria and costs associated with third-party review shall be paid by the applicant.

20. EQUIPMENT SCREENING

All mechanical and other equipment on the building or on the site shall be screened so they are not visible from public street areas or adjoining developments. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen. A line of sight plan may be required to demonstrate that the equipment will not be visible from any public right-of-way. The location of the equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

21. CONSULTATION WITH OTHER DEPARTMENTS

The applicant is responsible to consult with other departments and/or agencies with regard to the proposed project for additional conditions and requirements. Any misrepresentation of any submitted data may invalidate an approval by the Community Development Department.

22. INDEMNIFICATION

As part of the application, to the fullest extent permitted by law, the applicant shall agree to indemnify, defend with the attorneys of the City's choice, and hold harmless the City, its City Council, and its officers, employees, and agents (collectively, the "indemnified parties") from and against any liability, claim, action, cause of action, suit, damages, judgment, lien, levy, or proceeding (collectively referred to as "proceeding") brought by a third party against one or more of the indemnified parties or one or more of the indemnified parties and the applicant related to any Ordinance, Resolution, or action approving the project, the related entitlements, environmental review documents, finding or determinations, or any other permit or approval authorized for the project. The indemnification shall include but not be limited to damages, fees, and costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities, and expenses incurred in connection with such proceeding whether incurred by the Applicant, the City, or the parties initiating or bringing such proceeding.

The applicant shall agree to (without limitation) reimburse the City its actual attorneys' fees and costs incurred in defense of the litigation. Such attorneys' fees and costs shall include amounts paid to the City's outside counsel and shall include City Attorney time and overhead costs and other City staff overhead costs and any costs directly related to the litigation reasonably incurred by City. The applicant shall likewise agree to indemnify, defend, and hold harmless the indemnified parties from and against any damages, attorneys' fees, or costs awards, including attorneys' fees awarded under Code of Civil Procedure section 1021.5, assessed or awarded against the indemnified parties. The Applicant shall

cooperate with the City to enter a Reimbursement Agreement to govern any such reimbursement.

The Applicant shall agree to (without limitation) reimburse the City for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an Environmental Impact Report, negative declaration, specific plan, or general plan amendment) if made necessary by proceedings challenging the project approvals and related environmental review, if the applicant desires to continue to pursue the project.

The Applicant shall agree that the City shall have no liability to the Applicant for business interruption, punitive, speculative, or consequential damages.

23. NOTICE OF FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 1st day of July, 2025, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Liang-Fang Chao, Mayor City of Cupertino	 _____ Date
ATTEST:	

<hr/> Kirsten Squarcia, City Clerk	<hr/> Date
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