

RESOLUTION NO. _____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
APPROVING A VESTING TENTATIVE MAP FOR A PROPOSED RESIDENTIAL
DEVELOPMENT WITH 51 TOWNHOME STYLE CONDOMINIUM UNITS AND
THE REMOVAL AND REPLACEMENT OF 8 PROTECTED TREES LOCATED AT
10857, 10867, 10877, AND 10887 LINDA VISTA DRIVE (APNS: 356-06-001, -002,
-003, AND -004)**

SECTION I: PROJECT DESCRIPTION

Application No.: TM-2024-009
Applicant: SummerHill Homes, LLC
Location: 10857, 10867, 10877, and 10887 Linda Vista Drive
(APNs: 356-06-001, -002, -003, and -004)

SECTION II: FINDINGS FOR A TENTATIVE MAP:

WHEREAS, the City Council of the City of Cupertino received an application for a Vesting Tentative Map as described in Section I of this resolution; and

WHEREAS, the project is determined to be statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(1) of the CEQA Guidelines and Section 21080.66 of the Public Resources Code; and

WHEREAS, on February 24, 2026 the Planning Commission recommended on a 3-2 vote that the City Council approve the approve the Vesting Tentative Map (TM-2024-009), in substantially similar form to the Resolution presented (Resolution No. 2026-08), approve the Architectural and Site Approval Permit (ASA-2024-015) in substantially similar form to the Resolution presented (Resolution No. 2026-09), and approve the Tree Removal Permit (TR-2024-044) in substantially similar form to the Resolution presented (Resolution No. 2026-10); and

WHEREAS, on March 17, 2026, the City Council held a duly noticed public hearing to receive staff's presentation and public testimony, and to consider the information contained in the CEQA Exemption Memorandum prepared by David J Powers & Associates, dated February 18, 2026, along with all staff reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing; and

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

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

- a. That the proposed subdivision map is consistent with the City of Cupertino General Plan.

The subject property is consistent with the General Plan since the property is permitted to have up to 35 dwelling units an acre pursuant to the vesting provisions of SB330 which vested the development standards to those that were in place in October 2024.

- b. That the design and improvements of the proposed subdivision are consistent with the General Plan.

The off-site improvements are consistent with the City's General Plan policies related to applicable pedestrian and bicycle safety, with improvements made in accordance with the right-of-way design and the urban canopy within the public right-of-way. The development is required to have a 20-foot setback from the property line fronting Linda Vista Drive and a 12-foot setback from the property line fronting Evulich Court. While the project provides the required setback from Linda Vista Drive, a reduced setback is provided along Evulich Court. However, state density bonus law requires the City to provide a waiver from local standards and still consider the design consistent with the General Plan and Specific Plan.

- c. That the site is physically suitable for the type of development contemplated under the approved subdivision.

The proposed tentative map is compatible with the adjoining land uses and no physical constraints are present that would conflict with the anticipated land use and development. Moreover, there are no topographical anomalies that differentiate this property from adjacent properties and the site is not listed within any environmentally sensitive zone for biotic resources. The site is located in a slope instability geologic hazard zone and the project's geologic and geotechnical reports have been peer reviewed by the City's third-party consultant. Recommendations from the peer review have been included as conditions of approval.

- d. That the site is physically suitable for the intensity of development contemplated under the approved subdivision.

The subject property is physically suitable in size and shape and in conformance to development standards and is configured to accommodate a multi-unit development like the one proposed.

- e. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish and wildlife or their habitat.

The design of the subdivision and proposed improvements will not injure fish and wildlife or their habitat because the site is located in an urbanized area where residential land use is allowed.

- f. That the design of the subdivision or the type of improvements associated therewith are not likely to cause serious public health problems.

The proposed subdivision design and improvements will not cause serious public health problems. The proposed development is consistent with the intent of the policies of the General Plan for a development of this density on this site, and the on-site and off-site improvements improve neighborhood walkability through improved sidewalk construction with size-appropriate driveway curb-cuts and street and private trees planting.

- g. That the design of the subdivision and its associated improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

No easement or right-of-way exists currently that would be impeded or conflict with the proposed subdivision. New public access easements will be required to address General Plan Mobility Element Policy M-2.5, as identified on the approved map. These easements shall be maintained to allow for public access through the property.

NOW, THEREFORE, BE IT RESOLVED:

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

The application for a Vesting Tentative Map, Application No. TM-2024-009, is hereby approved, and that the sub-conclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application No. TM-2024-009 as set forth in the Minutes of the City Council Meeting of March 17, 2026 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 "10857 Linda Vista Drive" dated January 12, 2026 consisting of 105 sheets labeled as, A01- A24, C1.0 – C7.0, L1.1 – L10.1, INT1-INT4, PrSL1, PrSL2, PS-1, and TM1.0, 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. ASA-2024-015 and TR-2024-044 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

Public access easements required for the proposed trail connection to address Mobility Element Policy M-2.5 and Land Use Element Strategy LU-11.1, as identified on the approved map, shall be maintained to allow for public access through the property.

6. 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.

7. 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.

8. 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.

SECTION IV: CONDITIONS ADMINISTERED BY THE PUBLIC WORKS DEPARTMENT

9. STREET IMPROVEMENTS & DEDICATION

Roadway dedication in fee title and street improvements along the project frontage will be required to the satisfaction of the Director of Public Works. Street improvements, grading and drainage plans must be completed and approved prior to Final map approval.

Street improvements may include, but not be limited to, new detached sidewalk, driveways, curb and gutter, remove/replace existing driveway cuts, utility mains/laterals, street tree installations, and street light installation. All improvements must be completed and accepted by the City prior to Building Final Occupancy or Street Improvement Encroachment Permit acceptance whichever comes first.

Additional comments will be provided and shall be incorporated prior to Final Map approval.

10. ACCEPTANCE OF PROPERTY RIGHTS

The Public Works Director, or his/her designee, shall have the authority to accept all offers of dedications, easements, quitclaims and other property rights and interests on behalf of the City.

11. CURB AND GUTTER IMPROVEMENTS

Curbs and gutters, sidewalks and related structures shall be installed in accordance with grades and standards as specified by the Director of Public Works. All improvements must be completed and accepted by the City prior to Building Final Occupancy or Street Improvement Encroachment Permit acceptance whichever comes first.

12. PEDESTRIAN AND BICYCLE IMPROVEMENTS

Developer shall provide pedestrian and bicycle related improvements (e.g. walkway and bicycle racks, etc.) consistent with the Cupertino Bicycle Transportation Plan and

the Pedestrian Transportation Guidelines, and as approved by the Director of Public Works. All improvements must be completed and accepted by the City prior to Building Final Occupancy or Street Improvement Encroachment Permit acceptance whichever comes first.

13. STREET LIGHTING INSTALLATION

Street lighting shall be installed and shall be as approved by the Director of Public Works. Lighting fixtures shall be positioned so as to preclude glare and other forms of visual interference to adjoining properties, and shall be no higher than the maximum height permitted by the zone in which the site is located.

14. GRADING

Grading shall be as approved and required by the Director of Public Works in accordance with Chapter 16.08 of the Cupertino Municipal Code.

15. DRAINAGE

Drainage shall be provided to the satisfaction of the Director of Public Works and satisfy any requirements from the environmental analysis. Hydrology and pre- and post-development hydraulic calculations based on the 10-year storm event must be provided to indicate whether additional storm water control measures are to be constructed or renovated. The storm drain system may include, but is not limited to, subsurface storage of peak stormwater flows (as needed), bioretention basins, vegetated swales, and hydrodynamic separators to reduce the amount of runoff from the site and improve water quality. The storm drain system shall be designed to detain water on-site (e.g., via buried pipes, retention systems or other approved systems and improvements) as necessary to avoid an increase of the ten percent flood water surface elevation to the satisfaction of the Director of Public Works. Any storm water overflows or surface sheeting should be directed away from neighboring private properties and to the public right of way as much as reasonably possible.

All storm drain inlets shall be clearly marked with the words “No Dumping – Flows to Creek” using permanently affixed metal medallions or equivalent, as approved by the Environmental Programs Division.

Additional comments will be provided and shall be incorporated prior to Final Map approval.

16. C.3 REQUIREMENTS

C.3 regulated improvements are required for all projects creating and/or replacing 5,000 S.F. or more of impervious surface, collectively over the entire project site. The

developer shall reserve a minimum of 4% of developable surface area for the placement of low impact development measures, for storm water treatment, unless an alternative storm water treatment plan, that satisfies C.3 requirements, is approved by the Director of Public Works.

The project is located in a Hydromodification Management (HM) area and will create and/or replace one acre or more of impervious surface. The project must comply with the Post-Construction Hydromodification Management requirements which entail HM projects to demonstrate that post-project runoff does not exceed estimated pre-project runoff rates and durations.

The developer must include the use and maintenance of site design, source control and storm water treatment Best Management Practices (BMPs), which must be designed per approved numeric sizing criteria. A Storm Water Management Plan and a Storm Water Facilities Operation, Maintenance and Easement Agreement, and certification of ongoing operation and maintenance of treatment BMPs are each required.

All storm water management plans are required to obtain certification from a City approved third party reviewer.

If the Project is subject to (Covenants, Conditions, and Restrictions (CC&R) and Homeowners Association (HOA), CC&R must also include languages pertaining to the stormwater treatment measures.

17. SUBDIVISION IMPROVEMENT AGREEMENT

The project developer shall enter into a Subdivision Improvement Agreement with the City of Cupertino providing for payment of fees, including but not limited to checking and inspection fees, storm drain fees, transportation impact fees, park dedication fees and fees for under grounding of utilities. Said agreement and fees shall be executed and paid prior to Final map approval.

Fees:

- a. Checking & Inspection Fees: Per current fee schedule (\$6,203 or 5% of improvement costs)
- b. Grading Permit: Per current fee schedule (\$5,365 or 6% of improvement costs)
- c. Tract Map Fee: Per current fee schedule (\$15,013)
- d. Storm Drainage Fee: Per current fee schedule (\$4,548 per AC + \$345 per unit)

- e. Transportation Impact Fee: Per current fee schedule: (\$4,215 per new unit) credit for 4 existing units
- f. Encroachment Permit Fee: Per current fee schedule (\$3,895 or 5% of improvement costs)
- g. Park Fees: Per current fee schedule: (\$54,000 per new unit) \$1,794,000 for 41 new units, 10 BMR units waived, credit for 4 existing units
- h. Storm Management Plan Fee Per current fee schedule (\$2,432)
- i. Street Tree Fee: By Developer or Per current fee schedule: \$562 per tree

Bonds:

- a. Faithful Performance Bond: 100% of Off-site and On-site Improvements
- b. Labor & Material Bond: 100% of Off-site and On-site Improvement
- c. On-site Grading Bond: 100% of site improvements.

The fees described above are imposed based upon the current fee schedule adopted by the City Council. However, the fees imposed herein may be modified at the time of recordation of a final map or issuance of a building permit in the event of said change or changes, the fees changed at that time will reflect the then current fee schedule.

18. FINAL MAP

A final map will be subject to City Council approval and shall be recorded prior to issuance of any building permits for vertical construction. Existing buildings must be demolished prior to recordation of the final map as building(s) cannot straddle between lot lines.

19. TRANSPORTATION

The Project is subject to the payment of Transportation Impact Fees under City's Transportation Impact Fee Program (Chapter 14.02 of the Cupertino Municipal Code).

20. PARKS

The residential units are subject to the Park Land Dedication (for units 50 or more) or the payment of parkland fees in-lieu of parkland dedication per Chapter 13.08 and Chapter 18.24 of the Cupertino Municipal Code. The City Council has the ultimate discretion to require parkland dedication or accept park in-lieu fees. (for units 50 or more)

The Below Market Rate (BMR) program manual, which was last amended by City Council on July 2, 2024 per Resolution 24-067, authorizes the waiver of park fees for BMR units. Pursuant to Resolution 24-067, parkland dedication in-lieu fees for the 10 BMR units proposed for this project are hereby waived.

21. SURVEYS

A Boundary Survey and a horizontal control plan will be required for all new construction to ensure the proposed building will be set based on the boundary survey and setback requirements.

22. TRASH, RECYCLING AND COMPOST ENCLOSURES

Trash enclosure plans must be designed in accordance with the City's "Public Works Guidelines" posted at www.cupertino.org/nowaste, and to the satisfaction of the Environmental Programs Manager. Clearance by the Public Works Department is required prior to obtaining a building permit. (CMC 9.18.210 H & K)

Applicant shall enter into an agreement with the City that indemnifies and holds harmless both the City and the refuse and recycling collection company (Recology) from and against any harm, damage or maintenance that may occur or become necessary to onsite paving stone driveway surfaces.

23. OPERATIONS & MAINTENANCE AGREEMENT

Developer shall enter into an Operations & Maintenance Agreement with the City prior to Final Map approval. The Agreement shall include the operation and maintenance for non-standard appurtenances in the public road right-of-way that may include, but is not limited to, landscaping, street trees, sidewalk, pavers, and street lights.

24. UNDERGROUND UTILITIES

Developer shall comply with the requirements of the Underground Utilities Ordinance No. 331 and other related Ordinances and regulations of the City of Cupertino, and shall coordinate with affected utility providers for installation of underground utility devices. Developer shall submit detailed plans showing utility underground provisions. Said plans shall be subject to prior approval of the affected Utility provider and the Director of Public Works.

25. TRANSFORMERS & CABINETS

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.

26. WATER BACKFLOW PREVENTERS

Domestic and Fire Water Backflow preventers and similar above ground equipment shall be placed away from the public right of way and site driveways to a location approved by the Cupertino Planning Department, Santa Clara County Fire Department and the water company.

27. BEST MANAGEMENT PRACTICES

Utilize Best Management Practices (BMPs), as required by the State Water Resources Control Board, for construction activity, which disturbs soil. BMP plans shall be included in grading and street improvement plans.

28. NPDES CONSTRUCTION GENERAL PERMIT

When and where it is required by the State Water Resources Control Board (SWRCB), the developer must obtain a Notice of Intent (NOI) from the SWRCB, which encompasses preparation of a Storm Water Pollution Prevention Plan (SWPPP), use of construction Best Management Practices (BMPs) to control storm water runoff quality, and BMP inspection and maintenance.

29. EROSION CONTROL PLAN

Developer must provide an approved erosion control plan by a Registered Civil Engineer. This plan should include all erosion control measures used to retain materials on site. Erosion control notes shall be stated on the plans.

30. WORK SCHEDULE

Every 6 months, the developer shall submit a work schedule to the City to show the timetable for all grading/erosion control work in conjunction with this project.

31. TRAFFIC CONTROL PLAN

The developer must submit a traffic control plan by a Registered Traffic Engineer to be approved by the City. The plan shall include a temporary traffic control plan for work in the right of way as well as a routing plan for all vehicles used during construction. All traffic control signs must be reviewed and approved by the City prior to commencement of work. The City has adopted Manual on Uniform Traffic Control Devices (MUTCD) standards for all signage and striping work throughout the City.

32. STREET TREES

Street trees shall be planted within the Public Right of Way to the satisfaction of the Director of Public Works and shall be of a type approved by the City in accordance with Ordinance No. 125.

33. FIRE PROTECTION

Fire sprinklers shall be installed in any new construction to the approval of the City.

34. SANTA CLARA COUNTY FIRE DEPARTMENT

A letter of clearance for the project shall be obtained from the Santa Clara County Fire Department prior to issuance of building permits. Clearance should include written approval of the location of any proposed Fire Backflow Preventers, Fire Department Connections and Fire Hydrants (typically Backflow Preventers should be located on private property adjacent to the public right of way, and fire department connections must be located within 100' of a Fire Hydrant).

35. FIRE HYDRANT

Fire hydrants shall be located as required by the City and Santa Clara County Fire Department as needed.

36. SAN JOSE WATER SERVICE COMPANY CLEARANCE

Provide San Jose Water Service Company approval for water connection, service capability and location and layout of water lines and backflow preventers prior to Final Map approval.

37. DEDICATION OF UNDERGROUND WATER RIGHTS

Developer shall "quit claim" to the City all rights to pump, take or otherwise extract water from the underground basin or any underground strata in the Santa Clara Valley.

38. SANITARY DISTRICT

A letter of clearance or sign off of street improvement plans for the project shall be obtained from the Cupertino Sanitary District prior to Final Map approval.

39. UTILITY EASEMENTS

Clearance approvals from the agencies with easements on the property (including PG&E, AT&T, and San Jose Water Company, and/or equivalent agencies) will be required prior to Final Map approval.

CITY ENGINEER'S CERTIFICATE OF
ACCEPTANCE OF ENGINEERING/SURVEYING CONDITIONS
(Section 66474.18 California Government Code)

I hereby certify that the engineering and surveying conditions specified in Section IV. of this Resolution conform to generally accepted engineering practices.

Chad Mosley, Director of Public Works
City Engineer CA License 66077

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 17th day of March, 2026, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> <p>_____</p> <p>Kitty Moore, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Lauren Sapudar, City Clerk</p>	<p>_____</p> <p>Date</p>