



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

PLANNING COMMISSION STAFF REPORT

Meeting: February 10, 2026

Subject

Review of the proposed Mary Avenue public right-of-way vacation and determination of the location, purpose, and extent of property disposition for consistency with the General Plan.

Recommended Action

1. Adopt a Resolution (Attachment 1) finding that the Mary Avenue public right-of-way vacation (APN 326-27-053) is consistent with the General Plan.
2. Adopt a Resolution (Attachment 2) finding that the location, purpose, and extent of the disposition of the Mary Avenue project site (APN 326-27-053) is consistent with the General Plan.

Discussion

The Mary Avenue project site (APN 326-27-053) is Site ID 10 of the General Plan's Housing Element, adopted by the City on May 14, 2024, and which the California Department of Housing and Community Development found in substantial compliance with the State Housing Element Law (Gov. Code § 65580 et seq) on September 4, 2024. The site is in the Garden Gate neighborhood and is located east of Highway 85. Presently, the site is a new parcel carved out from 0.79 acres of underutilized right-of-way, owned by the City of Cupertino, adjacent to Highway 85, that includes some on-street parking. Neighboring uses include multi-family residential uses, a dog park, condominiums, and Highway 85.

In response to an August 18, 2022 Request for Proposals (RFP) for affordable housing development project at this property, the site has an active proposal for a 40-unit, two story affordable (100% Low and Very Low Income) housing project developed by Charities Housing. The project will include 19 units for residents with intellectual or developmental disabilities.

The City Council is responsible for approving public right-of-way vacations. However, pursuant to Government Code section 65402(a), the Planning Commission is authorized to review certain proposed vacations for consistency

with the City's General Plan.

The General Plan: Community Vision 2015-2040 includes the Housing Element that lists the Mary Avenue property (APN 326-27-053) as a priority housing site for a 100% affordable housing development (Site ID 10, Table B4-8). All priority housing sites, including Mary Avenue, were rezoned for housing development. Additionally, the proposed Mary Avenue project requires a public right-of-way vacation. The proposed vacation is consistent with the General Plan since it involves a priority housing site identified in the Housing Element and effectuates the pertinent goals, policies, strategies, and objectives set forth in the Housing Element, including:

- Policy HE-1-2: Housing Densities (provide a full range of densities for ownership and rental housing) and corresponding strategies and objectives:

- Strategy HE-1.3.1: Land Use Policy and Zoning Provisions (“Provide adequate capacity through the Land Use Element and Zoning Ordinance to accommodate the RHNA while maintaining a balanced land use plan that offers opportunities for, among other things, services, and amenities”). By furthering a high-density 100 percent affordable housing project in the northern area of the City (north of Stevens Creek Boulevard), the Mary Avenue right-of-way vacation will assist the City in meeting the Policy’s Objective of “4,588 units (596 extremely low-, 597 very low-, 687 low-, 755 moderate-, and 1,953 above moderate-income units) prioritized in areas with high rates of housing cost burden, such as the City’s north side ”
- Strategy HE-1-3.10: Innovative and Family-Friendly Housing Options (“Explore innovative and alternative housing options that provide greater flexibility and affordability in the housing stock that would address housing needs including special-needs groups, and lower-income households”). By furthering a housing project that provides 19 units for residents with intellectual or developmental disabilities, the Mary Avenue right-of-way vacation will assist the City in meeting the Policy’s Quantified Objective of “200 lower-income units to improve housing mobility and reduce displacement risk.”

-Policy HE-2.3: Development of Affordable Housing and Housing for Persons with Special Needs and corresponding Strategies:

- Strategy HE-2.3.1: Support Affordable Housing Development (“Work with housing developers to expand opportunities for affordable lower-income housing for special-needs groups”). The Mary Avenue right-of-way vacation furthers a 100 percent affordable housing project including 19 units for residents with intellectual or developmental disabilities, which will assist the City in meeting the Policy’s Quantified Objective to “Create opportunity for 450 units for lower-income households that will be within close proximity to services and other resources in high-opportunity areas. Include development of 250 units affordable to special-needs, lower-income households to reduce displacement risk for these populations.”

- Strategy HE-2.3.6: Surplus Properties for Housing and Faith-Based Housing (“Compile and maintain an inventory of vacant properties owned by the City or other public entities. The inventory will include land donated and accepted by the City for donation, and land otherwise acquired by the city. The City will then undertake steps leading to release of RFP to solicit developer interest, which may include declaration of land as ‘surplus.’”) The Mary Avenue right-of-way vacation furthers the overall Policy strategy regarding disposition of surplus properties.

- Strategy HE-2.3.11: Assistance for Persons with Developmental Disabilities (“Work with the nonprofit community to encourage the inclusion of units for persons with developmental disabilities in future affordable housing developments.”) The Mary Avenue right-of-way vacation will further a housing project by Charities Housing, which is a registered 501(c)(3) nonprofit organization, which includes 19 units for residents with intellectual or developmental disabilities. This development will allow the City to meet the Policy’s Objective of “housing units for persons with disabilities to reduce displacement risk.”

-Appendix B: Housing Element Technical Report, Table B4-8 Priority Housing Sites in Residential Zones

- Additional Site Details lists the Mary Avenue site as Site ID 10, stating “Site 10 is located in the Garden Gate neighborhood and is located east of Highway 85. Presently, the site is a new parcel carved out from unused right-of-way, owned by the City of Cupertino, adjacent to Highway 85 that includes some on-street parking. Neighboring uses include multi-family residential uses, a dog park, condominiums and Highway 85.” The City’s General Plan explicitly anticipates the vacation of the right-of-way,

including vacation of the on-street parking in its Housing Element for the purpose of developing a 40-unit, two-story affordable (100% Low and Very Low Income) housing project including 19 units for residents with intellectual or developmental disabilities.

Section 65402(c) also sets forth that the Planning Commission shall make a determination regarding whether the location, purpose and extent of the disposition of property for an affordable housing project is consistent with the City's General Plan. Since the Mary Avenue Property (APN 326-27-053) is a site listed on the Housing Element of the City's General Plan, and for all the reasons described in detail above, this request is being submitted to the Planning Commission for determination as to the conformity of the location, purpose and extent of the disposition of the Mary Avenue Property (APN 326-27-053) with the City's General Plan.

Environmental Impact

The City has performed an environmental assessment for the Mary Avenue housing project, and the Planning Commission has determined that it falls within the Categorical Exemption set forth in Section 15332 which exempts Class 32 Infill Development Projects because (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) the project site has no value, as habitat for endangered, rare or threatened species; (d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) the site can be adequately served by all required utilities and public services. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project. The proposed vacation of the Vacation Area does not constitute a separate project under CEQA and is an implementation action within the scope of the affordable housing development project. Based on the whole of the administrative record, Planning Commission recommends that City Council adopts a Categorical Exemption per CEQA Guidelines section 15332 for this project.

Next Steps

The Planning Commission's determination will be considered by the City Council, currently anticipated for March 3, 2026, as part of the Council's review of the proposed Mary Avenue right of way vacation.

Sustainability Impact

There is no sustainability impact.

Fiscal Impact

There is no fiscal impact.

Prepared by: Jennifer Chu, Senior Civil Engineer
Chad Mosley, Director of Public Works
Floy Andrews, Interim City Attorney

Reviewed by: Gian Martire, Senior Planner
Michael Woo, Senior Assistant City Attorney

Approved by: Luke Connolly, Assistant Director of Community Development
Tina Kapoor, City Manager

Attachments:

- 1 - Draft Resolution
- 2 - Draft Resolution
- 3 - Map of Parcel