

CC 4-21-2026

Oral
Communications

Written Comments

From: [Jennifer Griffin](#)
To: [City Council](#); [City Clerk](#)
Cc: grenna5000@yahoo.com
Subject: Too Many SB 330 Projects
Date: Tuesday, April 14, 2026 9:27:46 PM

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Dear City Council:

(Please consider the following as public comment for the City Council meeting on 4/21/26.)

I am very concerned that there are so many SB 330 projects now that they are taking up most of The City's time and nothing else can get done. The public is having a hard time following all The projects and feel like they are being left behind and are not getting a chance to express Their multiple concerns about the projects.

The SB 330 housing bill does not let the public discuss the projects and this is a very sad affair. It is like no one can express their concerns to the city. These concerns have identified an exploding, Overriding concern that retail is being lost at an alarming rate.

No one from the public in California ever got the ability to voice their concerns with SB 330 when the governor Signed SB 330, and we are having to do it now. This bill had no beta testing before it was released onto The public and we are doing the beta testing now. In the beta testing we are realizing that this bill in Too much proliferation is causing a massive loss of retail. There is a growing concern about traffic impacts, Emergency vehicle access, parking loss and school impacts.

There is an overall sense of confusion in the City and dismay over the many issues from the SB 330 projects. People are worried now about even finding a place to buy groceries or shop in the city. Since the loss of Staples, I frequent computer supply stores and office supply stores in other cities, including Santa Cruz.

The handwriting is on the wall. There will be no retail left in Cupertino if things continue on as They are with the emergence of so many SB 330s. Retail should be put back into the mix required at the SB 330 sites. Beta testing is almost complete after six SB 330s. We need to preserve retail And we need to come up with ways to protect, promote and preserve retail.

Cupertino's main shopping area, when it was Westside, was the intersection of Sunnyvale-Saratoga Road and Stevens Creek Blvd. It was called The Crossroads and that is where you went to buy things You needed in farming and orchard days. The Crossroads should keep retail as retail has always been There for the Cupertino Community.

We just need to put retail back into the equation as we beta test SB 330. The state did not beta test it. We are having to do it now. Please help us get our concerns out about SB 330 and help us protect retail in Cupertino.

Thank you.

Best regards,

Jennifer Griffin

From: [Vikram Saxena](#)
To: [City Clerk](#)
Cc: [Yung, Brandon@HCD](#); [Wilcox, Mindy@HCD](#); [davidcyan@gmail.com](#); [lindavistatt@gmail.com](#); [Liang Chao](#); [Kitty Moore](#); [R "Ray" Wang](#); [Floy Andrews](#); [plee@awattorneys.com](#); [Tina Kapoor](#); [Coy, Melinda@HCD](#); [Emi Sugiyama](#); [Luke Connolly](#)
Subject: Re: Subject: Documentation of Administrative Record Inconsistencies: 10857 Linda Vista Cupertino
Date: Sunday, April 12, 2026 5:52:09 PM
Attachments: [Attachment Cox Castle HAA CEQA Letter 2026-02-12.pdf](#)
[CEQA Exemption Fire Safety Compliance Concerns-2.pdf](#)
[Cox Castle Letter City of Cupertino - 4-1-26.pdf](#)
[Estrada Raw Testimony.pdf](#)
[Intro letter to Brandon Yung HCD.pdf](#)
[Notice of Factual Discrepancies to Cox Castle-City.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Subject: FOR THE OFFICIAL ADMINISTRATIVE RECORD: Evulich Court / 10857 Linda Vista Drive - Supplemental Evidence for Reconsideration

Dear City Clerk,

Please find attached the recent correspondence between our neighborhood coalition and the California Department of Housing and Community Development (HCD) regarding the Evulich Court project.

I am formally requesting that this email and the attached PDF be entered into the **Official Administrative Record** for the Evulich Court project. Furthermore, please append this correspondence as supplemental evidence to our pending **Petition for Reconsideration**, so that the City Council has it in their packet prior to their hearing on our petition.

Please confirm receipt and inclusion in the record.

Sincerely
-Vikram Saxena

On Thu, Apr 9, 2026 at 11:08 AM Coy, Melinda@HCD <Melinda.Coy@hcd.ca.gov> wrote:

Thank you

At this time we will not be reevaluating our letter. We are however monitoring as this project moves forward.

Melinda

From: Vikram Saxena <vsaxena@gmail.com>

Sent: Thursday, April 9, 2026 2:32 AM

To: Coy, Melinda@HCD <Melinda.Coy@hcd.ca.gov>

Cc: Yung, Brandon@HCD <Brandon.Yung@hcd.ca.gov>; Wilcox, Mindy@HCD <Mindy.Wilcox@hcd.ca.gov>; davidcyan@gmail.com; lindavistatt@gmail.com; Liang Chao <lchao@cupertino.gov>; Kitty Moore <kmoore@cupertino.gov>; Ray Wang <rwang@cupertino.gov>; floya@cupertino.gov; plee@awattorneys.com; Tina Kapoor <tinak@cupertino.gov>

Subject: Re: Subject: Documentation of Administrative Record Inconsistencies: 10857 Linda Vista Cupertino

Dear Ms. Coy,

Thank you for the acknowledgment.

To clarify the core issue: the project may proceed with a CEQA exemption using compliant 30-foot setbacks, or with 10-foot setbacks subject to full environmental review—but it cannot legally do both.

The current record reflects a clear breakdown in the information chain. The applicant's **Feb 12 letter**—which asserted confirmed fire safety compliance—informed the **City Staff Report**, which then shaped **HCD's guidance**. Crucially, the applicant's **April 1 submission** materially retracted that claim, admitting that compliance remains "to be determined."

It is understandable that the City is still establishing a baseline for these overlapping requirements, given that 1,600 acres in Cupertino were newly designated as High/Very High Fire Hazard Severity Zones just as AB 130 became law in 2025. However, we request that you **re-evaluate your letter** now that the underlying premise of the Feb 12 letter has been withdrawn.

Sincerely,

Vikram Saxena

On Wed, Apr 8, 2026 at 12:54 PM Coy, Melinda@HCD <Melinda.Coy@hcd.ca.gov> wrote:

I want to acknowledge receipt. We will review what you sent.

Melinda

From: Vikram Saxena <vsaxena@gmail.com>

Sent: Wednesday, April 8, 2026 11:30 AM

To: Coy, Melinda@HCD <Melinda.Coy@hcd.ca.gov>; Yung, Brandon@HCD <Brandon.Yung@hcd.ca.gov>; Wilcox, Mindy@HCD <Mindy.Wilcox@hcd.ca.gov>

Cc: davidcyan@gmail.com; lindavistatt@gmail.com; Liang Chao <lchao@cupertino.gov>; Kitty Moore <kmoore@cupertino.gov>; Ray Wang <rwang@cupertino.gov>; floya@cupertino.gov; plee@awattorneys.com

Subject: Subject: Documentation of Administrative Record Inconsistencies: 10857 Linda Vista Cupertino

Dear Ms. Coy,

I am writing to follow up on my prior correspondence regarding the 10857 Linda Vista project in Cupertino and HCD's March 30, 2026 technical assistance letter issued by your office. Given that residents have a limited period (**10 days from the April 1 decision**) to seek reconsideration, time is of the essence in clarifying whether HCD's guidance was applied based on a complete and accurate understanding of the record.

As I have not received a response, I am attaching a formal follow-up letter documenting material inconsistencies in the administrative record related to fire safety compliance and CEQA exemption eligibility.

I want to highlight one point in particular. During the April 1, 2026 City Council hearing, the Fire Department, through Assistant Fire Chief Estrada, provided direct testimony clarifying that key elements of fire safety compliance, including defensible space and evacuation impacts, **had not been evaluated and were outside the scope of review**. At the same time, prior written submissions had identified **material discrepancies** in the February 12, 2026 letter (from Summerhill's counsel) regarding the characterization of Fire Department prior approvals.

Notwithstanding this record, HCD's March 30 guidance, particularly the direction that the City should "assume compliance" at the entitlement stage, was relied upon by the City Attorney as the central basis for advising approval of the project and its CEQA exemption. In effect, that guidance became the framework through which the Council evaluated its obligations. The Council applied this framework in a manner that allowed approval to proceed **despite unresolved and documented factual conflicts in the record**.

The attached letter connects the February 12 counsel letter, the Planning Commission Staff Report (referred by the HCD), the April 1 counsel submission, and prior resident notices, and explains how these were collectively relied upon in the City's decision-making process.

I have copied Mr. Yung for continuity.

Given the role HCD's guidance played in the City's decision, I would appreciate your acknowledgment of receipt and any clarification HCD can provide after review.

Thank you for your time and consideration.

Sincerely,
Vikram Saxena

Attachments:

- (1) CEQA Exemption Fire Safety Compliance Concerns (new letter)
- (2) Intro letter to Brandon Yung HCD (sent this weekend to initiate contact)
- (3) Cox Castle Letter of February 12
- (4) Cox Castle Letter of April 1
- (5) Notice_of_Factual_Discrepancies_to_Cox_Castle (March 27)
- (6) Extracts from **Assistant Fire Chief Hector Estrada's** testimony at the April 1, city council meeting

February 12, 2026

Emi Sugiyama, Senior Planner
Luke Connolly, Assistant Director
Community Development Department
City of Cupertino
City Hall
10300 Torre Avenue
Cupertino, CA 95014-3255

Re: 10857, 10867, 10877, and 10887 Linda Vista Drive Townhome Project Approval

Dear Ms. Sugiyama and Mr. Connolly:

At its February 24, 2026, hearing, the Planning Commission of the City of Cupertino (“City”) will consider SummerHill Homes’ (“SummerHill”) proposed housing development project (“Project”) at 10857, 10867, and 10877 Linda Vista Drive (“Property”). We write to encourage the Planning Commission to timely recommend that the City Council approve the Project no later than April 4, 2026, in accordance with the City’s obligations under the Housing Accountability Act (“HAA”), the California Environmental Quality Act (“CEQA”), and the Permit Streamlining Act (“PSA”).

The City’s Sixth Cycle Housing Element (“Housing Element”) Site Inventory lists the parcels that comprise the Property as Priority Housing Sites. SummerHill proposes to redevelop the Property with a new 51-unit townhome-style condominium community (including 10 units affordable to moderate income households). The proposed Project density is within the allowable density pursuant to the City’s General Plan and Zoning Code.

SummerHill submitted a preliminary application pursuant to SB 330 for the Project on October 9, 2024, and a formal application for the Project on December 13, 2024, seeking approval of Architectural and Site Approval (File # ASA-2024-015), a Tentative Map (File # TM-2024-009), and a Tree Removal Permit (File # TR-2024-044), including waivers under the State Density Bonus Law. The City determined the formal application complete on March 19, 2025.

Housing Accountability Act – Consistency Review Timeline

Once an application is deemed complete, the HAA requires a local agency to notify the applicant, with supporting documentation and reasons, if the local agency considers the project

to be “inconsistent, not in compliance, or not in conformity” with applicable standards. (Gov. Code § 65589.5(j)(2)(a).) For projects of 150 units or fewer, the HAA consistency review period expires 30 days after the housing development project application is determined to be complete. (Gov. Code § 65589.5(j)(2)(A).) If the local agency fails to provide the required documentation within the deadline, the housing development project is deemed consistent, compliant, and in conformity.

The consistency review period for the Project expired on April 18, 2025. On April 18, 2025, the City submitted comments to SummerHill asserting inconsistencies with regard to certain “standard City requirements” as well as comments from the Fire Department and the Department of Public Works. Notably, the City did not make any comments asserting any inconsistencies with regard to evacuation routes at that time. As of that time, the Project was deemed consistent with standards for which inconsistencies were not identified and documented (including with regard to evacuation routes).

Subsequently, the Fire Department confirmed that the Project complies with applicable Fire Code requirements with incorporation of required methods pursuant to the approved Application for Use of Alternate Materials, Methods of Construction, or Modification of Code for the Project. These methods include requirements for non-combustible landscaping material within defined areas, wildfire protective measures in accordance with the California Building Code, added sprinklers within defined areas, and stricter fire separation distances within defined areas. All of these methods have been incorporated into the Project plans. Concurrently with resolution of the Fire Department Comments, SummerHill worked with Public Works to address Public Works Department comments on the Project traffic study.

On January 28, 2026, City staff confirmed that the Public Works and the Fire Department reviews were complete with no additional comments. On February 10, 2026, City staff notified SummerHill that staff had completed consistency review in accordance with the HAA.

California Environmental Quality Act (“CEQA”)

As amended by AB 130, CEQA establishes a statutory exemption for housing development projects meeting listed conditions (*e.g.*, site size of not more than 20 acres, infill location, consistency with applicable general plan and zoning, satisfaction of minimum density, and satisfaction of certain site criteria) that complete a specified tribal consultation process. (Pub. Res. Code § 21080.66.) On September 12, 2025, SummerHill formally notified the City of the eligibility of the Project for this exemption. On January 4, 2026, after complying with the statutory requirements, the City completed the tribal consultation process.

The AB 130 site criteria include requirements that sites within a very fire hazard severity zone be subject to mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including standards established under Public Resources Code Sections 4290 and 4291 and Chapter 7A of the Building Code. (Pub. Res. Code

§ 21080.66(a)(6); Gov. Code § 65913.4(a)(6)(D).) As part of the AB 130 process, the Fire Department confirmed that the Project complies with those standards.

Permit Streamlining Act – Project Approval Timeline

The PSA requires CEQA lead agencies to make a decision to approve or disapprove housing development projects within specified timelines (as well as imposing strict limitations on disapproval, discussed below). As amended by AB 130 and AB 158, the PSA requires a city make a decision on a housing development project that is exempt from CEQA pursuant to the AB 130 infill exemption within 30 days after the later of (a) the conclusion of the AB 130 infill exemption tribal consultation process or (b) the expiration of the HAA consistency review period. (Gov. Code § 65950(a)(7).) The PSA permits the applicant and the lead agency to mutually agree to one extension of not more than 90 days. (Gov. Code §§ 65950(b), 65957.) Failure of the lead agency to make a decision on the project within these time periods results in deemed approval of the project. (Gov. Code §§ 65957, 65956(b).)

As applied to the Project, the City would have been required to make a decision on the Project by February 3, 2026, which is the date that was 30 days after the conclusion of the AB 130 tribal consultation process on January 4, 2026 (because tribal consultation concluded later than the expiration of the consistency review period on April 18, 2025). On February 2, 2026, however, the City and SummerHill agreed to a one-time 60-day extension, making April 4, 2026, the new deadline for the City to make a decision the Project. The City’s failure to make a decision on the Project by April 4, 2026, would result in the Project being deemed approved.

Housing Accountability Act

Prohibition on Disapproval or Density Reduction

The HAA prohibits local agencies from disapproving or rendering infeasible a housing development project at the density permitted on the site and proposed by the applicant, absent certain narrow findings. (Gov. Code § 65589.5.) The HAA broadly defines “disapproval” to include not only a final vote to disapprove entitlements, but also, for example, failure to act within applicable timelines, including PSA timelines, and failure to make a CEQA exemption determination. (Gov. Code § 65589.5(h)(6).)

When a housing development project meets applicable, objective standards, the HAA prohibits a local agency from disapproving or reducing the density of the project absent findings, based on the preponderance of evidence, that the project would have “a specific, adverse impact upon the public health or safety” absent such disapproval or lower density, and that there is no feasible method to avoid or mitigate that impact other than disapproval or a reduction density. (Gov. Code § 65589.5(j)(1).) The HAA defines a “specific, adverse impact” as “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health

or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (*Id.*)

We understand that some members of the public have raised concerns about emergency evacuation in the Project vicinity. As noted above, with incorporation of required methods pursuant to the approved Application for Use of Alternate Materials, Methods of Construction, or Modification of Code, the Fire Department confirmed that the Project complies with applicable Fire Code and AB 130 very high fire hazard severity area standards. Notably, in its review of the Project, the City has *not* identified any designated evacuation routes or other “objective, identified written public health or safety standards, policies, or conditions” related to evacuation routes. As such, there is *not* evidence that the Project would have “a specific adverse impact public on health and safety” as defined in the HAA with regard to evacuation routes. The HAA therefore prohibits the City from disapproving or a reducing the Project density based on concerns about evacuation routes.

Remedies for Improper Disapproval

The HAA gives courts broad power to compel local agencies to comply with housing laws, in some cases including directing local agencies to approve housing development projects. (See Gov. Code § 65589.5(k).) In addition, the HAA authorizes courts to impose fines on local agencies that act in bad faith and/or fail to comply with court orders compelling compliance with housing laws and/or. (*Id.*) Effective January 1, 2026, AB 712 additionally creates substantial financial consequences for local agencies found by a court to have violated state housing laws. First, the agency must pay the applicant’s reasonable attorneys’ fees and costs. (Gov. Code § 65914.2(b)(1).) Second, the agency is subject to fines under certain circumstances. If the Attorney General or the State Department of Housing and Community Development (“HCD”) warns the agency before litigation is filed that the agency’s actions would violate state housing law and the applicant gives notice before filing litigation, the court must impose a minimum fine of \$10,000 per housing unit. (Gov. Code §§ 65914.2(b)(2)(A)(i); 65589.5.) Penalties are enhanced by a factor of five in jurisdictions with prior violations of the same law. (Gov. Code §§ 65914.2(b)(2)(A)(ii); 65589.5.)

* * *

City staff has determined that the Project application is complete and that the Project is statutorily exempt from CEQA and has completed its consistency review. The PSA requires the City to make a decision on the Project by April 4, 2025, and failure to do so would result in a deemed approval. Because the Project is consistent with objective standards and would not have “a specific, adverse impact upon the public health or safety,” the HAA prohibits the City from disapproving or reducing the density of the Project. Violation of any of these housing laws would expose the City to substantial financial consequences pursuant to AB 712.

We respectfully request that the Planning Commission, at its February 24, 2026, hearing, recommend that the City Council approve the Project on or before April 4, 2026, in accordance with applicable housing laws.

Sincerely,

Cox, Castle & Nicholson LLP

Margo Bradish

Margo Bradish

MNB

CC: Floy Andrews, City Attorney
Steve Bull, SummerHill Homes
Austin Lin, SummerHill Homes

Dear Mr. Yung,

I write to follow up on my prior correspondence regarding the 10857 Linda Vista project and its treatment as eligible for the AB 130 CEQA exemption within a Very High Fire Hazard Severity Zone (VHFHSZ). In light of the absence of a response and the significance of the issues identified, this letter is submitted to formally document material inconsistencies in the administrative record that appear to have influenced both the City's approval and HCD's March 30, 2026 technical assistance letter.

This is not a policy objection to housing development or the Evulich Court project. Rather, it concerns whether the decision-making process relied on a complete, accurate, and internally consistent factual record—particularly with respect to threshold fire safety compliance required for CEQA exemption.

1. Chain of Representation and the "Record of Circularity"

The record reflects a clear sequence of **bootstrapping**, through which an initial assertion was progressively laundered into a controlling premise:

- **The February 12, 2026 letter** from project counsel asserted that the Fire Department had “confirmed” compliance with Public Resources Code §§ 4290, 4291/51182, and Chapter 7A.
- **The February 24, 2026 Planning Commission Staff Report** adopted this assertion as a formal finding, stating that the project had “demonstrated consistency” with these requirements.
- **HCD's March 30, 2026 letter**, in turn, relied on the Staff Report to advise that compliance may be assumed at the entitlement stage.

At no point does the record demonstrate independent verification of compliance. Instead, an initial representation was adopted and relied upon without reconciliation against the underlying Fire Department record, creating a **record of circularity** where the finding exists only because the assertion was made, not because the facts support it.

2. Documented Discrepancies and Prior Notice

Before the City Council's April 1, 2026 decision, residents submitted detailed written notices identifying specific factual discrepancies in the underlying record. Supported by direct citations to Fire Department documents, these notices established that:

- **PRC § 4291 (defensible space)** remained an outstanding, unapproved requirement, with records explicitly stating “Plans are NOT APPROVED.”
- **The Alternate Means and Methods Request (AMMR)** was incomplete, lacking the required Building Official approval.

- **The Fire Department** had approved an *exception* to PRC § 4290 setback requirements, not *compliance* with them, characterizing the design as “non-conforming.”

The administrative record does not reflect that these discrepancies were resolved or incorporated into the findings presented to decision-makers.

3. Subsequent Revision and Mooted Findings (April 1, 2026)

On April 1, 2026, the applicant submitted a letter that materially altered the basis of their earlier representations. Where the February letter asserted “confirmed compliance,” the April letter stated that compliance “will be verified” at the building permit stage.

This shift **effectively mooted** the factual findings of the February Staff Report. By replacing a representation of existing, verified compliance with a position that it is prospective and unverified, the **applicant withdrew the very factual predicate upon which the Staff Report and HCD’s March 30 letter relied.**

4. Jurisdictional Gaps and Physical Impossibility

Testimony from the Santa Clara County Fire Department at the April 1, 2026 hearing established a **jurisdictional gap**. The Department confirmed that:

- Review addressed PRC § 4290 (setbacks/access).
- PRC § 4291 / § 51182 (defensible space) **was not evaluated**.
- Evacuation impacts were explicitly stated to be out of scope.

This distinction is material. Compliance with PRC § 4291 requires 100 feet of defensible space. With proposed setbacks as low as 10 feet, the record raises a question of **physical impossibility**. If the project footprint makes required defensible space physically unachievable on-site, deferring verification to the “building permit stage” is a legal fiction; the footprint cannot be moved after entitlement.

5. Effect on Decision Making

HCD’s March 30 letter—and its direction to “assume compliance” at the entitlement stage—was expressly relied upon by the City Attorney as a central basis for advising approval. This guidance was invoked to support the position that the City was not required to resolve questions regarding fire safety at the entitlement stage, even where the record contained affirmative evidence of non-compliance.

In effect, HCD’s guidance was applied in a manner that **supplanted the need for evidentiary resolution**, even where the record contained documented contradictions. This raises a threshold question as to whether HCD intended for its guidance to displace the requirement for a complete and accurate factual record and to comply with the statute of AB 130’s CEQA

exemption requirements as written.

6. Request for Clarification

Given the above, I respectfully request that HCD:

- **Clarify** whether its March 30, 2026 letter relied on an understanding that the project had already demonstrated compliance with PRC §§ 4290, 4291, and Chapter 7A.
- **Confirm** whether the "assumption of compliance" is appropriate when the record contains **affirmative evidence of non-compliance** and documented **physical feasibility constraints**.
- **Review** the Fire Department testimony from April 1, 2026, which establishes that the core statutes required for CEQA exemption were never actually evaluated.

Closing

The issue presented is whether a threshold factual predicate—fire safety compliance required for CEQA exemption—was established, or merely assumed in the presence of unresolved and documented discrepancies. I would appreciate acknowledgment of this letter and any guidance HCD can provide.

Sincerely,
Vikram Saxena
Cupertino Resident
Former Vice-Chair, Cupertino Planning Commission



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Margo N. Bradish
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File No. 107942

April 1, 2026

VIA E-MAIL

City Council
City of Cupertino
City Hall
10300 Torre Avenue
Cupertino, CA 95014-3255

Re: 10857, 10867, 10877, and 10887 Linda Vista Drive Townhome Project Approval

Honorable Council Members:

At its February 24, 2026, hearing, the Planning Commission of the City of Cupertino (“City”) recommended that the City Council approve SummerHill Homes’ (“SummerHill”) proposed housing development project (“Project”) at 10857, 10867, and 10877 Linda Vista Drive (“Property”). At its March 17, 2026, meeting, the City Council continued the scheduled hearing on the Project until April 1, 2026, without substantive discussion. On March 30, 2026, the Department of Housing and Community Development (“HCD”) issued a Letter of Support and Technical Assistance with regard to the Project (“HCD Support Letter”). (See attached Exhibit A.) **We write to encourage the City Council to approve the Project at its April 1, 2026, hearing, in accordance with the City’s obligations under the Housing Accountability Act (“HAA”), the California Environmental Quality Act (“CEQA”), and the Permit Streamlining Act (“PSA”).** Please see our February 12, 2026, letter to Planning staff addressing these obligations (“February Letter”). (See attached Exhibit B.)

This letter responds to (i) the March 16, 2026, letter from an attorney on behalf of a resident (“Attorney Letter”) asserting noncompliance of the Project with CEQA and the Subdivision Map Act (“Map Act”) and (ii) the March 27, 2026, letter from resident Vikram Saxena alleging factual discrepancies regarding CEQA compliance (“Saxena Letter”). As described below, **the record before you demonstrates that (i) the Project is eligible for the AB 130 CEQA statutory exemption for infill housing projects; and (ii) the Project is consistent with the Map Act.**

As noted in our February Letter, the City Council lacks a legal basis to disapprove the Project, and the City faces potentially substantial financial penalties should it do so. Pursuant to recently enacted AB 712, disapproval of the Project in violation of state housing laws would expose the City to fines of a minimum of \$10,000 per unit (with enhanced penalties in the event of bad faith or prior noncompliance) and payment of Summerhill’s attorneys’ fees. We

encourage the City Council to approve the Project as proposed in accordance with applicable law.

1. Background

The Project is located within a newly designated Very High Fire Hazard Severity Zone (“VHFHSZ”) and therefore is subject to Public Resource Code Section 4290 and the State Minimum Fire Safe Regulations (14 C.C.R §§ 1270 *et seq.*) (“Fire Safe Regulations”), in addition to the generally applicable fire safety requirements of the California Building Code (“Building Code”). The Project is located in a local responsibility area (“LRA”) and therefore Public Resources Code Section 51182 is applicable to the Project (whereas Public Resources Code Section 4291 is applicable to buildings in state responsibility areas).

SummerHill applied to the Santa Clara County Fire Department (“Fire Department”) for a reduction of the 30-foot setback requirement of the Fire Safe Regulations adopted pursuant to Public Resource Code Section 4290 (“Alternative Means”), including submission of a justification for the request. (See attached Exhibit C.) After review in accordance with the Fire Safe Regulations, on January 1, 2026, the Fire Department issued comments stating that the Alternative Means “is **APPROVED.**” (See attached Exhibit C.) On January 27, 2026, the Fire Department issued comments on the Project stating, “Plans are **APPROVED** with conditions.” (See attached Exhibit D.) With regard to the Alternative Means, the Fire Department found that “non-conforming setbacks are mitigated through a combination of increased fire separation distance requirements and modified sprinkler systems.” (See attached Exhibit D, Plan Review Comment 1.) The conditions also include requirements for standard items routinely reviewed at the building permit and inspection stage, such as requirements for a “Final Fire Protection Plan”, turnaround installation, sprinkler installation, fire flow, rescue openings, fire access road specifications, fire lane identification, address identification, etc. These imposition of these conditions in no way affects the validity of the approval.

2. The Project Qualifies for the AB 130 CEQA Exemption.

a. AB 130 CEQA Exemption Requirements for VHFHSZ

Public Resources Code Section 21080.66 (codified as Section 59 of AB 130) (“AB 130 CEQA Exemption”) includes site-specific criteria applicable to sites seeking to use the AB 130 CEQA Exemption, including, among other things, satisfying the requirements of Government Code Section 65913.4(a)(6).

As applicable to the Project, Section 65913.4(a)(6)(D) provides that the AB 130 CEQA Exemption generally does not apply to sites that are “Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within the state responsibility area, as defined in Section 4102 of the Public Resources Code.” This exclusion, however, *does not apply* if certain conditions are met. Specifically, the AB 130 CEQA Exemption provides the following regarding the exclusion:

This subparagraph [i.e., the exclusion] does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions:

- (i) Section 4291 of the Public Resources Code or Section 51182, as applicable.
- (ii) Section 4290 of the Public Resources Code.
- (iii) Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations).”

(Gov. Code § 65913.4(a)(6)(D) (emphasis added).)

Importantly, this exception to the general exclusion provides that the *exclusion does not apply* to sites “that have adopted fire hazard mitigation measures pursuant to existing building standards,” with the balance of the text being explanatory of this general requirement.

Notably, the listed standards apply as a matter of law to all projects in VHFHSZ, regardless of the use of AB 130. As part of the standard permit review process for all projects in VHFHSZ, building and fire staff routinely verify compliance with these requirements as a prerequisite to the issuance of building permits and inspection approvals. Projects in VHFHSZ cannot receive building permits or inspection approvals until the applicable requirements are met.

In accordance with CEQA case law, cities routinely rely on a project’s compliance with applicable law as a manner of demonstrating compliance with CEQA. (*See Tracy First v City of Tracy* (2009) 177 CA4th 912.) While SummerHill has substantially advanced its demonstration of compliance with the code requirements noted by AB 130 ahead of the required permit process to be responsive to community concerns, the obligation to comply with these laws, as confirmed at the permit stage, is itself sufficient to demonstrate CEQA compliance. Thus, the HCD Support Letter concludes, “For purposes of entitling AB-130 eligible projects, the City should assume compliance with local building codes. Whether the project is indeed code compliant should be determined at the post-entitlement phase. This prevents the entitlement review process from becoming bogged down in technical details that are strictly governed by other laws.” (HCD Support Letter, emphasis added.) While a code compliance determination is *not required* to establish AB 130 eligibility at the entitlement stage, the compliance of the Project with applicable code requirements nonetheless is addressed below for informational purposes.

b. The Project Will Comply with Section 51182 of the Public Resources Code.

Public Resources Code Sections 4291 and 51182 address “defensible space” surrounding structures based on the combustibility of materials surrounding the structure, but generally not beyond the property line. As noted above, based on its location in an LRA, Section 51182 is applicable to the Project.

Section 51182 requires a defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as specified in the statute, and specified maintenance. (*See* Pub. Res. Code § 51182(a)(1)(A).) Section 51182 states, “The amount of fuel modification necessary shall consider the flammability of the structure as affected by building material, building standards, location, and type of vegetation.” (*Id.*)

The Project will comply with Section 51182, and compliance will be verified through the standard building permit plan check and inspection processes, as is done for every project in a VHFHSZ. For example, Section 701A.5 of the California Building Code requires that, “Prior to building permit final approval, the property shall be in compliance with the vegetation management requirements prescribed in California Fire Code Section 4906, including California Public Resources Code 4291 or California Government Code Section 51182.” Similarly, Sections 4907.2 and 4907.3 of the California Fire Code require:

Land designated in ordinance by local agencies as a Very High Fire Hazard Severity Zone pursuant to Government Code Section 51179 are required to maintain the required defensible space. Vegetation and fuels around all buildings and structures shall be maintained and spaced at all times in accordance with the following laws and regulations. Should a conflict of any requirements occur, the most restrictive requirement shall prevail: 1) Public Resources Code, Section 4291. 2) California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 3, Article 3, Section 1299. 3) California Government Code, Section 51182. 4) California Code of Regulations, Title 19, Division 1, Chapter 7, Subchapter 1, Section 3.07. 5) The requirements of Chapter 49 and the Defensible Space and Fuel Modification Standards as issued and approved by the Fire Code Official.

As noted in the HCD Support Letter, “For purposes of entitling AB-130 eligible projects, the City should assume compliance with local building codes. Whether the project is indeed code compliant should be determined at the post-entitlement phase.”

c. The Project Complies with Section 4290 of the Public Resources Code.

Public Resources Code Section 4290 requires the adoption of regulations implementing minimum fire safety standards related to defensible space in VHFHSZ, which are included in the Fire Safe Regulations. The Fire Safe Regulations provide as follows:

a) All parcels shall provide a minimum thirty (30) foot setback for all Buildings from all property lines and/or the center of a Road, except as provided for in subsection (b).

(b) A reduction in the minimum setback shall be based upon practical reasons, which may include but are not limited to, parcel dimensions or size, topographic limitations, Development density requirements or other Development patterns that promote low-carbon emission outcomes; sensitive habitat; or other site constraints, and shall provide

for an alternative method to reduce Structure-to-Structure ignition by incorporating features such as, but not limited to:

- (1) non-combustible block walls or fences; or
- (2) non-combustible material extending five (5) feet horizontally from the furthest extent of the Building; or
- (3) hardscape landscaping; or
- (4) a reduction of exposed windows on the side of the Structure with a less than thirty (30) foot setback; or
- (5) the most protective requirements in the California Building Code, California Code of Regulations Title 24, Part 2, Chapter 7A, as required by the Local Jurisdiction.

(14 C.C.R. § 1276.01 (emphasis added).) In other words, compliance with Public Resources Code Section 4290 and Section 1276.01 of the Fire Safe Regulations can be established through *either* a 30-foot setback *or* a reduced setback combined with alternative methods.

As expressly permitted, the Project complies with Public Resources Code Section 4290 and Section 1276.01 of the Fire Safe Regulations through the second *express option*, a reduced setback for a portion of the Project combined with alternative methods to reduce structure-to-structure ignition, including added fire sprinklers and one-hour fire ratings of certain exterior walls and covered porches. Any suggestion by the Attorney Letter or Saxena Letter that this use of a reduced setback combined with alternative methods defeats compliance with Public Resources Code Section 4290 is inconsistent with the express regulatory provisions.

i. The Fire Safe Regulations Authorize Use of Alternative Means.

Section 1270.07(a) of the Fire Safe Regulations confirms that exceptions to the Fire Safe Regulations may be approved by the Fire Department where the alternative means have the “same practical effect” as the regulations. Section 1270.07(a) states:

Upon request by the applicant, an Exception to standards within this Subchapter may be allowed by the Inspection entity in accordance with 14 CCR § 1270.06 (Inspections) where the Exceptions provide the Same Practical Effect as these regulations towards providing Defensible Space. Exceptions granted by the Local Jurisdiction listed in 14 CCR § 1270.06, shall be made on a case-by-case basis only.

14 C.C.R. § 1270.07(a). The Fire Safe Regulations define an exception as “An alternative to the specified standard requested by the applicant that may be necessary due to health, safety, environmental conditions, physical site limitations or other limiting conditions, such as recorded historical sites, that provides mitigation of the problem.” (14 C.C.R. § 1270.01(j) (emphasis added).)

The Fire Department followed this process in approving the Alternative Means. Based on an analysis of the Project site and the Alternative Means, “County Fire staff determined that these measures provide appropriate alternative methods to reduce the risk of structure-to-structure ignition, and County Fire approved the Same Practical Effect exception request for the Application.” (Fire Department Memorandum to the Cupertino City Officials from Santa Clara Hector Estrada, Assistant Fire Chief, Re: Housing Development – Linda Vista Drive (emphasis added) (*see* attached Exhibit E.) In addition, “County Fire staff determined that the exception request provided appropriate access for emergency wildland fire equipment and safe civilian evacuation and that the exception request included fuel modification sufficient for civilian and firefighter safety.” (*Id.* (emphasis added).)

As noted above, SummerHill substantially advanced its demonstration of compliance with the code requirements noted by AB 130 ahead of the required building permit process to be responsive to community concerns. Based on this accelerated process, the Fire Department *already* has approved the Alternative Means requested for the Project. (*See* attached Exhibit C.)

Contrary to the assertion of the Attorney Letter and Saxena Letter, the use of Alternative Means is not a “shortcut” or an “avoidance” of code compliance. Instead, Alternative Means are a site-specific fire protection program authorized by the Fire Safe Regulations and approved by the Fire Department as having the “Same Practical Effect” as the Fire Safe Regulations. In other words, Alternative Means are an approved method of establishing code compliance.

ii. Use of Alternative Methods Does Not Affect the Applicability of the AB 130 CEQA Exemption.

Alternative Means falls squarely within the statutory language of Section 65913.4(a)(6)(D), as referenced in the AB 130 CEQA Exemption. The Attorney Letter and Saxena Letter fail to recognize that the Project received approval of the exact type of site-specific fire mitigation measures pursuant to existing building standards contemplated by Section 65913.4(a)(6)(D).

The Attorney Letter and Saxena Letter curiously attempt to suggest that Alternative Means expressly authorized by the Fire Safe Regulations to establish code *compliance* somehow do not constitute code compliance under AB 130 CEQA Exemption. The Attorney Letter provides no support for its assertion that an approved methodology for establishing code compliance for the purpose of the code does not establish code compliance for purposes of the AB 130 CEQA Exemption. Nothing in the AB 130 CEQA Exemption states or even implies such a distinction.

d. The Project Will Comply with Chapter 7A of the Building Code

Chapter 7A of the Building Code, “Materials and Construction Methods for Exterior Wildlife Exposure,” establishes minimum standards for building materials, systems, and assemblies used in the exterior design and construction of new buildings in the Wildland Urban

Interface, including requirements for ignition resistant construction, roofing, vents, exterior covering, exterior windows, skylights, and doors, decking, and accessory structures.

As a matter of standard plan check practice, the building official must confirm that project plans comply with the requirements of Chapter 7A prior to issuance of a building permit. Specifically, Building Code Section 701A.4 requires that the “local building official shall, prior to construction, provide the owner or applicant a certification that the building as proposed to be built complies with all applicable state and local building standards, including those for materials and construction methods for wildfire exposure as described in [Chapter 7].

Similarly, as a matter of standard inspection practice, the building official must confirm that the project is constructed in compliance with the requirements of Chapter 7A. Specifically, Building Code Section 701A.4 requires that the “local building official shall, upon completion of construction, provide the owner or applicant with a copy of the final inspection report that demonstrates the building was constructed in compliance with all applicable state and local building standards, including those for materials and construction methods for wildfire exposure as described in [Chapter 7].” The foregoing requirements will ensure compliance with Chapter 7A, which is sufficient to demonstrate compliance with AB 130 with regard to Chapter 7A.

As noted in the HCD Support Letter, “For purposes of entitling AB-130 eligible projects, the City should assume compliance with local building codes. Whether the project is indeed code compliant should be determined at the post-entitlement phase.”

3. The Project is Consistent with the Map Act.

- a. *The Project is Consistent with Applicable, Objective Public Health and Safety Standards.*

The Project is entitled to the protection of the Housing Accountability Act (“HAA”), including the prohibition on disapproval of a housing development project that complies with “with applicable, *objective* general plan, zoning, and *subdivision standards* and criteria, including design review standards, in effect at the time that the application was deemed complete.” (Government Code § 65589.5(j)(1) (emphasis added).) The HAA provides an exception to this prohibition if a preponderance of evidence demonstrates that the project would have “a specific, adverse impact upon the public health or safety,” defined as a “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (*Id.*) For purposes of the HAA, “objective” means “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. (*Id.* § 65589.5(h)(9).)

The Map Act identifies findings requiring disapproval of a project, as opposed to findings required for approval. (Government Code § 66474.) In other words, the City must deny a map if

substantial evidence supports one of the findings for disapproval. The Map Act finding requiring disapproval of a project where “the design of the subdivision or type of improvements is likely to cause serious public health problems,” is not an objective standard as defined by the HAA, in that it involves subjective judgment and is not verifiable by reference to any external and uniform benchmark. In their review of the Project, neither the City nor the Fire Department have identified any *applicable, objective standards* related to public health and safety with which the Project would not comply. As such, the City cannot deny the Project tentative map based on this Map Act finding.

The Attorney letter incorrectly asserts that the Map Act requires the City to make findings pursuant to Government Code Section 66474.02. This provision of the Map Act applies only to counties and therefore is inapplicable to the City.

b. *There is Not Substantial Evidence that the Project Would Cause Serious Public Health Problems.*

The draft resolution prepared by staff for approval of the Project tentative map includes a finding that “[t]he proposed subdivision design and improvements will not cause serious public health problems.” The Attorney Letter improperly asserts that the Project will result in “serious public health problems” with the meaning of the Map Act because it would lead to additional evacuation time. The Map Act, however, does not establish any objective standards regarding evacuation time. Further, as detailed in our February Letter, in their review of the Project, neither the City nor the Fire Department have identified any *applicable, objective standards* related to evacuation routes. The Fire Department, however, has found that the Alternative Means “provided appropriate access for emergency wildland fire equipment and safe civilian evacuation and that the exception request included fuel modification sufficient for civilian and firefighter safety.” (See attached Exhibit E.) As such, there is not substantial evidence in the record that the Project would have “serious public health problems” that would justify disapproval under the HAA.

Further, there is not substantial evidence in the record that the Project would have a significant impact on emergency evacuation times. The Attorney Letter does not identify substantial evidence that would support a finding under Government Code Section 66474(f). Instead, the Attorney Letter makes several unsupported and factually incorrect assumptions regarding the roadway network to justify a conclusory statement that the Project would create an additional hour of evacuation time. Examples of the inaccuracies in the assumptions include both the extent of the applicable network and the volume that can be accommodated on the roadway.

While an evacuation study is not required, and there are no applicable objective standards for such a study, SummerHill voluntarily requested that the transportation consultant for the Project prepare an evacuation analysis for non-CEQA, internal review purposes. As explained in Hexagon Transportation Consultants’ February 26, 2026, *Evacuation Analysis for the Proposed Townhomes at 10857 Linda Vista Drive in Cupertino, CA* (“Hexagon Analysis”), the Project is

anticipated to add only 3.6 percent of overall evacuation traffic on expected evacuation routes in a hypothetical wildfire scenario. The Hexagon Analysis concludes, “given this minimal increase, the project would not significantly affect traffic evacuation volumes or conditions for the evacuation area when compared to existing conditions.” (Emphasis added.) The Hexagon Analysis further concludes that the Project would add approximately two minutes to evacuation times under existing conditions, which “would not significantly affect evacuation operations when compared to existing conditions.” (Emphasis added.) These minor changes do not rise to the level of a “serious public health problem” caused by the Project for purposes of the Map Act.

* * *

In summary, the record before you demonstrates that (i) the Project is eligible for the AB 130 CEQA statutory exemption for infill housing projects; and (ii) the Project is consistent with the Map Act, both notwithstanding the use of Alternative Means as expressly authorized by the Fire Safe Regulations to achieve compliance with the code.

As noted in our February Letter, the City Council lacks a legal basis to disapprove the Project, and the City faces potentially substantial financial penalties, including AB 712 fines and attorneys’ fees, should it do so. We encourage the City Council to approve the Project as proposed, in accordance with applicable law.

Sincerely,

Cox, Castle & Nicholson LLP

Margo Bradish

Margo N. Bradish
Partner

MNB
Attachments

City Council
April 1, 2026

Exhibit A
HCD Support Letter

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

651 Bannon Street, Suite 400, Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



March 30, 2026

Ben Fu, Community Development Director
Cupertino City Hall
10300 Torre Avenue
Cupertino, CA 95014

Dear Ben Fu:

RE: City of Cupertino – 10857 Linda Vista Drive – Letter Support and Technical Assistance

The California Department of Housing and Community Development (HCD) understands that on April 1, 2026, the City Council of the City of Cupertino will consider a Tentative Map, Architectural and Site Approval, and Tree Removal Permit for the construction of a housing development project that includes moderate income affordable units (Project) on a 2.53-acre site located at 10857 Linda Vista Drive (APNs: 356-06-001, -002, -003, and -004). The purpose of this letter is to assist the City with its decision making by providing technical assistance related to the Housing Accountability Act (HAA) and State No Net Loss Law.

Background

HCD understands that the Project is proposing 51 for-sale townhome units, including 10 units deed restricted for moderate income households. The Project is located within the R-3/TH (Multiple-Family Residential, Townhome) zoning district and the Residential – Medium High Density General Plan Land Use Designation. The Project is utilizing the State Density Bonus Law (SDBL)¹ to utilize five waivers and one concession from applicable standards of the General Plan and Zoning Code. HCD additionally understands that the Project is consistent with the General Plan,² Zoning,³ and state and local regulations applicable to Very High Fire Hazard Severity Zones (VHFHSZ).⁴ On February 24, 2026, the City's Planning Commission voted to recommend the City Council approve the Project.⁵

¹ Gov. Code, § 65915, subd. (b)(1)(D).

² City of Cupertino February 24, 2026, Planning Commission Hearing Staff Report on 10857 Linda Vista Drive, page 2.

³ Ibid. See page 3.

⁴ Ibid. See page 9: "The Santa Clara County Fire Department has found that the project has demonstrated consistency with these requirements."

⁵ City of Cupertino February 24, 2026, Planning Commission Hearing Minutes.

Analysis

Housing Accountability Act

The Project meets the definition of a “housing development project” under the HAA.⁶ The Project may only be disapproved or approved at a lower density if the City makes written findings, supported by a preponderance of evidence on the record, that (1) a specific, adverse impact upon the public health or safety would result from the project and (2) mitigation of the adverse impact is not possible.⁷ Specific, adverse, impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions.⁸ “Objective” means, “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.”⁹ Additionally, the Legislature has clarified that these impacts are intended to arise “infrequently.”¹⁰

Housing Element No Net Loss Law

No Net Loss Law requires that a jurisdiction ensure there is development opportunity remaining throughout the planning period to accommodate the jurisdiction’s Regional Housing Needs Allocation (RHNA). Because the approval of the Project would result in capacity becoming inadequate to accommodate the RHNA, the City will have up to 180 days from the approval to identify or rezone “sufficient additional, adequate, and available sites” to accommodate the remaining RHNA.¹¹

HCD understands that the Project site consists of four contiguous lots listed in the City’s 6th Cycle Housing Element and the approval of the project may trigger a No Net Loss Law obligation for the City in the moderate income and lower-income categories. In the Planning Commission Staff Report for the Project, the City has stated that, while it “is unable to identify additional sites to accommodate its RHNA concurrently with this project’s approval, it is working toward being compliant with State law in a timely manner.”¹² HCD reminds the City that Housing Element No Net Loss Law specifically provides that the City may not disapprove a housing project on the basis that approval of the development would trigger the identification or zoning of additional adequate sites to accommodate the remaining RHNA.¹³

⁶ Gov. Code, § 65589.5, subd. (h)(2).

⁷ Gov. Code, § 65589.5, subd. (j)(1).

⁸ Gov. Code, § 65589.5, subd. (j)(1)(A).

⁹ Gov. Code, § 65589.5, subd. (h)(9).

¹⁰ Gov. Code, § 65589.5, subd. (a)(3).

¹¹ Gov. Code, § 65863., subd. (c)(2).

¹² City of Cupertino February 24, 2026, Planning Commission Hearing Staff Report on 10857 Linda Vista Drive, page 18.

¹³ See HCD’s October 2, 2019 No Net Loss Law Memo, page 1, available at:

<https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-166-final.pdf>.

Conclusion

For purposes of entitling AB 130-eligible projects, the City should assume compliance with local building codes. Whether the project is indeed code compliant should be determined at the post-entitlement phase. This prevents the entitlement review process from becoming bogged down in technical details that are strictly governed by other laws.

HCD informs the City that AB 712 (Government Code Section 65914.2.) went into effect on January 1, 2026. Among other things, the new law increases penalties that a court may impose on a local government if the local government was advised in writing prior to the commencement of a lawsuit brought by the Attorney General or HCD that the local government's decision, action, or inaction would represent a violation of specified housing laws.

HCD hopes this technical assistance is helpful. HCD has enforcement authority over the HAA and Housing Element Law, among other state housing laws. Accordingly, HCD may review local government actions to determine consistency with these laws. Pursuant to Government Code section 65585, subdivision (j), if HCD finds that a jurisdiction's actions do not comply with state law, HCD may notify the California Office of the Attorney General. HCD remains committed to supporting the City of Cupertino in facilitating housing at all income levels and hopes the City finds this clarification helpful. If you have questions or need additional information, please contact Brandon Yung at Brandon.Yung@hcd.ca.gov.

Sincerely,



Melinda Coy
Housing Accountability Unit Chief

City Council
April 1, 2026

Exhibit B
February Letter

February 12, 2026

Emi Sugiyama, Senior Planner
Luke Connolly, Assistant Director
Community Development Department
City of Cupertino
City Hall
10300 Torre Avenue
Cupertino, CA 95014-3255

Re: 10857, 10867, 10877, and 10887 Linda Vista Drive Townhome Project Approval

Dear Ms. Sugiyama and Mr. Connolly:

At its February 24, 2026, hearing, the Planning Commission of the City of Cupertino (“City”) will consider SummerHill Homes’ (“SummerHill”) proposed housing development project (“Project”) at 10857, 10867, and 10877 Linda Vista Drive (“Property”). We write to encourage the Planning Commission to timely recommend that the City Council approve the Project no later than April 4, 2026, in accordance with the City’s obligations under the Housing Accountability Act (“HAA”), the California Environmental Quality Act (“CEQA”), and the Permit Streamlining Act (“PSA”).

The City’s Sixth Cycle Housing Element (“Housing Element”) Site Inventory lists the parcels that comprise the Property as Priority Housing Sites. SummerHill proposes to redevelop the Property with a new 51-unit townhome-style condominium community (including 10 units affordable to moderate income households). The proposed Project density is within the allowable density pursuant to the City’s General Plan and Zoning Code.

SummerHill submitted a preliminary application pursuant to SB 330 for the Project on October 9, 2024, and a formal application for the Project on December 13, 2024, seeking approval of Architectural and Site Approval (File # ASA-2024-015), a Tentative Map (File # TM-2024-009), and a Tree Removal Permit (File # TR-2024-044), including waivers under the State Density Bonus Law. The City determined the formal application complete on March 19, 2025.

Housing Accountability Act – Consistency Review Timeline

Once an application is deemed complete, the HAA requires a local agency to notify the applicant, with supporting documentation and reasons, if the local agency considers the project

to be “inconsistent, not in compliance, or not in conformity” with applicable standards. (Gov. Code § 65589.5(j)(2)(a).) For projects of 150 units or fewer, the HAA consistency review period expires 30 days after the housing development project application is determined to be complete. (Gov. Code § 65589.5(j)(2)(A).) If the local agency fails to provide the required documentation within the deadline, the housing development project is deemed consistent, compliant, and in conformity.

The consistency review period for the Project expired on April 18, 2025. On April 18, 2025, the City submitted comments to SummerHill asserting inconsistencies with regard to certain “standard City requirements” as well as comments from the Fire Department and the Department of Public Works. Notably, the City did not make any comments asserting any inconsistencies with regard to evacuation routes at that time. As of that time, the Project was deemed consistent with standards for which inconsistencies were not identified and documented (including with regard to evacuation routes).

Subsequently, the Fire Department confirmed that the Project complies with applicable Fire Code requirements with incorporation of required methods pursuant to the approved Application for Use of Alternate Materials, Methods of Construction, or Modification of Code for the Project. These methods include requirements for non-combustible landscaping material within defined areas, wildfire protective measures in accordance with the California Building Code, added sprinklers within defined areas, and stricter fire separation distances within defined areas. All of these methods have been incorporated into the Project plans. Concurrently with resolution of the Fire Department Comments, SummerHill worked with Public Works to address Public Works Department comments on the Project traffic study.

On January 28, 2026, City staff confirmed that the Public Works and the Fire Department reviews were complete with no additional comments. On February 10, 2026, City staff notified SummerHill that staff had completed consistency review in accordance with the HAA.

California Environmental Quality Act (“CEQA”)

As amended by AB 130, CEQA establishes a statutory exemption for housing development projects meeting listed conditions (*e.g.*, site size of not more than 20 acres, infill location, consistency with applicable general plan and zoning, satisfaction of minimum density, and satisfaction of certain site criteria) that complete a specified tribal consultation process. (Pub. Res. Code § 21080.66.) On September 12, 2025, SummerHill formally notified the City of the eligibility of the Project for this exemption. On January 4, 2026, after complying with the statutory requirements, the City completed the tribal consultation process.

The AB 130 site criteria include requirements that sites within a very fire hazard severity zone be subject to mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including standards established under Public Resources Code Sections 4290 and 4291 and Chapter 7A of the Building Code. (Pub. Res. Code

§ 21080.66(a)(6); Gov. Code § 65913.4(a)(6)(D).) As part of the AB 130 process, the Fire Department confirmed that the Project complies with those standards.

Permit Streamlining Act – Project Approval Timeline

The PSA requires CEQA lead agencies to make a decision to approve or disapprove housing development projects within specified timelines (as well as imposing strict limitations on disapproval, discussed below). As amended by AB 130 and AB 158, the PSA requires a city make a decision on a housing development project that is exempt from CEQA pursuant to the AB 130 infill exemption within 30 days after the later of (a) the conclusion of the AB 130 infill exemption tribal consultation process or (b) the expiration of the HAA consistency review period. (Gov. Code § 65950(a)(7).) The PSA permits the applicant and the lead agency to mutually agree to one extension of not more than 90 days. (Gov. Code §§ 65950(b), 65957.) Failure of the lead agency to make a decision on the project within these time periods results in deemed approval of the project. (Gov. Code §§ 65957, 65956(b).)

As applied to the Project, the City would have been required to make a decision on the Project by February 3, 2026, which is the date that was 30 days after the conclusion of the AB 130 tribal consultation process on January 4, 2026 (because tribal consultation concluded later than the expiration of the consistency review period on April 18, 2025). On February 2, 2026, however, the City and SummerHill agreed to a one-time 60-day extension, making April 4, 2026, the new deadline for the City to make a decision the Project. The City’s failure to make a decision on the Project by April 4, 2026, would result in the Project being deemed approved.

Housing Accountability Act

Prohibition on Disapproval or Density Reduction

The HAA prohibits local agencies from disapproving or rendering infeasible a housing development project at the density permitted on the site and proposed by the applicant, absent certain narrow findings. (Gov. Code § 65589.5.) The HAA broadly defines “disapproval” to include not only a final vote to disapprove entitlements, but also, for example, failure to act within applicable timelines, including PSA timelines, and failure to make a CEQA exemption determination. (Gov. Code § 65589.5(h)(6).)

When a housing development project meets applicable, objective standards, the HAA prohibits a local agency from disapproving or reducing the density of the project absent findings, based on the preponderance of evidence, that the project would have “a specific, adverse impact upon the public health or safety” absent such disapproval or lower density, and that there is no feasible method to avoid or mitigate that impact other than disapproval or a reduction density. (Gov. Code § 65589.5(j)(1).) The HAA defines a “specific, adverse impact” as “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health

or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (*Id.*)

We understand that some members of the public have raised concerns about emergency evacuation in the Project vicinity. As noted above, with incorporation of required methods pursuant to the approved Application for Use of Alternate Materials, Methods of Construction, or Modification of Code, the Fire Department confirmed that the Project complies with applicable Fire Code and AB 130 very high fire hazard severity area standards. Notably, in its review of the Project, the City has *not* identified any designated evacuation routes or other “objective, identified written public health or safety standards, policies, or conditions” related to evacuation routes. As such, there is *not* evidence that the Project would have “a specific adverse impact public on health and safety” as defined in the HAA with regard to evacuation routes. The HAA therefore prohibits the City from disapproving or a reducing the Project density based on concerns about evacuation routes.

Remedies for Improper Disapproval

The HAA gives courts broad power to compel local agencies to comply with housing laws, in some cases including directing local agencies to approve housing development projects. (See Gov. Code § 65589.5(k).) In addition, the HAA authorizes courts to impose fines on local agencies that act in bad faith and/or fail to comply with court orders compelling compliance with housing laws and/or. (*Id.*) Effective January 1, 2026, AB 712 additionally creates substantial financial consequences for local agencies found by a court to have violated state housing laws. First, the agency must pay the applicant’s reasonable attorneys’ fees and costs. (Gov. Code § 65914.2(b)(1).) Second, the agency is subject to fines under certain circumstances. If the Attorney General or the State Department of Housing and Community Development (“HCD”) warns the agency before litigation is filed that the agency’s actions would violate state housing law and the applicant gives notice before filing litigation, the court must impose a minimum fine of \$10,000 per housing unit. (Gov. Code §§ 65914.2(b)(2)(A)(i); 65589.5.) Penalties are enhanced by a factor of five in jurisdictions with prior violations of the same law. (Gov. Code §§ 65914.2(b)(2)(A)(ii); 65589.5.)

* * *

City staff has determined that the Project application is complete and that the Project is statutorily exempt from CEQA and has completed its consistency review. The PSA requires the City to make a decision on the Project by April 4, 2025, and failure to do so would result in a deemed approval. Because the Project is consistent with objective standards and would not have “a specific, adverse impact upon the public health or safety,” the HAA prohibits the City from disapproving or reducing the density of the Project. Violation of any of these housing laws would expose the City to substantial financial consequences pursuant to AB 712.

We respectfully request that the Planning Commission, at its February 24, 2026, hearing, recommend that the City Council approve the Project on or before April 4, 2026, in accordance with applicable housing laws.

Sincerely,

Cox, Castle & Nicholson LLP

Margo Bradish

Margo Bradish

MNB

CC: Floy Andrews, City Attorney
Steve Bull, SummerHill Homes
Austin Lin, SummerHill Homes

City Council
April 1, 2026

Exhibit C

Alternative Means Application & Approval



SANTA CLARA COUNTY FIRE DEPARTMENT

1315 Dell Avenue, Campbell, CA 95008 | (408) 378-4010 | SCCFD.org

FIRE PREVENTION PLAN REVIEW COMMENTS

PROJECT INFO:

FIRE DEPT PLAN REVIEW #: 250800

CITY/COUNTY PROJECT #: TM-2024-009 / ASA-2024-015 / TR-2024-044

LOCATION: 10857 Linda Vista Dr

PREPARED BY:

NAME/TITLE: Caleb Flanagan / DFM II

EMAIL: Caleb.flanagan@sccfd.org

DATE: 1/7/26

PROJECT NAME: Multi family

The scope of this project includes the following:

Alternate Means/Methods Application for an exception request to PRC 4290 - Proposed new 10 building 51-unit multi-family residential subdivision.

Plan Status:

The exception request to PRC 4290 methods request is **APPROVED**.

Discussion:

This alternate proposes to mitigate deficiencies to non-conforming 30' setback requirements.

In order to mitigate the noncompliant setbacks, the applicant proposes the following:

- Add sprinkler heads to covered patios in all reduced setback areas.
- Design portions of buildings non meeting setback requirements to stricter fire separation distance requirements in accordance with CRC 302.4.
- Extend non-combustible landscaping 5 feet from buildings.

Comments and Conditions of Approval:

1. A copy of the Alternate Means/Methods application form, with approval signature, and these comments shall be made part of the building permit drawing set, to be routed to Santa Clara County Fire Department for final approval.

This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC, Ch. 1, 105.3.6]



SANTA CLARA COUNTY FIRE DEPARTMENT

1315 Dell Avenue, Campbell, CA 95008 | (408) 378-4010 | SCCFD.org

APPLICATION FOR USE OF ALTERNATE MATERIALS, METHODS OF CONSTRUCTION, OR MODIFICATION OF CODE

Project Street Address: 10857 Linda Vista Drive

Project City: Cupertino Building Permit # _____

Applicant's Name: SummerHill Homes; Attn.: Steven Bull

Applicant's Address: 6101 Bollinger Canyon Road, San Ramon, CA 94583 Suite: 425

Phone Number: (510)410-1188 Email: sbull@shhomes.com

The applicant hereby requests the following:

- Use of Alternate Materials or Method of Construction
- Modification of Code

Codes Affected:

- Building Code
- Fire Code
- Mechanical Code
- Electrical Code
- Other: California Code of Regulations, Title 14, Division 1.5, Chapter 7 - Fire Protection, Article 6, Subchapter 2, Article 5

Specific section(s) of the code involved: Section 1276.01 - Building and Parcel Siting and Setbacks, Subsection (a)

Brief description of the request: Request a reduction in the minimum 30' setback to neighboring properties.

Please see the attached narrative for justification of the reduction pursuant to Section 1276.01(b).

The Building and Fire Official must evaluate information that the material(s), method of work, and / or modification is equal to the intent of the code in strength, effect, fire-resistance, durability, safety, etc.



SANTA CLARA COUNTY FIRE DEPARTMENT

1315 Dell Avenue, Campbell, CA 95008 | (408) 378-4010 | SCCFD.org

Please complete the following information as applicable to support your request. Use additional paper if necessary.

- 1. Quality: See attached documentation
- 2. Strength: See attached documentation
- 3. Effectiveness: See attached documentation
- 4. Fire Resistance: See attached documentation
- 5. Durability: See attached documentation
- 6. Safety: See attached documentation

Additional evidence of proof: _____

Applicant Signature: [Signature] Date: 1/5/2026

The above application has been reviewed and has been:

ACCEPTED

REJECTED

Signature: [Signature]

Fire Official: BRAD FOX & LEOR AC ESTRADA Date: 1/6/26

Building Official: _____ Date: _____

10857 Linda Vista Drive, Cupertino

(Reference City of Cupertino Planning Application File Numbers #TM-2024-009, ASA-2024-015)

Application for Use of Alternate Materials, Methods of Construction, or Modification of Code

October 28, 2025 (REVISED December 19, 2025)

Requirement

California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Article 5, Section 1276.01, subsection (a):

“All parcels shall provide a minimum thirty (30) foot setback for all Buildings from all property lines and/or the center of a Road, except as provided for in subsection (b).

Description of Request

Request a reduction of the 30 foot setback from all buildings to the property lines as shown on the attached Exhibit A, which is consistent with the Development Permit plan set submitted to the City of Cupertino as file number TM-2024-009 and ASA-2024-015. In summary, the proposed setbacks to the public roads and property lines are proposed as follows:

1. Setbacks to center of Public Roads (In compliance with requirement)
 - a. Evulich Court: Minimum 30 feet
 - b. Linda Vista Drive: Minimum 30 feet

2. Setbacks to Property Lines (Request for Reduction)
 - a. Northern Property Line: Minimum 10 feet
 - b. Southern Property Line: Minimum 10 feet
 - c. Western Property Line: Minimum 20 feet

Justification

The primary justifications for the reduction of the 30-foot setback requirement to the northern, southern, and western property lines are the development density requirements and site constraints due to the existing public right-of-way for the cul-de-sac within the site. Subsection (b) of the above listed Code includes Development density requirements and site constraints among the exceptions to the 30' setback requirement.

The City of Cupertino General Plan and Zoning designations for the site are Medium/High Density Residential and Multiple-Family Residential / Townhome Combining District, respectively. The density requirement for the site in accordance with the City of Cupertino General Plan designation is a minimum of 20.01 units per acre and a maximum of 35 units per acre (Reference Cupertino General Plan: Land Use Plan and Appendix A Land Use Definitions). The project site is approximately 2.51 acres, which results in

a minimum unit count requirement of 51 units to achieve the minimum density. The proposed unit count for the project is 51 units, which is the minimum required to comply with the City General Plan and Zoning for the site. The proposed homes will be townhomes in compliance with the Zoning designation. The proposed setbacks exceed the City of Cupertino Zoning standards at the northern, southern, and western boundaries.

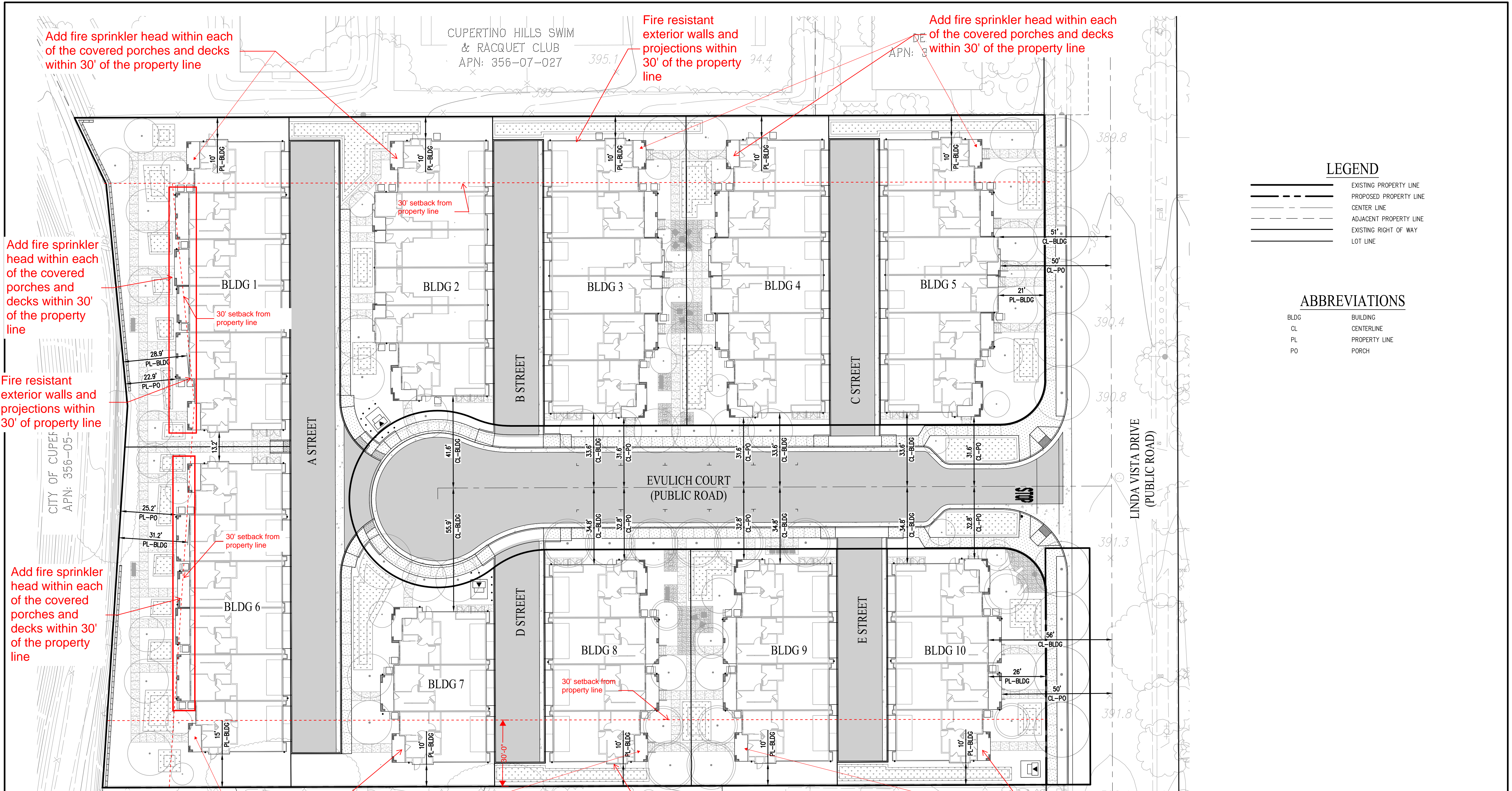
The site is constrained by an existing City right-of-way within the approximate center of the site (Evulich Court). The width of Evulich Court reduces the size of the development area for the project. The size and quantity of the proposed townhomes necessitate a reduction of the 30 foot setback requirement in order to fit the minimum required number of units within the site.

Mitigation

In accordance with subsection (b) of Section 1276.01, the project will include the following mitigation measures to mitigate the reduced setback by providing the same practical effect:

1. Non-combustible landscaping material extending five (5) feet horizontally from the furthest existing point of the Building. Please see Exhibits B1 and B2, which are included within the Development Permit Plan set as Sheets L7.1 and L7.2.
2. The Wildfire protective measures in accordance with the California Building Code Chapter 7A as noted on Exhibit C, which is included within the Development Permit Plan set as Sheet A08.
3. An added fire sprinkler head within each of the covered porches and decks that are within 30' of the property line as shown on Exhibit A.
4. Designing to stricter fire separation distance requirements within 30' of the property lines as shown on Exhibit A per Residential Code R302.1 (2) as follows*:
 - a. Exterior Wall Elements – Fire resistance rated for 1 hour.
 - b. Projections – Fire resistance rated for 1 hour
 - c. Penetrations – Comply with Section 302.4

*Please note that we are not proposing modifications to the Openings (Windows) in Walls.



Add fire sprinkler head within each of the covered porches and decks within 30' of the property line

Fire resistant exterior walls and projections within 30' of the property line

Add fire sprinkler head within each of the covered porches and decks within 30' of the property line

Add fire sprinkler head within each of the covered porches and decks within 30' of the property line

Fire resistant exterior walls and projections within 30' of property line

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Fire resistant exterior walls and projections within 30' of property line

Add fire sprinkler head within each of the covered porches and decks within 30' of the property line

LEGEND

- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- CENTER LINE
- ADJACENT PROPERTY LINE
- EXISTING RIGHT OF WAY
- LOT LINE

ABBREVIATIONS

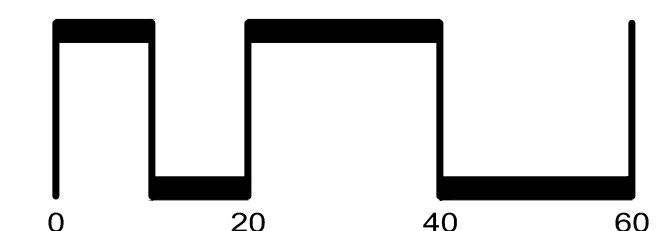
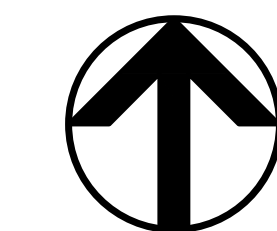
- BLDG BUILDING
- CL CENTERLINE
- PL PROPERTY LINE
- PO PORCH

SETBACK SITE PLAN

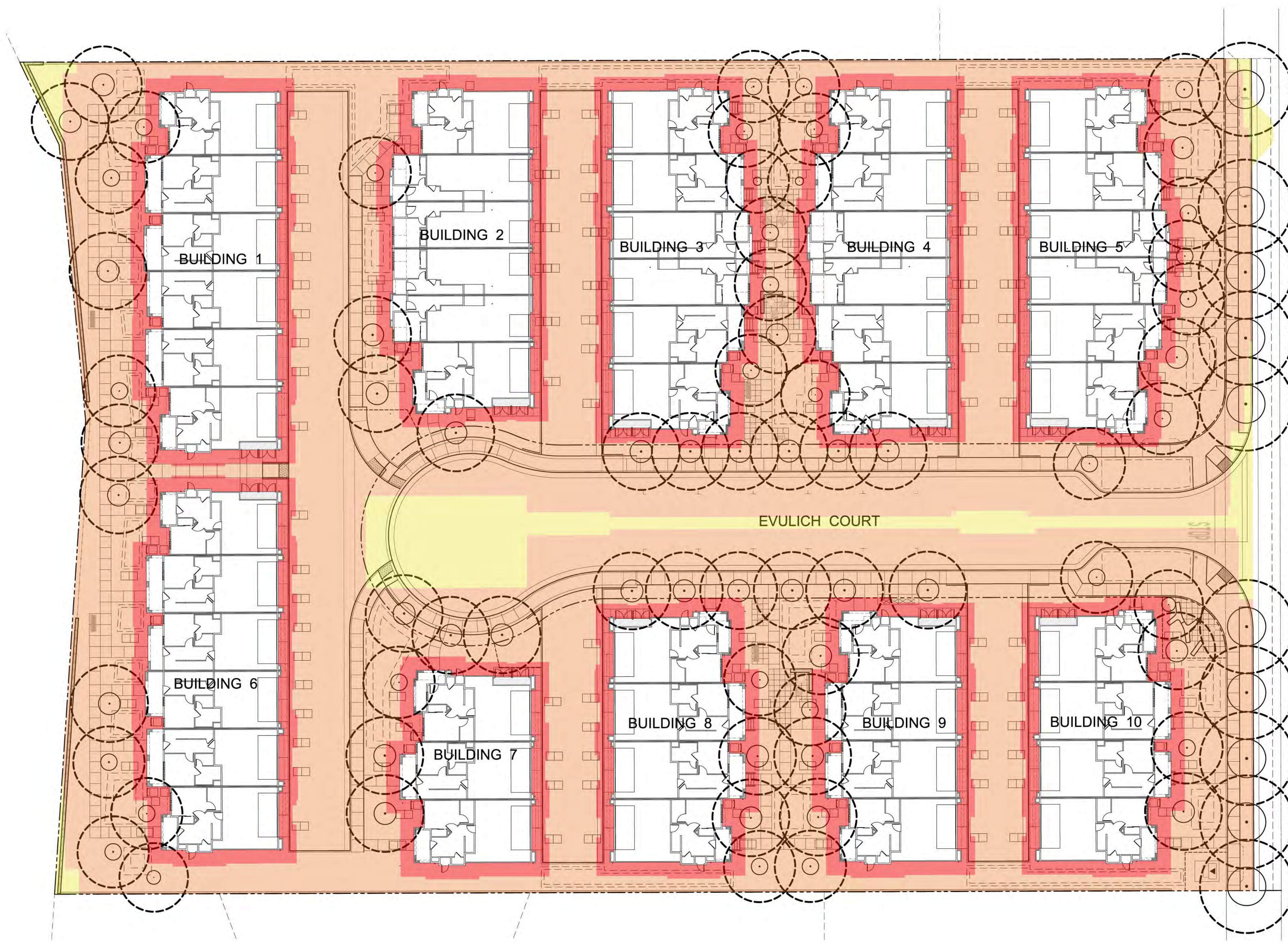
10857 LINDA VISTA DRIVE

CITY OF CUPERTINO SANTA CLARA COUNTY CALIFORNIA

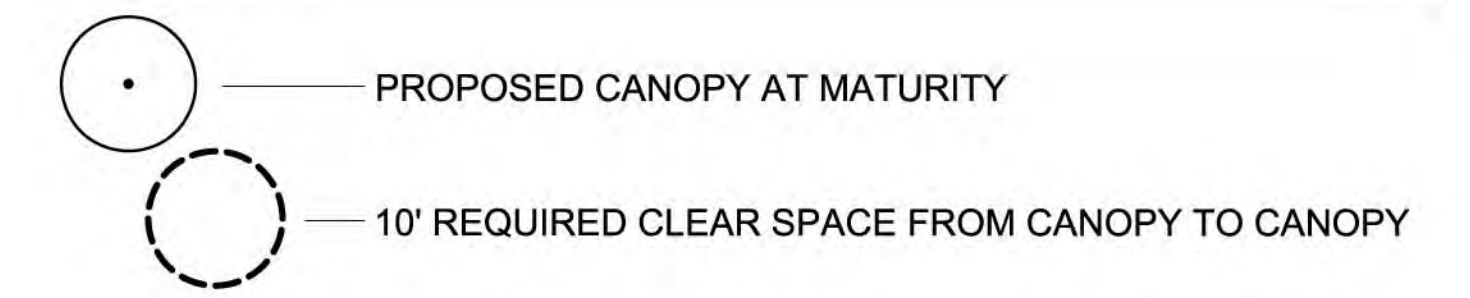
SCALE: 1" = 20' DATE: SEPTEMBER 15, 2025



SAN RAMON • (925) 866-0322
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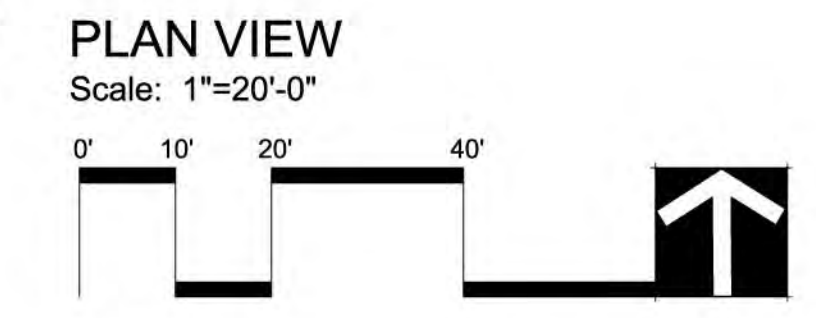
TREE KEY



- ZONE 0**
 - EMBER RESISTANT ZONE, 0-5 FEET FROM STRUCTURE
 - REFER TO ADDITIONAL INFORMATION AND IMAGES SHEET L.7.2
- ZONE 1**
 - 0-30 FEET FROM STRUCTURE
 - REFER TO ADDITIONAL INFORMATION AND IMAGES SHEET L.7.2
- ZONE 2**
 - 30-100 FEET FROM STRUCTURE OR TO PROPERTY LINE
 - REFER TO ADDITIONAL INFORMATION AND IMAGES SHEET L.7.2

NOTE:
 ALL OF THE INFORMATION INCLUDED IN THE FOLLOWING EXHIBIT IS BASED ON CAL FIRE DEFENSIBLE SPACE GUIDELINES AND RECOMMENDATIONS (WWW.FIRE.CA.GOV).
 SMALL NARROW UPRIGHT CANOPY TREES HAVE BEEN PROPOSED AS LOW-COMBUSTIBLE AND TO MEET CAL FIRE REQUIREMENTS FOR 10'-0" SETBACK OF CANOPY FROM PROPOSED BUILDINGS AND ADJACENT TREES.
 HOA SHALL MONITOR THE CANOPY OF ALL TREES AND SELECTIVELY PRUNE CANOPIES AS NEEDED TO MEET CAL FIRE REQUIREMENTS.
 REFER TO PROPOSED PLANT PALETTE SHEET L.4.1 FOR TREE SPECIES.

LINDA VISTA DRIVE



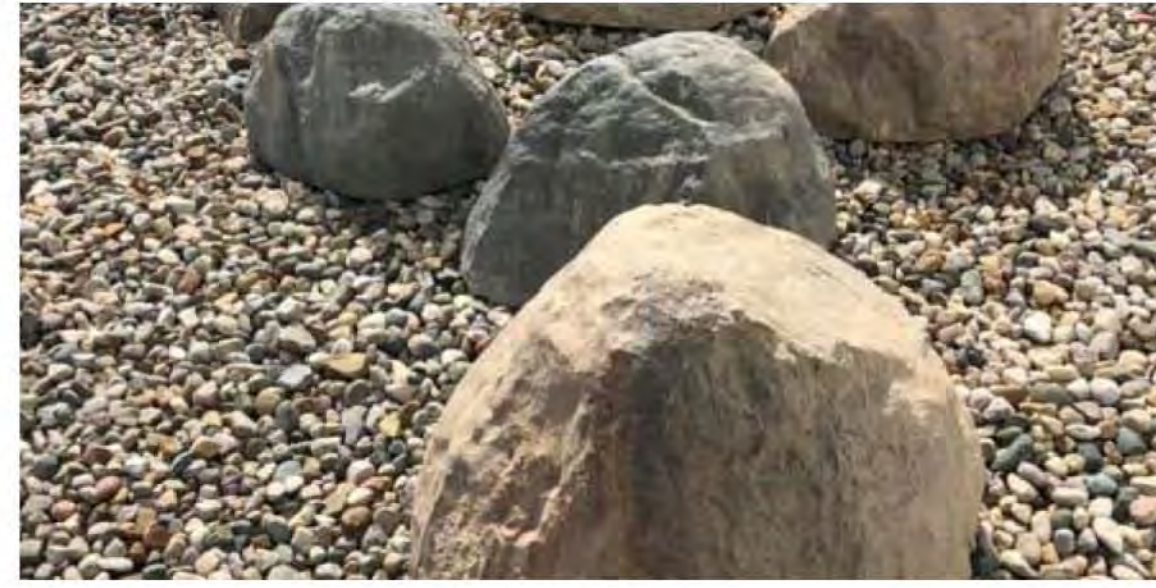
400-150 10857 Linda Vista Drive
 Cupertino, CA
 September 15, 2025

Defensible Space Fire Zone Plan
 L.7.1





PEBBLE MULCH



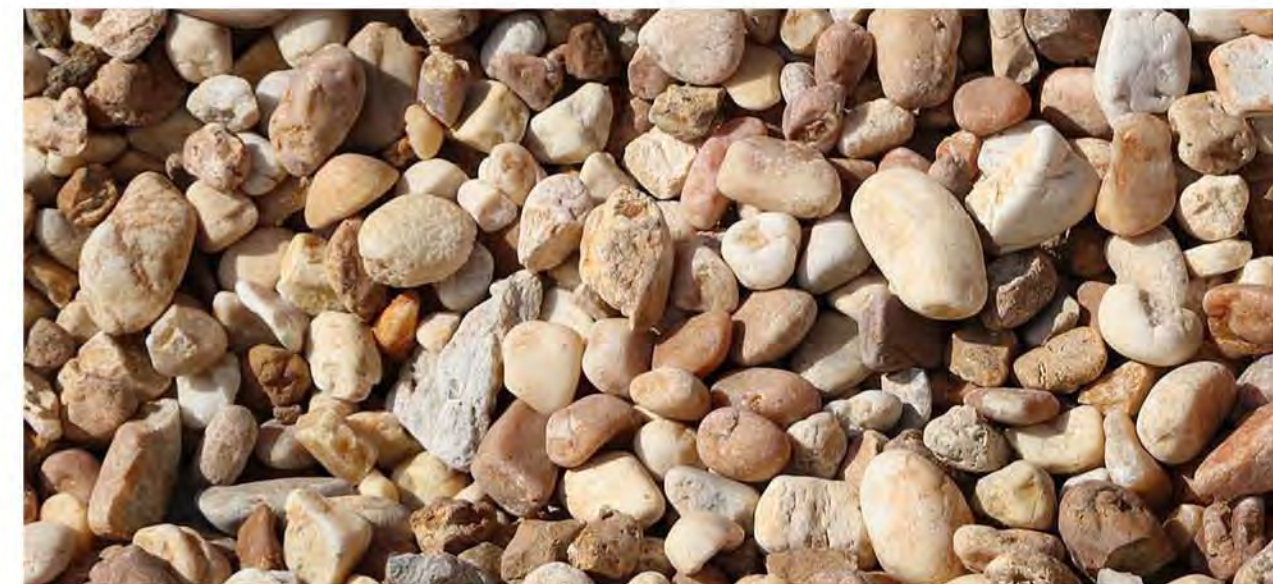
LARGE STONES IN PEBBLE MULCH



EXAMPLE OF PLANTING CONCEPT FOR ZONE 2



LARGE STONES IN PEBBLE MULCH



PEBBLE MULCH



LARGE STONES IN PEBBLE MULCH



ZONE 0 (EMBER RESISTANT ZONE, 0-5 FEET FROM STRUCTURE)

- 5' FROM BUILDING EDGE
- NO REQUIRED CHANGE TO TYPICAL SHRUB AND GROUND COVER PLANTING PLAN. PLANTS ARE HIGH-MOISTURE AND LOW-SAP OR RESIN.
- WOOD MULCH PROHIBITED. ACCEPTABLE MULCH TO BE PEBBLES AND LARGE STONES
- 10' REQUIRED MINIMUM DISTANCE BETWEEN TREE BRANCHES
- NO FENCING OR GATES PROPOSED WITHIN THIS AREA



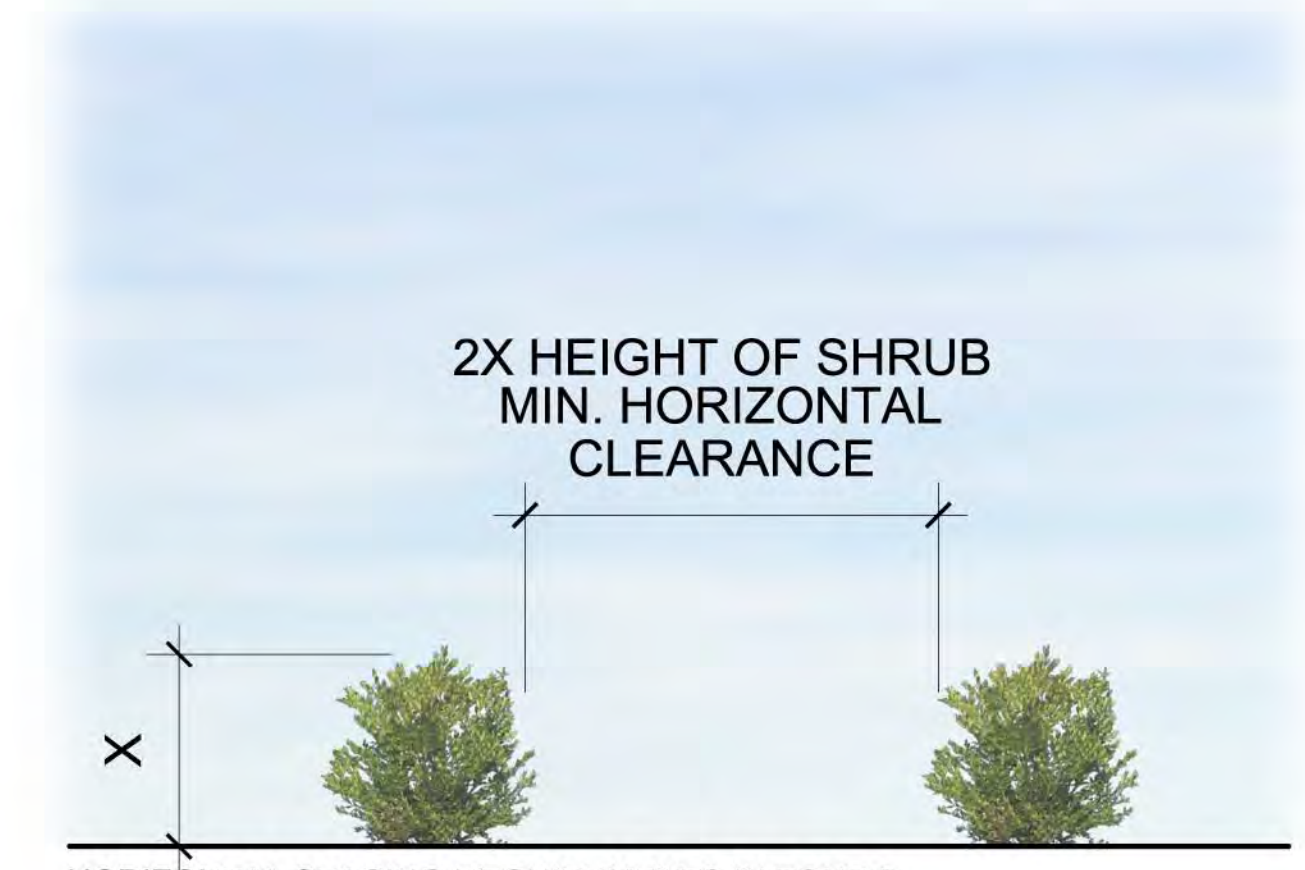
ZONE 1 (0-30 FEET FROM STRUCTURE)

- 30' FROM BUILDING EDGE
- NO REQUIRED CHANGE TO TYPICAL SHRUB AND GROUND COVER PLANTING PLAN. PLANTS ARE HIGH-MOISTURE AND LOW-SAP OR RESIN.
- WOOD MULCH PROHIBITED. ACCEPTABLE MULCH TO BE PEBBLES AND LARGE STONES
- SHRUBS AND GROUND COVER SHOULD BE PLACED TO MINIMIZE THE FUEL SPREAD INTO THE TREES OR TO OTHER GROUPS OF PLANTS
- 10' REQUIRED MINIMUM DISTANCE BETWEEN TREE BRANCHES

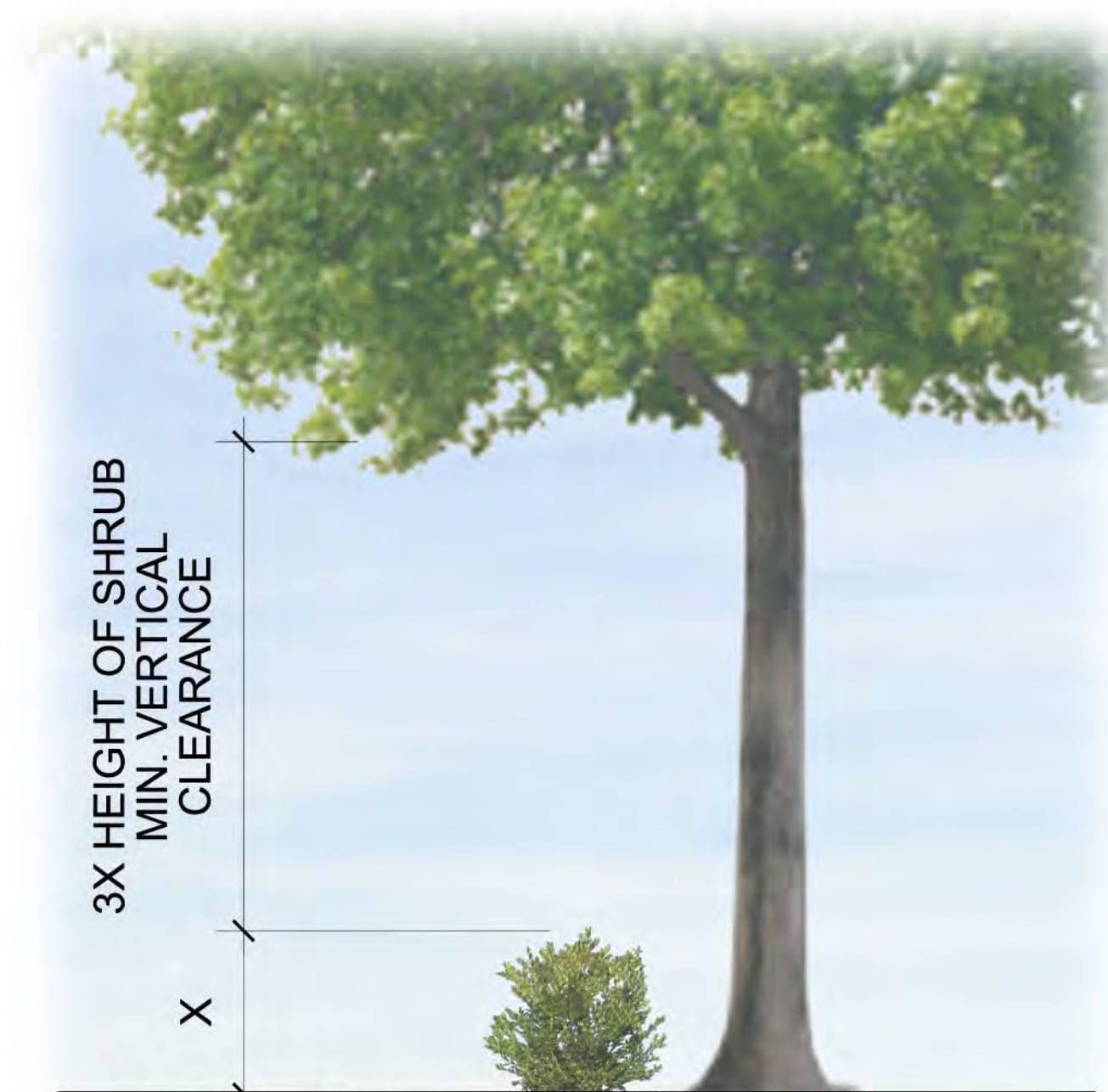


ZONE 2 (30-100 FEET FROM STRUCTURE OR TO PROPERTY LINE)

- 100' FROM BUILDING EDGE
- SHRUBS AND GROUND COVER ACCEPTABLE IF MAINTAINING REQUIRED HORIZONTAL AND VERTICAL SPACING
- FUEL SEPARATION MEASURES SHOULD BE IMPLEMENTED BASED ON THE GENERAL GUIDELINES FOR CREATING DEFENSIBLE SPACE PREPARED BY THE STATE BOARD OF FORESTRY AND FIRE PROTECTION.
- WOOD MULCH PROHIBITED. ACCEPTABLE MULCH TO BE PEBBLES AND LARGE STONES
- 10' REQUIRED MINIMUM DISTANCE BETWEEN TREE BRANCHES
- TREES CAN BE GROUPED PROVIDED THAT LOWER LIMBS ARE TRIMMED TO A MINIMUM HEIGHT OF 6' AND SURFACE FUELS (SHRUBS AND GRASSES) ARE REMOVED
- SITE HAS LESS THAN 20% SLOPE



HORIZONTAL SPACING REQUIREMENTS IN ZONE 2



VERTICAL SPACING REQUIREMENTS IN ZONE 2

UNIT MATRIX											
Unit Name	Description	Garage Type	Quantity	%	Total Bedroom Count	Unit Net SF*	Garage SF (1,000 sf Max)	Unit Gross SF**	Porch SF	Deck SF	Total Net Living Space SF
Unit 1	4 Bedroom + 2.5 Bath	2-Car Tandem	10	19.6%	40	1,777	579	2,356	0 - 43	52 - 64	17,770
Unit 2	4 Bedroom + 3.5 Bath	Slid 2 Car	21	41.2%	84	2,217	469	2,686	91 - 126	91 - 126	46,557
Unit 3	4 Bedroom + 3.5 Bath	Slid 2 Car	12	23.5%	48	2,317	447	2,764	74	64	27,804
Unit 3ALT	4 Bedroom + 3.5 Bath	Slid 2 Car	8	15.7%	32	2,315	464	2,779	106	64	18,520
Avg. Unit Square Footage						2,170	485	2,654			
Total Units			51	100.0%	204						110,651
Garage % Tandem			9.8								

* Net SF: Measured to outside face of stud, excludes garage area, deck, and porches. Includes center line of air gap at unit party walls.
 ** Gross SF: Measured to outside face of stud, includes garage area. Includes air gap per unit.

BUILDING MATRIX														
Building Name	Unit Configuration	Net SF	Garage SF	Gross SF	Porch SF	Deck SF	Gross SF w/ Porches/Decks	# Bldgs	Total Net SF	Total Garage SF	Total Gross SF	Total Porch SF	Total Deck SF	Total Gross SF w/ Porches/Decks
Bldg 1, 6	3-2-2-2-3	13,502	2,770	16,272	598	776	19,640	2	27,004	5,540	32,544	1,196	1,552	35,292
Bldg 2	3-1-1-1-1-3ALT	11,740	3,227	14,967	266	592	18,460	1	11,740	3,227	14,967	266	592	15,825
Bldg 3, 4, 5	3ALT-2-1-1-2-3	12,620	3,007	15,627	448	684	19,082	3	37,860	9,021	46,881	1,344	2,052	50,277
Bldg 7	3ALT-2-3	6,849	1,380	8,229	279	326	9,888	1	6,849	1,380	8,229	279	326	8,834
Bldg 8, 9, 10	3-2-2-3ALT	9,066	1,849	10,915	405	452	13,169	3	27,198	5,547	32,745	1,215	1,356	35,316
Building Totals								10	110,651	24,715	135,366	4,300	5,878	145,544

WILDFIRE PROTECTION CONSTRUCTION REQUIREMENTS

THIS PROJECT HAS BEEN IDENTIFIED AS BEING LOCATED IN A LOCAL RESPONSIBILITY AREA (LRA) VERY HIGH FIRE HAZARD SEVERITY ZONE.

THE PROJECT SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF CALIFORNIA RESIDENTIAL CODE SECTION R337, MATERIALS AND METHODS FOR EXTERIOR WILDFIRE EXPOSURE, AS FOLLOWS:

- EXTERIOR WINDOWS AND EXTERIOR DOORS WITH GLAZING EXTERIOR WINDOWS AND EXTERIOR DOORS WITH GLAZING, SHALL BE CONSTRUCTED OF MULTI-PANE GLAZING WITH A MINIMUM OF ONE TEMPERED PANE. (C.R.C. R337.8.2.1)
- EXTERIOR DOORS SHALL MEET ONE OF THE FOLLOWING (C.R.C. R337.8.3):
 - THE EXTERIOR SURFACE OR CLADDING SHALL BE OF NON-COMBUSTIBLE OR IGNITION-RESISTANT MATERIAL.
 - SHALL HAVE A FIRE-RESISTANCE RATING OF NOT LESS THAN 20 MIN. WHEN TESTED ACCORDING TO NFPA 252. SHALL BE TESTED TO MEET THE PERFORMANCE REQUIREMENTS OF SFM STANDARD 12-7A-1.
- GARAGE DOORS SHALL RESIST THE INTRUSION OF EMBERS FROM ENTERING BY PREVENTING GAPS BETWEEN DOORS AND DOOR OPENINGS, AT HTE BOTTOM, SIDES, AND TOPS OF DOORS, FROM EXCEEDING 1/8". GAPS BETWEEN DOORS AND DOOR OPENINGS SHALL BE CONTROLLED BY ONE OF THE FOLLOWING METHODS:
 - WEATHER STRIPPING PRODUCTS MADE OF MATERIALS THAT: (A) HAVE BEEN TESTED FOR TENSILE STRENGTH IN ACCORDANCE WITH ASTM D638 AFTER EXPOSURE TO ASTM G155 FOR A PERIOD OF 2,000 HOURS, WHERE THE MAXIMUM ALLOWABLE DIFFERENCE IN TENSILE STRENGTH VALUES BETWEEN EXPOSED AND NONEXPOSED SAMPLES DO NOT EXCEED 10% AND (B) EXHIBIT A V-2 OR BETTER FLAMMABILITY RATING WHEN TESTED TO UL 94.
 - DOOR OVERLAPS ONTO JAMBS AND HEADERS.
 - GARAGE DOOR JAMBS AND HEADERS COVERED WITH METAL FLASHING
- VENTS SHALL RESIST BUILDING IGNITION FROM THE INTRUSION OF BURNING EMBERS AND FLAME THROUGH THE VENTILATION OPENINGS WITH THE MINIMUM REQUIREMENTS (C.R.C. R337.6)
 - THE DIMENSIONS OF THE OPENINGS THEREIN SHALL BE A MIN. OF 1/16TH INCH AND SHALL NOT EXCEED 1/8TH INCH.
 - THE MATERIALS SHALL BE INCOMBUSTIBLE
 - THE MATERIALS USED SHALL BE CORROSION RESISTANT.
- THE EXTERIOR WALL COVERING OR WALL ASSEMBLY SHALL COMPLY WITH ONE OF THE FOLLOWING C.R.C. R337.7.3:
 - NONCOMBUSTIBLE MATERIAL.
 - IGNITION- RESISTANT MATERIAL.
 - SAWN LUMBER OR GLUE-LAMINATED WOOD WITH THE SMALLEST MINIMUM NOMINAL DIMENSION OF 4". SAWN OR GLUE-LAMINATED PLANKS SPLINED, TONGUE-AND-GROOVE, OR SET CLOSE TOGETHER AND WELL SPIKED.
 - LOG WALL CONSTRUCTION.
 - WALL ASSEMBLIES THAT HAVE BEEN TESTED IN ACCORDANCE WITH THE TEST PROCEDURES FOR A 10-MINUTE DIRECT FLAME CONTACT EXPOSURE TEST SET FORTH IN ASTM E2707 WITH THE CONDITIONS OF ACCEPTANCE SHOWN IN SECTION R337.7.3.1.
 - WALL ASSEMBLIES THAT MEET THE PERFORMANCE REQUIREMENTS CRITERIA IN ACCORDANCE WITH THE TEST PROCEDURES FOR A 10-MINUTE DIRECT FLAME CONTACT EXPOSURE TEST SET FORTH IN SFM STANDARD 12-7A-1. EXCEPTIONS: ANY OF THE FOLLOWING SHALL BE DEEMED TO MEET THE ASSEMBLY PERFORMANCE CRITERIA AND INTENT OF THIS SECTION:
 - ONE LAYER OF 5/8" TYPE X GYPSUM SHEATHING APPLIED BEHIND THE EXTERIOR COVERING OR CLADDING ON THE EXTERIOR SIDE OF THE FRAMING.
 - THE EXTERIOR PORTION OF A 1-HOUR FIRE RESISTIVE EXTERIOR WALL ASSEMBLY DESIGNED FOR EXTERIOR FIRE EXPOSURE INCLUDING ASSEMBLIES USING GYPSUM PANEL AND SHEATHING PRODUCTS LISTED IN THE GYPSUM ASSOCIATION FIRE RESISTIVE FIRE DESIGN MANUAL.
- DECKING SURFACES SHALL COMPLY WITH C.R.C. R337.9.3. THE WALKING SURFACE MATERIAL OF DECKS, PORCHES, BALCONY AND STAIRS SHALL BE CONSTRUCTED WITH ONE OF THE FOLLOWING MATERIALS:
 - MATERIAL THAT COMPLIES WITH THE PERFORMANCE REQUIREMENTS OF SECTION R337.9.4 WHEN TESTED IN ACCORDANCE WITH BOTH ASTM E2632 AND ASTM E2726.
 - IGNITION-RESISTANT MATERIAL THAT COMPLIES WITH THE PERFORMANCE

REQUIREMENTS OF SECTION R337.4.3 WHEN TESTED IN ACCORDANCE WITH ASTM E84 OR UL 723.
 C. MATERIAL THAT COMPLIES WITH THE PERFORMANCE REQUIREMENTS OF BOTH SFM STANDARD 12-7A-4 AND SFM STANDARD 12-7A-5.
 D. EXTERIOR FIRE RETARDANT TREATED WOOD.
 E. NONCOMBUSTIBLE MATERIAL.
 F. ANY MATERIAL THAT COMPLIES WITH THE PERFORMANCE REQUIREMENTS OF SFM STANDARD 12-7A-4A WHEN ATTACHED EXTERIOR WALL COVERING IS ALSO COMPOSED OF NONCOMBUSTIBLE OR IGNITION-RESISTANT MATERIAL. EXCEPTION: WALL MATERIAL MAY BE OF ANY MATERIAL THAT OTHERWISE COMPLIES WITH THIS CHAPTER WHEN THE DECKING SURFACE MATERIAL COMPLIES WITH THE PERFORMANCE REQUIREMENTS OF SFM STANDARD 12-7A-1.
 G. AY MATERIAL THAT COMPLIES WITH THE PERFORMANCE REQUIREMENTS OF SECTION R337.9.5 WHEN TESTED IN ACCORDANCE WITH ASTM E2632 AND WHEN ATTACHED EXTERIOR WALL COVERING IS ALSO COMPOSED OF ONLY NONCOMBUSTIBLE OR IGNITION-RESISTANT MATERIALS. EXCEPTION: WALL MATERIAL SHALL BE PERMITTED TO BE OF ANY MATERIAL THAT OTHERWISE COMPLIES WITH THIS CHAPTER WHEN THE DECKING SURFACE MATERIAL COMPLIES WITH THE PERFORMANCE REQUIREMENTS ASTM E84 WITH A CLASS B FLAME SPREAD INDEX.

SITE AREAS	
AREA	SQUARE FOOTAGE
COMMON LANDSCAPE	30,781 S.F.
COMMON HARDSCAPE (AMENITY)	901 S.F.
COMMON HARDSCAPE (PRIVATE SIDEWALKS, AC & TRANSFORMER PADS)	7,535 S.F.
PRIVATE DRIVEWAYS	2,576 S.F.
PRIVATE STREET ROW	17,044 S.F.
BUILDING FOOTPRINT AREA	49,629 S.F.
20'-0" PUBLIC UTILITY EASMENT	2,140 S.F.

* SEE SHT. A10 FOR COLOR CODED DIAGRAMS OF AREAS.

PRIVATE USABLE OPEN SPACE						
BUILDING #	UNIT #	UNIT TYPE	PORCH SQUARE FOOTAGE	FLOOR 2 DECK SQUARE FOOTAGE	FLOOR 3 DECK SQUARE FOOTAGE	TOTAL P.O.S. SQUARE FOOTAGE
BUILDING 1	1	UNIT 3	74	64	-	138
	2	UNIT 2	126	126	-	252
	3	UNIT 2	107	107	107	321
	4	UNIT 2	91	91	91	273
	5	UNIT 2	126	126	-	252
	6	UNIT 3	74	64	-	138
BUILDING 2	7	UNIT 3	74	64	-	138
	8	UNIT 1	43	64	64	171
	9	UNIT 1	0 (non-qualifying usable P.O.S. = 26 S.F.)	52	52	104
BUILDING 3	10	UNIT 1	0 (non-qualifying usable P.O.S. = 26 S.F.)	52	52	104
	11	UNIT 1	43	64	64	171
	12	UNIT 3_ALT	106	64	-	170
	13	UNIT 3	74	64	-	138
BUILDING 4	14	UNIT 2	126	126	-	252
	15	UNIT 1	43	64	64	171
	16	UNIT 1	0 (non-qualifying usable P.O.S. = 26 S.F.)	52	52	104
BUILDING 5	17	UNIT 2	99	99	99	297
	18	UNIT 3_ALT	106	64	-	170
	19	UNIT 3	74	64	-	138
	20	UNIT 2	126	126	-	252
	21	UNIT 1	43	64	64	171
	22	UNIT 1	0 (non-qualifying usable P.O.S. = 26 S.F.)	52	52	104
BUILDING 6	23	UNIT 2	99	99	99	297
	24	UNIT 3_ALT	106	64	-	170
	25	UNIT 3	74	64	-	138
BUILDING 7	26	UNIT 2	126	126	-	252
	27	UNIT 1	43	64	64	171
	28	UNIT 1	0 (non-qualifying usable P.O.S. = 26 S.F.)	52	52	104
BUILDING 8	29	UNIT 2	99	99	99	297
	30	UNIT 3_ALT	106	64	-	170
	31	UNIT 3	74	64	-	138
BUILDING 9	32	UNIT 2	126	126	-	252
	33	UNIT 2	91	91	91	273
	34	UNIT 2	107	107	107	321
BUILDING 10	35	UNIT 2	126	126	-	252
	36	UNIT 3	74	64	-	138
	37	UNIT 3_ALT	106	64	-	170
BUILDING 10	38	UNIT 2	99	99	99	297
	39	UNIT 3	74	64	-	138
	40	UNIT 3_ALT	106	64	-	170
BUILDING 9	41	UNIT 2	126	126	-	252
	42	UNIT 2	99	99	99	297
	43	UNIT 3	74	64	-	138
BUILDING 10	44	UNIT 3_ALT	106	64	-	170
	45	UNIT 2	126	126	-	252
	46	UNIT 2	99	99	99	297
BUILDING 10	47	UNIT 3	74	64	-	138
	48	UNIT 3_ALT	106	64	-	170
	49	UNIT 2	126	126	-	252
BUILDING 10	50	UNIT 2	99	99	99	297
	51	UNIT 3	74	64	-	138
TOTAL SQUARE FOOTAGE			4,300	4,209	1,669	10,178

BUILDING ELEVATIONS RELATIVE TO CURB HEIGHT AT LINDA VISTA DRIVE						
BUILDING #	REFERENCE CURB ELEV. @ LINDA VISTA DR.	PAD ELEVATION	TOP OF SLAB FIRST FLOOR ELEVATION	SECOND FLOOR ELEVATION	THIRD FLOOR ELEVATION	MAIN ROOF ELEVATION
BUILDING 1	390.7 (HIGH) 389.6 (LOW)	395.5	396.5	406.2	416.5	433.4
BUILDING 2	390.7 (HIGH) 389.6 (LOW)	395.4	396.4	406.1	416.4	433.5
BUILDING 3	390.7 (HIGH) 389.6 (LOW)	395.3	396.3	406.0	416.3	433.5
BUILDING 4	390.7 (HIGH) 389.6 (LOW)	392.6	393.6	403.3	413.6	430.8
BUILDING 5	390.7 (HIGH) 389.6 (LOW)	392.4	393.4	403.1	413.4	430.6
BUILDING 6	392.0 (HIGH) 391.3 (LOW)	396.2	397.2	406.9	417.2	434.1
BUILDING 7	392.0 (HIGH) 391.3 (LOW)	396.3	397.3	407.0	417.3	433.9
BUILDING 8	392.0 (HIGH) 391.3 (LOW)	395.3	396.3	406.0	416.3	433.0
BUILDING 9	392.0 (HIGH) 391.3 (LOW)	392.8	393.8	403.5	413.8	430.5
BUILDING 10	392.0 (HIGH) 391.3 (LOW)	392.5	393.5	403.2	413.5	430.2

BUILDING CODE SUMMARY	
Code References	2022 CALIFORNIA RESIDENTIAL CODE (CRC) CALIFORNIA BUILDING CODE (CBC) CHAPTER 11A SECTION 1102A.3 (for accessible route provisions for Multistory Dwellings). 2022 CALIFORNIA FIRE CODE (CFC), as adopted by the CITY OF CUPERTINO MUNICIPAL CODE (CCMC), CALIFORNIA CODE OF REGULATIONS (CCR), AND HEALTH & SAFETY CODE.
Occupancy	R-3 TOWNHOME PER 2022 CRC
Fire Sprinkler System	NFPA 13D
Type of Construction	V8 NON-RATED
Allowable Height	3 Stories
Accessibility	PER 2022 CBC, CHAPTER 11A
CBC 1102.A.3 accessibility Provisions for Adaptable Units	California Building Code (CBC) Section 1102A.3 covers accessibility requirements for multistory apartments or condominium dwellings in buildings without elevators. The requirements include: - The primary entry to the dwelling unit must be on an accessible route, unless exempt by site impracticality tests. - A bathroom or powder room must be located on the primary entry level and served by an accessible route. - All rooms and spaces on the primary entry level must be served by an accessible route. - Common use areas must be accessible as required by the chapter.

SITE INFORMATION		Project
APN		356-06-001, 356-06-002, 356-06-003, 356-06-004
General Plan		
Gross Area		2.555 ACRES (+/- 111,296 SF)
Site Area		2.506 ACRES (+/- 109,161 SF)
Existing		Medium/High Density Residential
Proposed		No change
Zoning		Multiple-Family Residential / Townhome (R3/TH)
Existing		No change
Proposed		No change
Units		
Market Rate		41
Below-Market Rate		10
Total		51

DEVELOPMENT STANDARDS		
	Required (PAMC secs. 18.14.020, 18.16.060)	Proposed Project
Minimum Site Specifications		
Site Area		2.506 ACRES (+/- 109,161 SF)
Site Width	None required	303' - 0"
Site Depth		446' - 10"
Minimum Setbacks		
Front (Linda Vista Dr.)	20'	20' (property line to porch) 26' (property line to building face)
Rear	15'	20.7'
Interior Side	6' (+ an additional 10' if building is more than one story higher than any adjacent primary residential structure)	10' (property line to building face)*
Street Side (Evulch Ct.)	12'	3.6' (property line to porch)* 5.6' (property line to building face)*
Maximum Site Coverage	55%	45.5%
Common Open Space (Hardscape)	-	901 SF / 109,161 Net SF = .8% of the site is Common Open Space (average per unit = 18 SF)
Common Landscaped Area	-	30,781 SF / 109,161 Net SF = 28.2% of the site is Landscaped (average per unit = 604 SF)
Private Usable Open Space	60 SF per Unit Minimum = (3,060 SF) w/ minimum 6' dimension	10,178 SF / 109,161 Net SF = 9.3% of the site is Private Open Space (average per unit = 200 SF)
Community Recreation Space	150 SF per Unit Minimum = (7,650 SF)	901 SF for Common Open Space + 30,781 SF for Landscaped Area = 31,682 SF / 109,161 Net SF = 29.0% of the site is Community Recreation Space (average per unit = 621 SF)
Total Usable Open Space	-	901 SF for Common Open Space + 30,781 SF for Landscape + 10,178 SF for Private Open Space = 41,860 SF / 109,161 Net SF = 38.3% of the site is Usable Open Space (average per unit = 821 SF)
Maximum Height	30'	approximately 40'-7" above existing / natural grade*
Residential Density (net)	20.01 DU/AC (Minimum) 35 DU/AC (Maximum)	20.35 DU/AC
Maximum Residential Floor Area Ratio (FAR)	0.85	FAR = 1.36* (Building FAR: 148,473 SF / 109,161 Net SF)
Parking		
Vehicle (Resident)	51 spaces (1/DU) **	102 spaces
Vehicle (Guest)	None required **	None required **
Bicycle (Class I, Resident)	25.5 spaces (1 space per 2 residential units)	51 spaces
Bicycle (Class II, Guest)	6 spaces (1 space per 10 residential units)	12 spaces
Below Market Rate (BMR) Summary		
BMR Units	10.2	5 Median Income Household Units + 5 Moderate Income Household Units = 10 Total Below Market Rate Units (0.2 in lieu fees)

* Waiver or reduction of development standards requested pursuant to State Density Bonus Law, Gov. Code sec. 65915.
 ** Parking requirements pursuant to CMC 19.124.040(A).

NOTE: Per City of Cupertino Housing Mitigation Program Procedural Manual Section 2.3.4 BMR Unit Design Requirements, BMR units shall be comparable to market rate units in terms of unit type, number of bedrooms per unit, quality of exterior appearance, and overall quality of construction. BMR unit site should be generally representative of the unit sizes within the market-rate portion of residential projects. Interior features and finishes shall be durable, of good quality, and consistent with contemporary standards for new housing. The BMR units shall be dispersed throughout the residential project.

NOTE: BMR units will be constructed and eligible for occupancy at a rate approximately proportional to the market rate units. SummerHill Homes will submit a phasing plan for the BMR units prior to issuance of building permits. All units, both market rate and BMR, will be sold to homebuyers.

381,078 10857 Linda Vista Drive
Cupertino, CA
September 15, 2025

City Council
April 1, 2026

Exhibit D

Fire Department Project Plans Approval



SANTA CLARA COUNTY FIRE DEPARTMENT

1315 Dell Avenue, Campbell, CA 95008 | (408) 378-4010 | SCCFD.org

FIRE PREVENTION PLAN REVIEW COMMENTS

PROJECT INFO:

FIRE DEPT PLAN REVIEW #: 251740

CITY/COUNTY PROJECT #: TM-2024-009 / ASA-2024-015 / TR-2024-044

LOCATION: 10857 Linda Vista Dr

PREPARED BY:

NAME/TITLE: Caleb Flanagan

EMAIL: Caleb.flanagan@sccfd.org

DATE: 1/27/26

PROJECT NAME: Multi-family subdivision

The scope of this project includes the following:

Proposed new 10 building 51 unit multi-family residential subdivision.

Plans Status:

Plans are **APPROVED** with conditions.

Plan Review Comments

**1. PRC 4290: This project shall comply with PRC 4290 comments. Exception request to PRC 4290 approved. Non-conforming setbacks to be mitigated through a combination of increased fire separation distance requirements and modified sprinklers systems. See approved Exception Request.

**2. Provide a "Final Fire Protection Plan" at time of building permit submittal. The plan shall identify mitigation measures to address the project's specific wildfire risk and shall include the information required in CFC section 4903.2.1 including plan for maintenance of defensible space, access roads, and fire protection equipment. [CFC section 4903]

3. Fire Department Turnaround: Fire Department Standard Details and Specifications A-1 / D-1. Turnaround A to be installed. See sheet C6.0.

4. Fire Sprinklers Required: Approved automatic sprinkler systems in new and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.18.

5. Fire Hydrants Required: Hydrant(s) required within 600 feet of all proposed buildings.
-New hydrants are shown on sheet C6. Hydrants shall be installed prior to combustible construction and the minimum fire flow shall be met.
-Hydrant authorization shall be approved by San Jose Water.



SANTA CLARA COUNTY FIRE DEPARTMENT

1315 Dell Avenue, Campbell, CA 95008 | (408) 378-4010 | SCCFD.org

6. Required Fire Flow: The fire flow for this project is 1,375 GPM at 20 psi residual pressure since an automatic fire sprinkler system will be installed. Note: The minimum required number and spacing of the hydrants shall be in accordance with CFC Table C102.1. *Fire flow detailed on sheet C6.*

-Hydraulic analysis provided confirming minimum fire flow.

7. Ground ladder / Emergency Rescue Openings Required: Ground-ladder rescue from second and third floor rooms shall be made possible for fire department operations. Climbing angle of seventy-five degrees shall be demonstrated on the plans and maintained. Landscaping shall not be allowed to interfere with the required access (CFC Sec. 503 and 1031 NFPA 1932 Sec. 5.1.8 through 5.1.9.2).

-Shown on sheet A22.

8. Buildings and Facilities Access / Fire Access Roadway: The fire apparatus access road shall comply with the requirements of this section and shall extend to within 200 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. [CFC, Section 503.1.1 and SCCFD A1 Standard].

9. Fire Lane Identification Required: The minimum clear width of fire department access roads shall be 20 feet. Fire apparatus access roads shall be designated and marked as a fire lane as set forth in Section 22500.1 of the California Vehicle Code.

-Noted on sheet C6.

10. All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification S1-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33.

11. Address identification: New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. *Numbers shall be a minimum of 6 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).* Address numbers shall be maintained CFC Sec. 505.1.

This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC, Ch. 1, 105.3.6]

City Council
April 1, 2026

Exhibit E
Fire Department Memorandum



SANTA CLARA COUNTY FIRE DEPARTMENT

1315 Dell Avenue, Campbell, CA 95008 | (408) 378-4010 | SCCFD.org

TO: Cupertino City Officials
FROM: Hector Estrada, Assistant Fire Chief
SUBJECT: Housing Development - Linda Vista Drive

As requested by City Manager Kapoor and in response to the questions from the Cupertino City Council, this supplemental staff report provides a summary of the process that led to the Santa Clara County Fire Department's plan review comments on the Architectural and Site Approval Permit Application for the proposed subdivision at 10857 Linda Vista Drive.

Background

The Santa Clara County Fire Department ("County Fire") provides fire safety plan review comments for land development in the City of Cupertino. Specifically, County Fire reviews Architectural and Site Approval Permit Applications for compliance with applicable state and local fire safety requirements related to site design.¹ County Fire staff then prepares plan review comments and presents them to City officials to support the City's decision to approve or deny an Architectural and Site Approval Permit Application.

Summary

In January 2026, County Fire staff provided plan review comments on the Architectural and Site Approval Permit Application for the proposed residential subdivision at 10857 Linda Vista Drive (ASA-2024-015) (the "Project" and the "Application"). Because the Project is located in a Very High Fire Hazard Severity Zone, it is subject to the State Minimum Fire Safe Regulations ("Fire Safe Regulations") (14 C.C.R. §§ 1270, *et seq.*), in addition to generally applicable fire safety requirements in the California Building Standards Code.²

The Fire Safe Regulations include an exception request process that allows projects to move forward even if they cannot meet specific site-design criteria.³ Specifically, the Fire Safe Regulations allow for the approval of exception requests on a case-by-case basis if the exception provides "the Same Practical Effect as these regulations towards providing Defensible Space." (14 C.C.R. § 1270.07.)⁴

The Application includes a Same Practical Effect exception request for the thirty-foot setbacks required by Section 1276.01 of the Fire Safe Regulations. The applicant proposed the following measures to support the exception request:

- (1) *Non-combustible material extending five feet horizontally around the buildings.*
- (2) *Wildfire home hardening protective measures, including but not limited to a Class A roof, non-combustible exterior building material, protected eave vents, and double paned tempered glass.*

¹ At the building permit phase, County Fire reviews building permit applications for compliance with additional fire safety requirements, including those related to construction.

² Public Resources Code Section 4290 addresses the applicability of the Fire Safe Regulations in Very High Fire Hazard Severity Zones.

³ The process and standards for approving Same Practical Effect exception requests in the Fire Safe Regulations are distinct from the process and standards for approving for Alternate Materials and Methods Requests (AMMR) in the California Building Standards Code.

⁴ The Fire Safe Regulations define "Same Practical Effect" as "an Exception or alternative with the capability of applying accepted wildland fire suppression strategies and tactics, and provisions for fire fighter safety, including: (1) access for emergency wildland fire equipment, (2) safe civilian evacuation, (3) signing that avoids delays in emergency equipment response, (4) available and accessible water to effectively attack Wildfire or defend a Structure from Wildfire, and (5) fuel modification sufficient for civilian and fire fighter safety." (14 C.C.R. § 1270.01(aa).)





SANTA CLARA COUNTY FIRE DEPARTMENT

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- (3) Exterior fire sprinkler heads protecting covered porches and decks that are within thirty feet of the property line.
- (4) Fire resistance rated exterior elements within thirty feet of the property lines including:
 - a. Exterior Walls - Fire resistance rated for one hour.
 - b. Projections (portions of the building protruding beyond exterior walls) - Fire resistance rated for one hour.
 - c. Penetrations (e.g., mechanical, electrical, plumbing services) - Protected to maintain fire resistance rated assemblies.

Section 1276.01 of the Fire Safe Regulations provides guidance on exception requests related to the thirty-foot setback requirement:

A reduction in the minimum setback shall be based upon practical reasons, which may include but are not limited to, parcel dimensions or size, topographic limitations, Development density requirements or other Development patterns that promote low-carbon emission outcomes; sensitive habitat; or other site constraints, and shall provide for an alternative method to reduce Structure-to-Structure ignition by incorporating features such as, but not limited to:

- (1) non-combustible block walls or fences; or
- (2) non-combustible material extending five (5) feet horizontally from the furthest extent of the Building; or
- (3) hardscape landscaping; or
- (4) a reduction of exposed windows on the side of the Structure with a less than thirty (30) foot setback; or
- (5) the most protective requirements in the California Building Code, California Code of Regulations Title 24, Part 2, Chapter 7A, as required by the Local Jurisdiction.

(14 C.C.R. § 1276.01(b).)

Based on our analysis of the site and the combined impact of the measures proposed in the exception request, County Fire staff determined that these measures provide appropriate alternative methods to reduce the risk of structure-to-structure ignition, and County Fire approved the Same Practical Effect exception request for the Application. The Project includes two of the five measures identified in Section 1276.01 as alternative methods to reduce the risk of structure-to-structure ignition and two additional measures: exterior sprinklers and increased fire resistive rated exterior elements. Analyzing these measures based on accepted wildland fire suppression strategies and tactics and provisions for firefighter safety, County Fire staff determined that the exception request provided appropriate access for emergency wildland fire equipment and safe civilian evacuation and that the exception request included fuel modification sufficient for civilian and firefighter safety.

County Fire memorialized its approval of the exception request in its January 7 and January 27 plan review comments, which have been presented to the City Planning Commission and City Council. County Fire's plan review comments also notified the applicant that they will need to submit a final fire protection plan, onsite fire hydrant design specifications, and a construction site safety plan as part of their building permit application.



Below are the **full, unedited raw transcripts** extracted directly from the record of the April 1, 2026, meeting. These include all verbal fillers ("uh," "um"), stutters, and the full context of the questions asked.

1. Neighbor Impact ("Outside of Scope")

Timestamps: –

Council Member Wang: "can you help me walk us through the process when you receive the developers request to reduce the setback from 30 ft to 10 ft along property lines what factors did you personally weigh in deciding that the proposal mitigations were sufficient specifically did all your evaluation consider the fire safety impact on existing homes along the southern and northern boundaries um yeah the Barry the Cobra Decker the Rodriguez and the Fantosi properties"

Assistant Fire Chief Estrada: "so I'm going to go ahead and start with no the thing is is that all of those things specifically are not identified as components what we did is we essentially received the request to come in and when it comes in it is uh it presents the uh the conditions it presents the actual code that needs to be uh reviewed and then we have uh we have relied on the definitions and the standards that are set out in section uh 1270.1 or or zone one of the um of the fires safe regulations so the also the u section 127601 uh in fire safe regulations are are referred to and we rely on the relevant codes that we have so that's the fire code building code um could be residential code 4290 4291 so anything that's appropriate that's been accepted and adopted through the through Certino... you're you're focused on the safety of the new building right it is 4290 is specifically intended to take a look at in the setback for that building and that parcel um we will go through the evaluation uh for that level **off-site improvements or off-site focus is one of those things that is outside of scope for for that evaluation**"

2. PRC § 4291 Status (Defensible Space)

Timestamps: –

Council Member Wang: "is that a sign off or no sign off on 4291 uh please are you are you signing off on 4291 or not"

Assistant Fire Chief Estrada: "no 4290 i understand i'm just the sign off you mean for our project on a on an exception request yes yeah we talk about it we basically come up with a agreement we did you sign off on 4291 or not... thank you council member um to be clear 429 4290 is the state minimum fire safe rags correct and 4291 relates to the defensible space requirements i didn't see a sign off on 4291 that's why I wanted to be clear correct the um setback requirement is outlined in 4290 so **the exception request application was was for 4290 not 4291**"

3. Subjective Nature ("Professional Judgment")

Timestamps: –

Council Member Wang: "at 10 ft radiant heat exposure increases roughly ninefold the AMMR requires 1-hour fire rated walls on the new buildings but the existing neighborhood homes have standard woodframe construction with no enhanced fire rating when you determined that the mitigation package was adequate uh what analysis did you rely on to conclude that the increased radiant heat reaching those unprotected neighborhood structures was acceptable was there quantitative modeling or is this based on your professional judgment"

Assistant Fire Chief Estrada: "so uh thank you for the question the uh it's a combination of uh basically those requirements that are set forth so we get the standard for the uh the evaluation of 4290 within 4290 uh we've been dealing with this for several years... the cumulative effect of these multiple mitigation strategies is expected to provide the same practical effect... **this is based on on not just uh the the code it's not b and uh it is based on experience and our um our um basically our our engineering staff's credential and their experience as well**"

4. Evacuation Safety ("Outside of Scope")

Timestamps: –

Council Member Wang: "The city's own fair and peter study uh pure study fair and pure study shows that foothill has a volume to capacity ratio of 4.0 which is high and Stevens Creek Boulevard at 3.6... How you reconciled your determination with that data? Did you review the fair and pure study?"

Assistant Fire Chief Estrada: "no absolutely not so what we had um we evaluate the what's in 4290 for the site u as I stated earlier so with that the evacuation is for those people that live in that in that site... **this was out of scope for this particular evaluation and so evacuation routes were out of scope in this evaluation just to be clear**"

5. Enforcement Limits (Property Line)

Timestamps: –

Vice Mayor Chao: "how do you determine that 30 on when the existing homes are built in the 50s i'm sorry I don't understand when the the homes around the property is was built in the 50s... I'm trying to comprehend how the proposed measures can provide the same practical effect as 30-foot setback especially when you are in an older neighborhood"

Assistant Fire Chief Estrada: "the homes in the neighborhood exist but they do not have whatever wasn't actually added to them or modified those are components of that particular

property owner **land use and other rights are some of one of those things that we have to make sure that these things and our observations and our requests or our enforcement stops at the property line** so with that uh the property line's 10t away we actually don't have 10 foot as the zone you have at least 14"

6. Design Choice vs. Site Constraint

Timestamps: –

Vice Mayor Chao: "site constraints means con physical constraint of the site it it means in context that other site constraints apply and therefore they do... these are design choices as you have mentioned that doesn't change what it says it says other site constraints and that's what I would say that's not sight constraint because they could build smaller units... how would you justify that they meet the justification requirement for practical reasons"

Assistant Fire Chief Estrada: "i don't disagree with anything you said this is a design choice this is for the applicant and the builder to answer so with that agree we did not mean you should not approve the MR what we did was we accepted an exception request because there was a deficiency... I agree with the design decision is that of the applicant it has nothing to do with us"

7. Maintenance Deferral

Timestamps: –

Council Member Wang: "Normally 4291 is at the permit stage and under AB130 it's required to exempt us from SQA so what do we do if we didn't get an evaluation on 4291"

Assistant Fire Chief Estrada: "4291 does but is not part of the building process you still have to observe we will now be observing for this particular project until it gets memorialized in a current accepted standard... we won't see the sprinkler plans until later which is also the vegetation the landscaping plans are going to be something that we see a little bit later on as well"

To: Brandon Yu

Housing Accountability Unit, California Department of Housing and Community Development

Subject: 10857 Linda Vista Project (Cupertino) – Clarification of Fire Safety Record and CEQA Eligibility

Dear Mr. Yu,

I am writing as a Cupertino resident and former Vice-Chair of the Cupertino Planning Commission, (served during the Housing Element adoption for this site). Having served in that role, I am familiar with both the policy intent and regulatory framework governing this project.

The project is being treated as eligible for CEQA exemption in a Very High Fire Hazard Severity Zone under AB130 even though it is proposing setbacks of 10ft against the 30ft setback required by law in a VHFHSZ. The administrative record for the Linda Vista project appears to show that required fire safety standards—particularly Public Resources Code §§ 4290 and 4291 or 51182, whichever is applicable—were not fully evaluated or satisfied, while significant deviations from those standards were approved based on design choices rather than site constraints.

During the April 1, 2026 City Council hearing, evidence was presented by Assistant Fire Chief Estrada (SCC FD) where he explicitly states the evaluation of exemption from CEQA AB130 was **“not in scope”** ([Timestamp-1:20:08](#)) in response to Council Member Ray Wang’s question

“Okay, great. Thank you. Um the the the exemption from from CEQA not in scope for us”

The Council’s deliberations during the April 1 meeting, were dominated by concern over potential HCD enforcement, and safety issues were explicitly ignored. To the point that the City Attorney had to fallback to City’s Legal Immunity to answer Wang’s question about any future fire related risk ([Timestamp-1:26:30](#)). This was followed by Council Member Fruen stating that not finding the project exempt from CEQA would expose the city to legal risk.

I am concerned that your office may have relied on an incomplete or materially inconsistent characterization of the record, partly due to city-staff’s errors, and partly due to exaggerated claims by the developer’s attorney.

This pattern is not new; the city had commissioned an evacuation study showing two failing exits at over 200% capacity to Linda Vista Dr which was available by October 2025, but was not presented to the planning commission until **after** their deliberation on this project (February 24, 2026)

I respectfully highlight the following key issues for your consideration:

1. VHFHSZ Requirements and Setback Reduction

The project site is located within a Very High Fire Hazard Severity Zone (VHFHSZ). In such

zones, 30-foot setbacks under Public Resources Code § 4290 are a foundational, science-based requirement to reduce radiant heat transfer and structure-to-structure fire spread.

In this project, setbacks are reduced to 10 feet along property lines directly adjacent to 55+ year-old single-family homes, which were not built to modern fire-resistant standards. Despite this material deviation from established safety standards, the project is being treated as compliant for purposes of CEQA exemption under AB 130.

2. AMMR Justification: Design Optimization, Not Housing Necessity

The project relies on an Alternative Means and Methods Request (AMMR) under 14 CCR § 1276.01 to justify reducing setbacks from the required 30 feet to 10 feet. The AMMR emphasizes fire-hardening of new structures, and references housing density as justification, but provides no evidence that:

- The same number of units cannot be achieved with 30-foot setbacks
- Site constraints necessitate the reduced setbacks
- Alternative compliant layouts were infeasible

Instead, the project proposes significantly larger townhome units (approximately 20–35% larger than comparable nearby developments), indicating that the setback reduction is being used to maximize unit size and saleable area, not unit count. **The exemption for reduced setbacks does not meet any of the eligibility criteria specified by 14 CCR § 1276.01(b).**

I urge you to watch [this segment \[1:42:56\]](#) of the city council meeting on April 1, where Vice Mayor Chao builds the case for smaller, more affordable units, and Fire Chief Estrada [agrees \[1:44:00\]](#) that this setback reduction was driven by design choice and not any practical constraints.

I support HCD's mandate to facilitate housing production. However, the record does not demonstrate that maintaining compliant setbacks would reduce unit count, only that it may affect unit size and design. A conservative estimate based on the difference between compliant unit configurations and the proposed larger units suggests a discretionary value increase of approximately **\$30 million; at the cost of fire-safety.**

3. Inability to Demonstrate Compliance with Public Resources Code § 4291 or § 51182 (whichever is applicable)

The staff report states that the project demonstrates consistency with §4290 and §4291/§51182. However, Fire Department testimony establishes that:

- The review addressed § 4290 only ([Timestamp ~1:08:52](#))
- § 4291 (defensible space) was **not evaluated**, and
- Key fire safety elements remain subject to future review

Critically, §4291/§51182. requires 30 feet of Zone 1 defensible space, which cannot be physically achieved where structures are placed 10 feet from property lines. **The laws of physics do not allow for a 30-foot managed fuel zone within a 10-foot physical setback.** This is not a matter of professional judgment, but of basic spatial constraints.

The defensible space is important since the review done by the fire department does not include the impact of reduced setback on the neighboring properties ([Timestamp-1:04:50](#)). The AMMR which reduced the setback under §4290 consumed the defensible space required for §4291/§51182.

Because compliance with PRC § 4291 is a prerequisite for the statutory exemption under AB 130, the Fire Department's admission that § 4291 was not evaluated raises a fundamental question as to whether the project satisfies the conditions required for CEQA exemption.

4. Incomplete Information and Non-Objective Safety Evaluation

The administrative record reflects a critical gap in the evaluation of fire safety risks. The staff report confirms that no evacuation study was conducted. Assistant Fire Chief Estrada further testified that for the Fire Department:

- Evaluation of exemption from CEQA AB130 was **“not in scope”** ([Timestamp-1:20:08](#))
- Evacuation capacity and roadway constraints were **“out of scope”** ([Timestamp ~1:20:00](#))
- Impacts to neighboring homes were also **“not evaluated”** ([Timestamp-1:04:50](#))

Request for Direct Review

Given the extent to which HCD's position influenced the City Council's deliberations, I respectfully request that you review the underlying Fire Department testimony directly. In particular, I encourage you to listen to Assistant Fire Chief Estrada's testimony from the April 1 City Council hearing, focusing on the timestamps noted above. His statements provide critical context that, in my view, differs materially from how the record has been characterized.

I would welcome the opportunity to discuss these findings further to ensure that fire-safety is not compromised while we work to further our housing availability goals. The objective here is to ensure the project gets built without compromising the safety of the neighbors.

You can also reach me at 408 390 4036.

Thank you for your time and consideration.

Sincerely,

Vikram Saxena
Cupertino Resident

Former Vice-Chair, Cupertino Planning Commission

(Served during Housing Element adoption for this site 2018-2023)

Attachments / References

1. Fire Department Plan Review, AMMR Materials and Estrada Memo (3 documents)
2. Setback Viability Memo
3. April 1, 2026 City Council Hearing Transcript – Assistant Fire Chief Estrada
4. Letter from Planning Commission Chair Tracy Kosolcharoen in Public Comments for City Council Meetings, outlining the information gap.

VIA EMAIL: mbradish@coxcastle.com

March 27, 2026

Margo N. Bradish

Cox, Castle & Nicholson LLP

50 California Street, Suite 3200

San Francisco, CA 94111-4710

Re: Notice of Factual Discrepancies — February 12, 2026 Letter Re: 10857 Linda Vista Drive (File #26-14876)

Dear Ms. Bradish:

I write as a resident of Linda Vista Drive regarding your correspondence dated February 12, 2026, to the City of Cupertino. Your letter represents that the Santa Clara County Fire Department (SCCFD) “confirmed that the Project complies” with Public Resources Code (PRC) Sections 4290 and 4291. You rely on this assertion of present compliance to invoke the AB 130 CEQA exemption and to threaten the City with AB 712 financial penalties of at least \$10,000 per housing unit.

The administrative record—specifically the files published for the March 17, 2026, City Council meeting and obtained via PRA Request NR 26-78—directly contradicts these assertions. This letter identifies the specific discrepancies between your representations and the documentary record, and requests that you correct them.

1. PRC §4291 (Defensible Space): “Plans are NOT APPROVED”

Your letter claims the Fire Department “confirmed compliance” with PRC §4291 as part of the AB 130 process. However, the SCCFD Plan Review dated December 29, 2025, explicitly states: **“Plans are NOT APPROVED.”** That review identifies a “Preliminary Fire Protection Plan” addressing defensible space under PRC §4291 as an **outstanding requirement**. Characterizing an unfulfilled, “not approved” status as “confirmed compliance” is a material misrepresentation of a life-safety record.

2. AMMR Scope: Zero Reference to PRC §4291

Your letter asserts the Alternate Means and Methods Request (AMMR) process confirmed the project complies with “those standards,” explicitly including PRC 4291. A review of the AMMR Application (filed January 5, 2026) reveals it contains **zero reference to PRC §4291**. The

application is limited exclusively to structure setbacks under PRC §4290/14 CCR §1276.01. Using a document that does not even mention a code section to certify compliance with that section is factually and legally indefensible.

3. The Incomplete AMMR: Missing Building Official Validation

You represent the AMMR as a completed, “approved Application.” However, the AMMR form itself states: “**The Building and Fire Official must evaluate information**” regarding the modification. While a Fire Official signed on January 6, 2026, the **Building Official signature and date lines remain entirely blank**. Under CBC 104.11, the Building Official has an independent, non-delegable duty to validate such modifications. An unsigned, partially executed document is not an “approved application.”

4. “Exception” Mischaracterized as “Compliance” (PRC §4290)

Your letter asserts the project “complies” with fire requirements. The SCCFD’s actual determination characterizes the project as having “**deficiencies to non-conforming 30’ setback requirements.**” The Department approved an *exception*, not compliance. Approving a deviation from a safety standard due to documented deficiencies is not an affirmation of compliance.

Request for Correction

Your letter invokes AB 712 to threaten the City with financial penalties of at least \$10,000 per housing unit—a total exposure exceeding half a million dollars for 51 units—and cites AB 130 to demand bypass of CEQA environmental review. These are exercises of the coercive power of the state directed at a municipality and its residents. The invocation of such power should require a correspondingly high evidentiary bar: documented, verified compliance with each cited standard. The discrepancies identified above suggest that bar has not been met.

The residents of this neighborhood will bear the consequences of any fire safety shortcuts for decades. When a legal demand compels a city to waive environmental review and approve a project on the basis of fire compliance that the Fire Department’s own records do not support, the resulting harm falls not on the developer or its counsel, but on the families who live adjacent to these structures.

The questions raised in this letter are not matters of legal interpretation or good-faith differences of opinion. Whether the Fire Department issued a document confirming PRC §4291 compliance is a binary factual question. No such document exists. Whether the AMMR approved compliance with PRC §4290 or an exception to it is answered by the Fire Department’s own words: “exception request” and “deficiencies to non-conforming.” Whether the Building Official signed the AMMR is visible on the face of the document.

The City Council hearing on this project is scheduled for **April 1, 2026**. Please provide, no later than **March 30, 2026**:

1. The specific factual basis for your representation that the Fire Department “confirmed compliance” with PRC §4291 and Chapter 7A; or
2. Confirmation that you will formally correct the record with the City of Cupertino by withdrawing or amending the factual assertions identified in this letter.

I trust that a review of the documents referenced below will confirm the discrepancies identified in this letter, and that a correction will follow promptly.

Sincerely,

Vikram Saxena

Linda Vista Drive, Cupertino

cc:Floy Andrews, City Attorney, City of Cupertino
Cupertino City Council, Cupertino Planning Commission, City Manager

City Clerk

EXHIBIT A: EVIDENCE LOG OF MATERIAL DISCREPANCIES

Counsel’s Claim (Feb 12 Letter)	Administrative Fact (March 17 Record)	Primary Source Citation
Fire Dept “confirmed” compliance with PRC 4291.	SCCFD issued a status of “Plans are NOT APPROVED”; 4291 is an outstanding requirement.	SCCFD Plan Review #251740
The AMMR is a completed “approved Application.”	The Building Official signature is BLANK; dual review is required by the form and CBC 104.11.	SCCFD AMMR Form
AMMR process confirmed compliance with PRC 4291.	The AMMR Application has ZERO reference to PRC 4291.	AMMR Application Narrative
The Project “complies” with Fire Code requirements.	Project has “deficiencies” and is “non-conforming”; approved only as an “exception.”	SCCFD Plan Review #250800

LIST OF ATTACHMENTS

- **Attachment 1:** Cox, Castle & Nicholson LLP Letter dated February 12, 2026.
- **Attachment 2:** SCCFD Fire Prevention Plan Review #251740 (December 29, 2025), explicitly stating “Plans are NOT APPROVED.”
- **Attachment 3:** SCCFD AMMR Application and Approval Form (January 6, 2026), showing blank Building Official signature.
- **Attachment 4:** SCCFD Fire Prevention Plan Review #250800 (January 7, 2026), characterizing setbacks as “non-conforming.”
- **Attachment 5:** SummerHill Homes AMMR Narrative (Revised December 19, 2025), confirming scope is limited to PRC 4290.

From: [jzw97](#)
To: [City Council](#)
Cc: [City Clerk](#)
Subject: Re: time sensitive!Request for Support, Restoration of Communication, and lift the "political prisoner/hostage"/Fair Treatment from the City
Date: Tuesday, April 21, 2026 4:54:56 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please publish. Thank you!!

Left few messages this month but haven't received a response from the city manager's office yet.

----- Original message -----

From: jzw97 <jzw97@yahoo.com>
Date: 4/7/26 3:05 PM (GMT-08:00)
To: citycouncil@cupertino.org
Cc: City Clerk <cityclerk@cupertino.gov>
Subject: Re: time sensitive!Request for Support, Restoration of Communication, and lift the 'political prisoner/hostage'/Fair Treatment from the City

Please publish.

We are requesting immediate assistance from the Cupertino City Council regarding property taken in early 2016 and without notice property plus belongings again at the end of 2021, which has still not been returned. I have made multiple attempts to resolve this matter, including requests for meetings, but have received no response.

I am asking the Council to (1) investigate the removal of my property, (2) facilitate its return if still in the City's possession, and (3) stop all on-going retaliation/ ensure there is no further retaliation for raising this issue. We are ready to meet with a City official as soon as possible to resolve this and expect the return of the property and an end to the retaliation we have experienced since bringing this forward.

Regards,
Residence Huang family

Sent from my Device

----- Original message -----

From: Huang family
Date: 2/19/26 1:44 PM (GMT-08:00)
To: citycouncil
Cc: City Clerk

Please publish. Thank you!

We request the immediate return of all property and belongings taken from us. Additionally, we ask that all sanctions and any prosecutorial overreach—both to date and ongoing—be lifted as soon as possible.

On Tuesday, December 2, 2025 at 06:57:42 PM PST, j w <jzw97@yahoo.com> wrote:

----- Forwarded Message -----

From: j w <jzw97@yahoo.com>
To: City Clerk <cityclerk@cupertino.org>
Cc: citycouncil@cupertino.org <citycouncil@cupertino.org>
Sent: Tuesday, November 18, 2025 at 02:47:24 PM PST
Subject: Re: time sensitive!Request for Support, Restoration of Communication, and lift the 'political prisoner/hostage'/Fair Treatment from the City

Dear City Clerk,

Please confirm it is published. Thank you!

From: j w <jzw97@yahoo.com>
Sent: Tuesday, November 4, 2025 4:55 PM
To: Liang Chao <liangchao@cupertino.org>; Cupertino City Manager's Office <citymanager@cupertino.org>
Cc: City Clerk <cityclerk@cupertino.org>; City Council <citycouncil@cupertino.org>
Subject: Re: Subject: time sensitive!Request for Support, Restoration of Communication, and lift the 'political prisoner/hostage'/Fair Treatment from the City

lease include in the public record for next meeting-----

Mayor Chao, Vice-Mayor Moore, Councilmembers Fruen, Mohan and Wang,
On Monday, November 3, 2025 at 11:27:26 PM PST, j w <jzw97@yahoo.com> wrote:On Monday, October 20, 2025 at 03:51:05 PM PDT, j w <jzw97@yahoo.com> wrote:

Subject: Request for Support, Restoration of Communication, and Fair Treatment from the City

Dear Mayor,

I would like to share some background and respectfully request that the City treat our situation with the fairness, dignity, and compassion it extends to all residents.

Our family lives at the bottom edge of the city’s economic and social margins. We are doing our best to hold on — even now, part of our roof requires patching every few months just to keep things livable. Years ago, we were misled by an Indian real estate agent, which led to major losses and hardship. Despite this, we took full responsibility and followed the proper path through the City Planning and Building Department. We worked with licensed, experienced professionals to carry out an approved plan for the 2nd time.

Unfortunately, a complaint from the 1st construction — made by someone who has since left their position — led to retaliation on the 2nd one, and lack of the communication as stated below caused more confusion. We did our best to stand up, but over time, we lost everything: the property, our belongings, and the sense of home we built over years as long-standing residents. It felt like persecution. And the pain didn’t stop there — we were falsely labeled,

our rights stripped away, and our lives disrupted in ways that had nothing to do with the original matter. These labels have followed us into every corner of life.

It has reached a point so tragic and unjust that **criminals were able to attack us, but we could not fight back** — not legally, not financially, not even emotionally — because of how the court accepted the City's false narrative. The damage from these untrue labels has led to **severe mental and emotional decline** for our family. The refusal of the courts to hear our side, to look at the full truth, has left us in a state of hopelessness and fear.

Making things worse, the **lack of communication from the City over the past several years** has deepened the hardship. We were not able to schedule even a single **in-person meeting**, despite repeated efforts. One of our elder family members is now **immobile**, and the sense of isolation and exclusion has been profound. We've been forced to pay **unnecessary legal fees**, not only for the property matter, but also for broader issues where **City sanctions were misapplied or extended beyond their scope** — even into **private disputes**, turning what should have been civil into something resembling a **political prisoner** situation. We've had to spend even more money six figure just to settle matters that were never ours to begin with, nothing to do with city, but couldn't defend since city hold as 'prisoner' on all unrelated matter.

We have **no place else to turn**. We have always believed in the City Council's mission to support residents. We believe in **redemption and renewal**. We accepted the outcome the first time and tried to rebuild. But now, I'm asking — from the deepest part of my heart — that you extend that same belief to us.

No one — no matter their flaws — deserves to be forgotten in the system, lost in endless procedures, **enduring punishment far beyond what justice requires**. Please see us. Please give us the opportunity to be heard and to heal.

We respectfully ask that this be treated as a **high-priority matter**, and that steps be taken to **restore open communication**, offer fair support, and ensure no resident is left behind.

Thank you for your time and your service to the people of this City.

Jane for Huang family
4086731820

CC 4-21-2026

#5

Accounts Payable for March
13 & March 27, 2026

Written Communications

From: [Santosh Rao](#)
To: [City Council](#); [City Clerk](#); [Tina Kapoor](#); [Chad Mosley](#); [Benjamin Fu](#); [Rachelle Sander](#); [Jonathan Orozco, CPA](#)
Subject: Please pull agenda item 5 from consent calendar.
Date: Tuesday, April 21, 2026 6:39:59 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

(Myself only as a Cupertino resident)

Dear Mayor Moore and Councilmembers,

Please pull Agenda Item 5 from the consent calendar. It warrants a public discussion and clear, accountable decision-making.

This is not a routine budget environment. The City is under fiscal strain. That reality must be reflected in how spending decisions are reviewed and approved.

Expenditures above \$10,000 should receive explicit Council scrutiny. Departments should be expected to justify necessity, timing, and measurable benefit. Repeated proposals to expand spending during a constrained period raise legitimate concerns about alignment with the City's financial condition.

Accountability must be consistent and visible. Department directors should be evaluated on prudent stewardship of public funds, including their ability to prioritize core services and defer non-essential costs. The City Manager plays a critical role in setting and enforcing this standard across the organization.

Prioritization matters. Programs and expenditures that do not directly serve residents, or that can be restructured for full cost recovery, should be reconsidered first. Where appropriate, non-resident participation should reflect full cost recovery, and resident access should be protected.

Fiscal discipline is not about reducing service quality. It is about focusing resources where they deliver the greatest community value and ensuring long-term stability.

I urge the Council to use this item as an opportunity to demonstrate strong oversight, reinforce expectations, and align spending with current fiscal realities.

Thank you for your consideration.

CC 4-21-2026

#6

Service Center EV
Infrastructure Project

Written Communications

From: [Santosh Rao](#)
To: [City Council](#); [City Clerk](#); [Public Comments](#); [Jonathan Orozco, CPA](#); [Chad Mosley](#); [Kirsten Squarcia](#); [Tina Kapoor](#)
Subject: Please pull agenda item 6 from consent calendar.
Date: Monday, April 20, 2026 7:42:12 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

(Myself only as a Cupertino resident)

Dear Mayor Moore, City Manager Kapoor, and Members of the Council,

I am writing as a resident focused on fiscal discipline and the City's long-term financial stability.

The proposed expenditure of \$592,475 under Agenda Item 6 warrants fuller discussion and should not be placed on the consent calendar. At a time when the City is managing a structural budget imbalance and evaluating potential revenue measures, it is important that discretionary spending be reviewed with transparency and care.

I respectfully request that this item be pulled from the consent calendar to allow for open deliberation and a clear justification of need, timing, and alternatives.

More broadly, this is an opportunity to reassess ongoing operational costs. The City should continue evaluating ways to reduce expenditures, including reviewing fleet size, vehicle replacement policies, and associated costs such as maintenance and charging infrastructure. Exploring cost-efficient alternatives, where operationally feasible, would demonstrate prudent stewardship of public funds.

This is not a moment for business as usual. Careful prioritization and disciplined spending will help maintain public trust and ensure the City

remains on stable financial footing.

Thank you for your consideration.

Respectfully,

San Rao (myself only as a resident)

CC 4-21-2026

#12

Second Amendment with
Cupertino Chamber of
Commerce

Written Communications

From: [Santosh Rao](#)
To: [City Council](#); [Tina Kapoor](#); [City Clerk](#); [Public Comments](#)
Subject: Please pull agenda item 12 from consent calendar.
Date: Monday, April 20, 2026 11:01:29 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

(Myself only as a Cupertino resident)

Dear Mayor Moore and Members of the Council,

I request that Agenda Item 12 be pulled from the consent calendar for full public discussion.

The agreement should be amended to remove the following provision:

“Provided Chamber membership to the City, including registration for two City staff as well as all Councilmembers at events hosted by the Chamber.”

Providing memberships and event access to Councilmembers and staff raises clear concerns about impartiality and the appearance of preferential access. Benefits of this nature should be evaluated under the City’s ethics framework, including applicable gift, disclosure, and recusal requirements.

If this provision is retained, then it is important that the Council explicitly address how these benefits will be treated and ensure full compliance with disclosure and recusal obligations. Where appropriate, members should recuse themselves from consideration of this item.

Additionally, any Councilmember with current or recent affiliations, participation, or speaking engagements with the Chamber should disclose those relationships on the record to ensure transparency.

Residents expect decisions to be made on a level playing field, without the perception of special access or influence. Removing or clearly governing such provisions is necessary to maintain public trust.

Thank you for your consideration.

Thanks,
San Rao (myself only as a Cupertino resident)

CC 4-21-2026

#13

Fiscal Year (FY) 2026-27
Fee Schedule Update

Written Communications

From: [Jean Bedord](#)
To: [City Council](#); [City Clerk](#); [Cupertino City Manager's Office](#)
Subject: Agenda Item No. 13: Bingo Permit fee on FY2026-27 Fee Schedule
Date: Sunday, April 19, 2026 11:40:47 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Moore, Vice-Mayor Chao, Councilmembers Fruen, Mohan and Wang,

I am requesting that the **Bingo Permit fee in Schedule A be set at \$50 a year**, rather than the proposed \$268.22

There are only two bingo permits in Cupertino: (1) the Senior Center and (2) St. Joseph's church. In both cases, the players are seniors in our community, and this is an important social activity, particularly for those with diminished physical and mental abilities.

The fee has to be recovered by increasing the price of the bingo sheets. Our Cupertino players complained bitterly about the previous increases, since many are on fixed incomes. In the past, the fee has been waived completely for the senior center.

Other small cities set their bingo permits at more reasonable rates:

Morgan Hill fee = \$50

Application <https://www.morganhill.ca.gov/DocumentCenter/View/39267/2024-Bingo-Permit-Application>

Population 44,478

Saratoga fee= \$56

<https://www.saratoga.ca.us/184/Fee-Schedule> (search for Bingo in the PDF)

Population 29,607

These fees are collected by code enforcement, rather than parks and recreation. The justification for **reducing the fee for seniors** is on page 286 of the downloadable packet for April 21, 2026 council meeting, specifically in Attachment J entitled - **User Fee Cost Recovery Policy, Section 5.**

5. Discounted Rates and Surcharges

a. **Rates may be discounted to accommodate lower income groups or groups who**

are the target of the service, such as senior citizens or residents.

I would appreciate your consideration on behalf of the Cupertino Senior Center Advisory Council.

Warm regards,

Jean Bedord

Process of establishing user fee cost recovery levels

The following factors will be considered when setting service fees and cost recovery levels:

1. Community-wide vs. private benefit
 - a. The use of general purpose revenue is appropriate for community-wide services while user fees are appropriate for services that are of private benefit to individuals or groups. Full cost recovery is not always appropriate.
2. Service recipient vs. service driver
 - a. Particularly for services associated with regulated activities (development review, code enforcement), from which the community eventually benefits, cost recovery from the "driver" of the need for the service (applicant, violator) is appropriate.
3. Consistency with City public policies and objectives
 - a. City policies and Council goals focused on long-term improvements to community quality of life may also impact desired fee levels, as fees can be used to change community behaviors, promote certain activities, or provide funding for the pursuit of specific community goals, for example, health and safety, environmental stewardship.
4. Impact on demand (elasticity)
 - a. Pricing of services can significantly impact demand. At full cost recovery, for example, the City is providing services for which there is a genuine market not over- stimulated by artificially low prices. Conversely, high- cost recovery may negatively impact lower- income groups, and this can work against public policy outcomes, especially if the services are specifically designed to serve particular groups.
5. Discounted Rates and Surcharges
 - a. **Rates may be discounted to accommodate lower income groups or groups who are the target of the service, such as senior citizens** or residents.
 - b. Higher rates are considered appropriate for non-residents to further reduce general fund subsidization of services.
6. Feasibility of Collection
 - a. It may be impractical or too costly to establish a system to appropriately identify

and charge each user for the specific services received. The method of assessing and collecting fees should be as simple as possible in order to reduce the administrative cost of collection.

From: [Jean Bedord](#)
To: [City Clerk; Cupertino City Manager's Office](#)
Subject: Agenda Item No. 13: Bingo Permit fee on FY2026-27 Fee Schedule - Fwd: The proposed Bingo fee of \$268.22
Date: Monday, April 20, 2026 8:29:09 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please include this in Written Communications for the April 21, 2026, Council meeting
Jean Bedord

----- Forwarded message -----

From: **Roslyn Davis** <roslyn.t.davis@gmail.com>
Date: Mon, Apr 20, 2026 at 1:25 PM
Subject: The proposed Bingo fee of \$268.22
To: <citycouncil@cupertino.org>

I am advocating against the proposed \$268.22 bingo fee for the Cupertino Senior Center which I feel cannot be justified.

Other cities near Cupertino only charge \$50 to \$60 for a similar Bingo program.

There should be a discounted rate for the Senior Center to support Bingo on Fridays, consider the Senior Population in Cupertino

It is 1 of the most beneficial programs we have to help maintain a level of connectivity, engagement and communication with and among our Seniors, enhancing their mental and social skills

The Demand for this program exists at the highest level

Please consider keeping the Bingo fee @\$50, a reasonable cost to us

\$268.22 is not a reasonable fee.

Thank you for considering this matter

Sincerely,

Roslyn Davis

VP Senior Advisory Council

I speak for all seniors at the Senior Center.