

CC 3-3-2026

#9

Mary Avenue property  
Exempt Surplus Land

Presentation

# Mary Avenue Surplus Land Act Declaration

March 3, 2026



**CITY OF  
CUPERTINO**

Cupertino  
City Council

# Tonight's Action

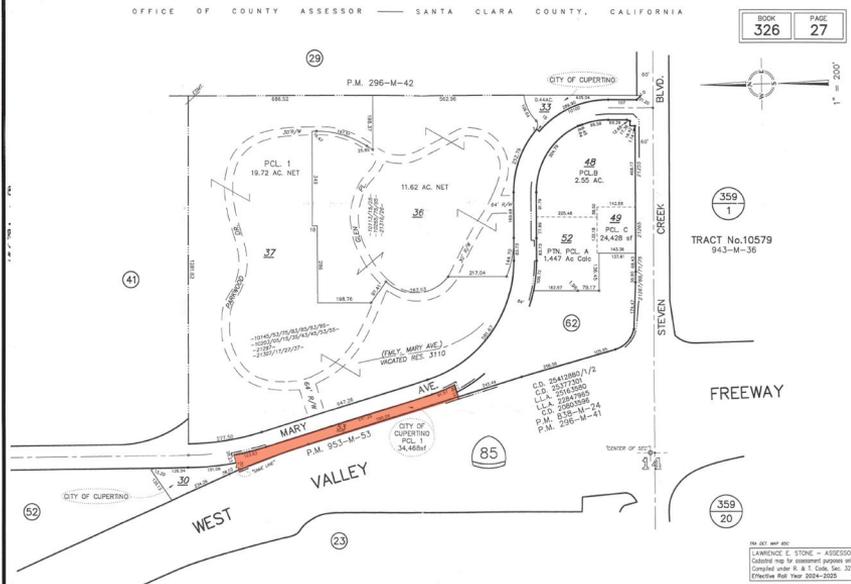
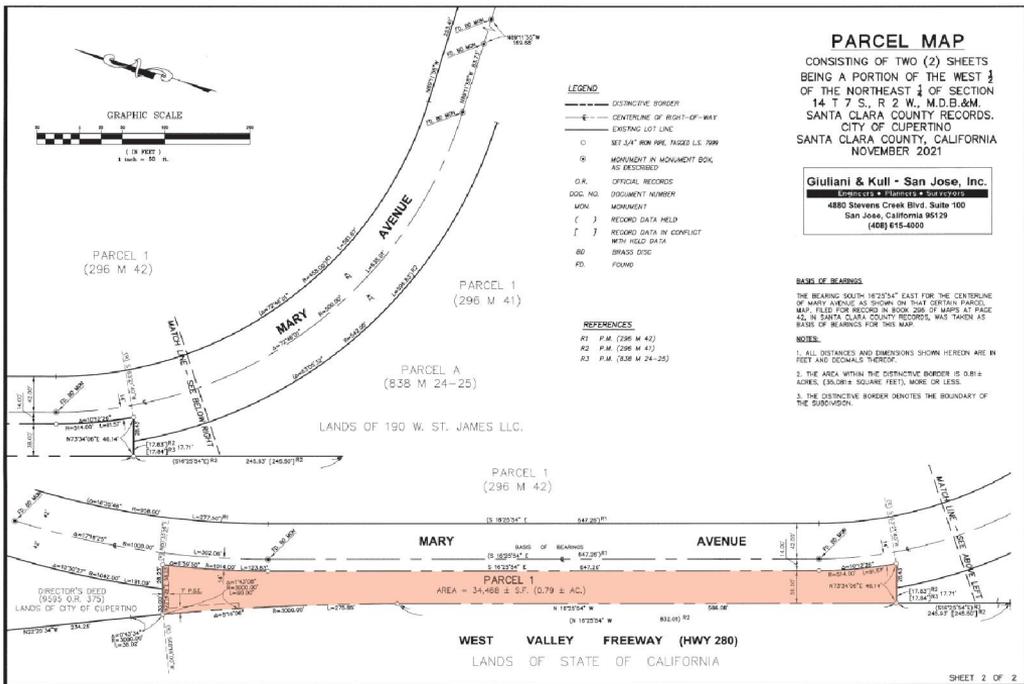
## Subject

Consider Adopting a Resolution Declaring the Mary Avenue Property Located Along the Westerly Edge of Mary Avenue (APN 326-27-053) Exempt Surplus Land under the California Surplus Land Act

## Recommended Action

1) Adopt a Resolution declaring the Mary Avenue property located along the westerly edge of Mary Avenue (APN 326-27-053) to be exempt surplus land pursuant to California Government Code Section 54221 (f)(1)(F)

# Parcel Map & APN Map of Property



NO NET MAP SEE:  
 LAWRENCE E. STONE - ASSESSOR  
 Submitted map for assessment purposes only  
 Compiled under R. & T. Code, Sec. 307  
 Effective April, Year 2024-2025

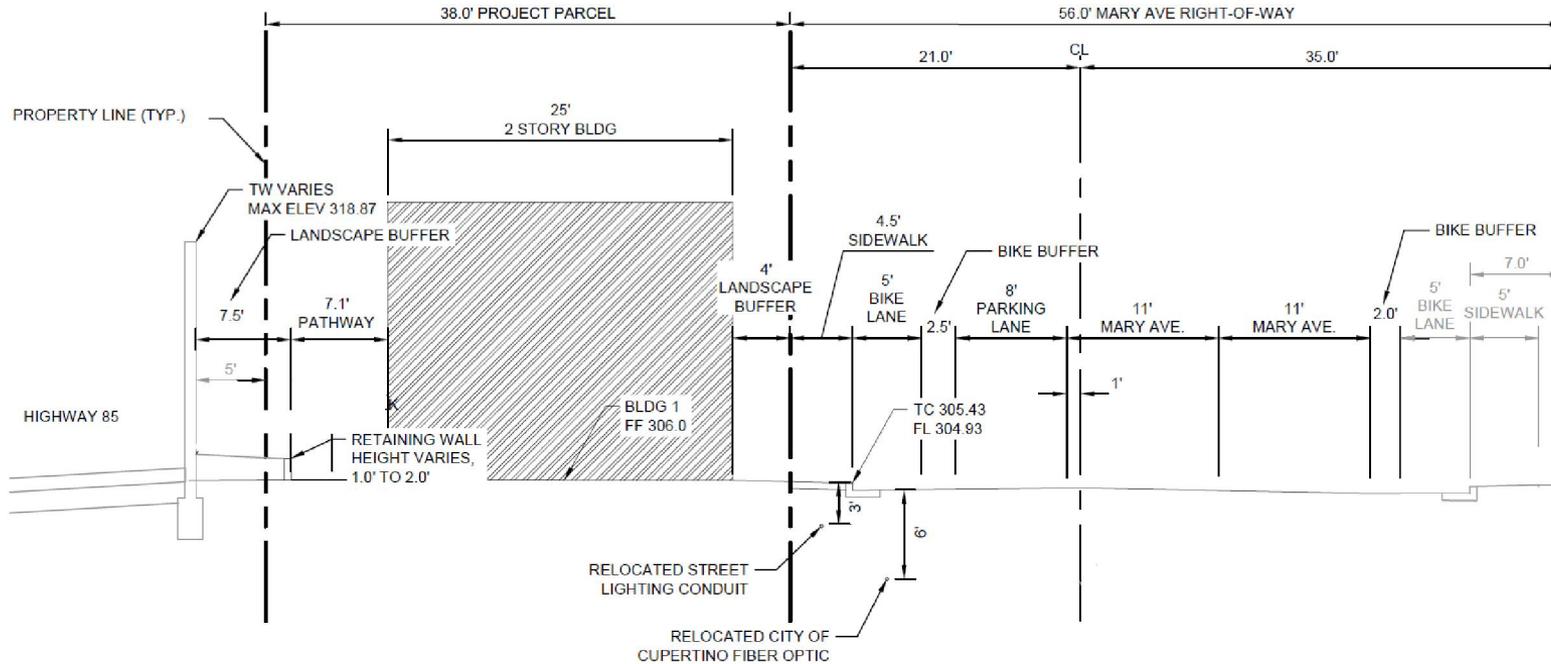
# Aerial of Property



# Property Background & Status

- FY 21-22 City Work Program initiated Project
  - 2023 Parcel was created
  - 2024 Re-zoned with Housing Element
  - 2/3/26 Low-income housing project approved by City Council, contingent upon this decision, among other actions
- 
- Area mostly serves as parking stalls
  - Underutilized parking except for festivals (9 days/year)

# Proposed Section of Property and Roadway



# Surplus Land Act Declaration

- Gov. Code § 54221(b)(1) defines “Surplus Land” as land owned in fee simple that is not necessary for agency’s use.
- “Agency’s use” includes land used, or planned to be used, for agency work or operations pursuant to a written plan adopted by the governing body (Gov. Code § 54221(b)(2); HCD Guidelines §104). The property is not currently used for City operations and is not identified in an adopted plan for future City work and operational use
- A local agency is not required to find that land is of no public use in order to determine that it is surplus (See *Airport Business Center v. City of Santa Rosa*, 116 Cal.App.5<sup>th</sup> 501 (2025))

## Surplus Land Act Declaration Continued

- Pursuant to Gov. Code § 65583.2(b)(3), when a publicly owned, nonvacant site is to be included in a Housing Element, the City must describe the existing use, disclose any plans to dispose of the property during the planning period, and explain how it will comply with the Surplus Land Act.
- HCD found the City's Housing Element in substantial compliance pursuant to Government Code § 65585, which necessarily includes review of the site's suitability and availability for residential development.

Accordingly, Based on (1) the site's identification for an affordable housing project, (2) its underutilized parking condition, and (3) the City's adopted housing policies, the Council may determine that the project site is surplus land under the Surplus Land Act

# Exemption to Surplus Land Act

Gov. Code § 54221(f)(1)(F) exempts the disposition of surplus land for a housing development in which:

- 100% of residential units are restricted to low or moderate income households
- At least 75% of units are restricted to lower income
- Affordability is secured by a recorded covenant for a minimum of 55 years

Accordingly, the Council may determine that the project qualifies as exempt surplus land under the Surplus Land Act.

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