

CC 3-3-2026

Oral  
Communications

Written Comments

**From:** [David Yan](#)  
**To:** [City of Cupertino Planning Commission](#); [info@sccfd.org](mailto:info@sccfd.org); [Public Comments](#); [City Council](#); [Emi Sugiyama](#); [Tina Kapoor](#); [E-Permits@pln.sccgov.org](mailto:E-Permits@pln.sccgov.org)  
**Subject:** Fire Safety Clarification Request – Linda Vista Corridor (Cupertino)  
**Date:** Friday, February 20, 2026 12:32:55 PM  
**Attachments:** [Joint Letter to SCC Fire and City of Cupertino Linda Vista Fire Safety 02.20.2026.pdf](#)

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**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.

Santa Clara County Fire and City of Cupertino:

Attached please find a formal request for coordinated clarification regarding fire safety and cumulative evacuation review for the proposed development at 10857, 10867, 10877 and 10887 Linda Vista Dr in Cupertino.

Thank you for your attention to this matter.

David

# **FORMAL REQUEST FOR FIRE SAFETY DETERMINATION**

Proposed 51-Unit Development at 10857–10887 Linda Vista Drive, Cupertino

*Project Reference: CUP-029 (“Evulich Court”)*

**To:** Santa Clara County Fire Department, Office of the Fire Marshal, Cupertino City Council; Cupertino City Manager; Cupertino Planning Division

**Date:** February 19, 2026

To the Santa Clara County Fire Department and the City of Cupertino:

## **I. Purpose of This Letter**

We are writing to request coordinated clarification from the City of Cupertino and the Santa Clara County Fire Department regarding whether the proposed 51-unit residential development at 10857, 10867, 10877, and 10887 Linda Vista Drive (CUP-029, interchangeably referred to as “Evulich Court”) has been evaluated for consistency with safe emergency access and evacuation under the State’s March 2025 Fire Hazard Severity Zone reclassification.

The City’s July 2024 rezoning of this parcel from R1 to R3/TH relied on the 2007 Fire Hazard Severity Zone designation that was in effect at that time. In March 2025, CAL FIRE updated the hazard classification for this corridor. That update materially changes the hazard baseline applicable to this site.

We respectfully request confirmation that the project, as currently proposed in its approved unit count and site configuration, has been reviewed under the updated High Fire Hazard Severity Zone designation and that cumulative corridor level risk has been evaluated in coordination between Planning and Fire.

## **II. Project and Site Context**

Evulich Court is a proposed 51-unit residential development on a 2.55-acre parcel located on the west side of Linda Vista Drive in the Monta Vista area of Cupertino. The site sits approximately 500 feet south of the road’s northern terminus at Hyannisport Drive, within a corridor that functions as the primary evacuation route for approximately 75 existing single-family homes.

Linda Vista Drive is a two lane, curved/winding residential road approximately 2,600 feet in length. It runs generally north-south between Hyannisport Dr and the Santa Teresa Drive area. The corridor is characterized by significant tree canopy overhang, narrow roadway width, and limited-access side streets many of which are cul de sacs with no secondary egress.

In addition to Evulich Court, a second development Vista Heights (35 units) is planned along the same corridor with its sole access point via Linda Vista Drive. The combined projects would add 86 residential units to a road currently serving approximately 75 homes. The Vista Heights project’s sole vehicular access is also via Linda Vista Drive, within the same block of the already constrained Evulich Court driveway.

The primary evacuation load for the southern segment of Linda Vista Drive consists of approximately 75 existing homes whose access depends on that corridor. While the broader Monta Vista neighborhood includes additional homes on adjacent streets with connections to Bubb Road and McClellan Road, this analysis focuses on the segment of Linda Vista Drive that directly serves the corridor south of Hyannisport Drive.

### **III. A Defined Baseline is Required for Cumulative Corridor Evaluation**

Cumulative emergency access and evacuation feasibility cannot be evaluated without a clearly defined corridor baseline condition. At the time of the City's 2024 rezoning, the residential baseline consisted of approximately 75 existing homes. That condition is no longer fixed.

The Vista Heights proposal, currently pending and subject to litigation, would add 35 residential units to the same constrained access corridor. As proposed, it represents a reasonably foreseeable change to corridor load that must be considered in cumulative evaluation.

The Evulich project proposes to add 51 additional units within this evolving context. The record does not identify the baseline condition against which evacuation and access feasibility are being evaluated. It is unclear whether analysis assumes historic pre Vista conditions, anticipated buildout conditions, or some intermediate scenario.

Absent a clearly articulated and consistently applied cumulative baseline, it is not possible to determine whether additional residential density is consistent with safe evacuation under the updated Fire Hazard Severity Zone designation.

While individual developments may be reviewed independently for purposes of code compliance and site specific fire safety standards, evacuation feasibility is inherently corridor wide. Emergency egress depends on shared roadway capacity and cumulative vehicle load rather than parcel boundaries. Accordingly, cumulative corridor conditions must inform evaluation of incremental residential intensification.

Clear articulation of cumulative evacuation assumptions will strengthen the defensibility of any ultimate approval.

### **IV. March 2025 CAL FIRE FHSZ Reclassification**

Between February 10 and March 24, 2025, the California State Fire Marshal released updated Fire Hazard Severity Zone (FHSZ) classifications for Local Responsibility Areas (LRA). These maps identify the Linda Vista corridor and immediately adjacent hillside areas as falling within Moderate, High, and Very High fire hazard severity zones.

This is a material change from the 2007 FHSZ maps that were in effect when the City of Cupertino rezoned the Evulich Court parcel to R3/TH in July 2024. Under Government Code 51179, the City is required to adopt the updated State findings. The implications for this project are direct:

1. The 2024 rezoning density was approved under a hazard baseline that has been superseded by State action.
2. The updated FHSZ classification may implicate stricter fire-safety requirements under the California Building Code and California Fire Code that were not contemplated during the original project review.
3. The Evulich Court parcel sits at the interface between developed residential area and wildland vegetation (Stevens Creek corridor and Linda Vista Park), placing it squarely within the Wildland-Urban Interface zone under the updated classification.

The City's July 2024 rezoning of this parcel relied on the 2007 Fire Hazard Severity Zone classification that was in effect at that time. The State's March 2025 update materially alters the hazard baseline applicable to this corridor.

## V. Evacuation Capacity Concern

The core safety question is whether Linda Vista Drive can support the emergency evacuation of over 160 residential units (75 existing + 51 Evulich + 35 Vista Heights) consistent with applicable fire safety and emergency access standards, given its physical constraints and the updated fire hazard classification.

A preliminary evacuation throughput estimate based on conservative flow assumptions is below. We are not presenting this as a substitute for Fire review. **Instead, we are presenting it to illustrate why such a review is warranted.** Further, the purpose of this estimate is not to dispute existing fire code compliance, but to illustrate why corridor level evacuation assumptions warrant transparent documentation.

Metric	Current (R1)	With Projects	Change
Housing Units	~75	~160	<b>+113%</b>
Estimated Vehicles	~120	~260	<b>+117%</b>
Road Clearance Time	12–18 min	35–50 min	<b>+183%</b>
Total Order-to-Safety	30–45 min	<b>60–90 min</b>	<b>+100%</b>

*Table assumptions: 1.6 vehicles per household (emergency consolidation); single-lane flow rate of 600–800 veh/hr on winding residential road. Mobilization time includes human-factor delays (securing pets, loading vehicles).*

We note that standard fire code review evaluates parcel level features such as sprinkler systems, noncombustible materials, hydrant spacing, and access road dimensions. These are important but address onsite fire resistance, not corridor-wide evacuation capacity under cumulative load. A project may fully comply with Fire Code requirements and still contribute to an evacuation condition that exceeds the corridor's throughput capacity.

## VI. Site-Specific Risk Factors

Beyond the aggregate vehicle count, several physical characteristics of the Linda Vista corridor compound evacuation risk:

- **Limited egress geometry.** Linda Vista Drive is the primary vehicular evacuation route for the corridor dependent homes. Side streets such as Baxley Court, Rae Lane, Mount

Crest Dr, Linda Vista Court, as well as an 11 acre Park (Linda Vista Park) are dead-end roads or cul-de-sacs that feed exclusively onto the Linda Vista spine with no independent egress. While other streets such as Columbus Ave, Terrace Dr. and Hyannisport Dr. provide alternative connections to Bubb Road, a wildfire evacuation is a corridor wide event, not isolated to a single street. These routes would simultaneously carry their own residential evacuation traffic to Bubb Road, which itself becomes the shared collection point for the entire neighborhood. Available capacity on alternative routes cannot be assumed when those routes are subject to the same concurrent demand. The Evulich Court development accesses Linda Vista Drive via a single project driveway, placing its full vehicle load directly onto the corridor regardless of conditions on adjacent streets.

- **Tree canopy and ember vulnerability.** The road corridor has significant mature tree overhang. In a wind-driven fire event, spotting (embers jumping ahead of the fire front) can ignite canopy over the roadway, potentially blocking the evacuation route entirely. A single fallen tree across this two lane road could block evacuation for residents dependent on this corridor.
- **Wildland Urban Interface exposure.** The west side of the corridor is directly adjacent to Stevens Creek, Linda Vista Park, and the vegetated hillsides leading to McClellan Ranch Preserve and Deep Cliff Golf Course. This continuous wildland fuel bed runs the full length of the evacuation route.
- **Concentrated access point for new density.** The Evulich Court development alone would add 51 units with a single driveway access directly onto Linda Vista Drive, injecting approximately 85 additional vehicles into the mid-section of the evacuation corridor during an emergency.

Typical, on-site fire hardening measures including sprinklers, fire rated cladding, ember resistant vents, etc. improve structural survivability but do not reduce evacuation demand. Each occupied unit generates the same vehicle load regardless of construction type.

## **VII. Limitations of the 2019 Cupertino Emergency Operations Plan**

The City's 2019 Emergency Operations Plan ("EOP") establishes a framework for emergency response coordination, incident command structure, and interagency communication. It outlines how the City responds once an emergency has occurred. It is structured as a response coordination framework rather than a corridor-level evacuation capacity analysis. The Plan is a response document and does not provide corridor specific evacuation capacity modeling, nor does it evaluate cumulative residential intensification within constrained hillside access routes. The Plan does not identify maximum safe occupancy thresholds for single access corridors, nor does it analyze vehicle throughput capacity under degraded wildfire conditions. It assumes operational response under existing infrastructure conditions. Additionally, as noted, since adoption of the 2019 EOP:

- The State has updated Fire Hazard Severity Zone classifications.
- Additional housing allocations have been approved.
- Climate driven wildfire intensity assumptions have evolved.
- The Plan does not appear to incorporate corridor level evacuation modeling for areas now classified as High Fire Hazard Severity Zones.
- Accordingly, reliance on the 2019 EOP as a sufficient safeguard for additional residential intensification on a single access hillside corridor warrants review.

## **VIII. Accountability for Pre Incident Mitigation**

Broader wildfire mitigation and evacuation capacity planning transcend any single development. Recent wildfire events in California have underscored the importance of clearly documented evacuation planning prior to project approvals. We are not suggesting that any agency has failed in its responsibilities here. We are asking, before additional development is approved on a corridor now classified under a very high fire hazard severity zone, that the responsible agency or official be clearly identified and that the analytical basis for determining evacuation feasibility be documented. This is an opportunity to ensure that the record reflects a deliberate, coordinated evaluation so that if the question is ever asked, there is an answer.

## **IX. Formal Requests**

In light of the March 2025 FHSZ reclassification and the evacuation constraints described above, we respectfully request the following:

- A. **Written Fire Safety Determination.** A formal written determination from the Fire Marshal on whether a 51-unit development at this location is consistent with safe emergency evacuation under the 2025 FHSZ classification. Specifically: can the Linda Vista corridor support the emergency evacuation of approximately 160 residential units consistent with applicable fire safety and emergency access standards?
- B. **Evacuation Capacity Review.** A professional assessment of the cumulative evacuation impact of both Evulich Court (51 units) and Vista Heights (35 units) on the Linda Vista Drive corridor. The two projects should be evaluated together, as they share the same constrained evacuation route.
- C. **FHSZ Consistency Analysis.** Confirmation of whether the project's approved unit count and site configuration have been evaluated for consistency with fire-safety standards associated with the State's updated 2025 Fire Hazard Severity Zone designation for this area. If the updated hazard classification implicates additional safety considerations or mitigation measures, please identify those measures and the unit-count assumptions underlying the review.
- D. **Existing Fire Review Documentation.** If corridor level evacuation capacity has already been evaluated under the 2025 FHSZ designation, we respectfully request a summary of the assumptions, methodology, and corridor conditions underlying that determination.

Given the material change in hazard classification and the need for coordinated cumulative evaluation, a brief continuance would allow clarification under current standards. If the Department determines that additional mitigation measures are required under the updated FHSZ classification, please identify those measures.

## **X. Closing**

Given the overlapping jurisdiction between Planning approvals, Fire code review, and Council level policy determinations, we respectfully request confirmation that Planning, Fire, and Council have coordinated review of cumulative corridor level risk under the updated Fire Hazard Severity Zone classification.

We request that the Fire Department confirm whether the project, as currently approved at its proposed unit count and site configuration, has been evaluated under the State's March 2025 High Fire Hazard Severity Zone designation and whether it complies with all applicable safety

standards under that updated classification. If so, we respectfully request a written determination to that effect.

We previously shared corridor-level evacuation concerns and a preliminary throughput estimate with City Planner Emi Sugiyama and the City Council on January 16 and January 29, 2026. We are submitting this letter directly to the Fire Department because the updated FHSZ designation materially alters the hazard baseline applicable to this corridor and warrants confirmation of review under current standards.

We are available to meet with your office at any time and will provide any additional information that would assist in your evaluation. We respectfully request a written response within 30 days and in any case, prior to any approvals.

**From:** [Jennifer Griffin](#)  
**To:** [City Council](#); [City Clerk](#)  
**Cc:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com)  
**Subject:** Retail Tenants Being Displaced from Super Kyo-Po Shopping Center in Santa Clara  
**Date:** Wednesday, February 25, 2026 8:12:56 PM

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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.

Dear City Council:

(Please consider the following as public comment for the March 3, 2026 Cupertino City Council Meeting.)

I attended the Community Meeting for the Super Kyo-Po Shopping Center at Homestead and Lawrence Expressway in Santa Clara tonight (Feb. 25) in the shopping center. There is a plan to convert this shopping center to retail. They are losing 67,000 square feet of active retail with ten small businesses. This is primarily an Asian Shopping Center.

It sounds like most of the mom and pop business owners don't know what is going on and they are being given very little notice of the upcoming end of their shops and the retail. They are essentially having no place to have their shops. The shopping center will be bulldozed.

This is a SB 330 Housing Element site for Santa Clara. We in Cupertino have lost so much retail to our own seven SB 330s. Can we find vacant retail spaces in Cupertino to help these poor displaced Super Kyo-Po retail tenants? It sounds like they would be a good fit for Cupertino. It sounds like they have no place to go and we have vacant retail.

Please reach out to these small mom and pop stores losing their locations and see if Cupertino can give them a retail home. I think it would be a good fit for our city and help replace some of the vital retail we have lost and will lose in the future in Cupertino.

Thank you very much for helping to protect retail.

Best regards,

Jennifer Griffin

**From:** [Jennifer Griffin](#)  
**To:** [City Clerk](#)  
**Cc:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com); [City Council](#)  
**Subject:** Fwd: Updated Meeting Location - Community Outreach Meeting - 3521 & 3591 Homestead Road  
**Date:** Monday, February 23, 2026 3:28:41 PM

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**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.

Dear City Clerk:

Please consider the following and the forwarded message from Santa Clara as public input for the March 3, 2026 Cupertino City Council meeting.

Thank you.

----- Original Message -----

**Subject:** Fwd: Updated Meeting Location - Community Outreach Meeting - 3521 & 3591 Homestead Road  
**From:** Jennifer Griffin <[grenna5000@yahoo.com](mailto:grenna5000@yahoo.com)>  
**Sent:** Monday, February 23, 2026, 3:24 PM  
**To:** [citycouncil@cupertino.org](mailto:citycouncil@cupertino.org), [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org)  
**CC:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com)

Dear Cupertino City Council:

(Please consider the following comments and forwarded document from Santa Clara as public input for the March 3, 2026 Cupertino City Council meeting.)

I am forwarding this notification from the city of Santa Clara about a Community meeting (FYI) about the Proposed SB 330 conversion of the very popular Super Kyo-Po Homestead Shopping Center at the Northeast corner of the intersection of Lawrence Expressway and Homestead Road to housing with no retail.

Super Kyo-Po Shopping Center is a very popular Asian Market complex With many active Asian retail stores. This shopping center is just west of the McDonalds and kitty corner across the intersection to Kaiser Hospital. This is a very congested area already with the hospital and traffic from Homestead/Lawrence and Apple and traffic from Cupertino and Santa Clara and Sunnyvale and Lawrence Expressway.

I am deeply concerned SB 330 is mowing down retail in our city and in adjacent cities. No one is immune from the ravages of this out-of-control bill that is wrecking retail havoc in every city in the state. It is a misguided bill that is causing serious economic problems for everyone. Small merchants and mom and pop stores as well as valuable chain stores (Panera) are being displaced and becoming homeless.

Please attend this Community Meeting Santa Clara is holding and observe the problems being incurred by conversions such as these. What are other cities doing to deal with the fallout of squashed retail from SB 330? We need to study these and reach out to our electeds at the state level and alert them to this burgeoning catastrophe.

Thank you. Please find attached the notification of the Santa Clara Community meeting on this shopping center. Merchants in the shopping center are highly concerned about losing their shops.

Best regards,

Jennifer Griffin  
Cupertino Resident

----- Original Message -----

**Subject:** Updated Meeting Location - Community Outreach Meeting - 3521 & 3591 Homestead Road  
**From:** City of Santa Clara <news@info.santaclaraca.gov>  
**Sent:** Monday, February 23, 2026, 2:17 PM  
**To:** grenna5000@yahoo.com  
**CC:**

The City of Santa Clara - Stay Connected



### Updated Meeting Location - Community Outreach Meeting - 3521 & 3591 Homestead Road

**Date:** 02/25/2026 6:00 PM - 7:00 PM  
**Location:** [3565 Homestead Road](#)  
[Santa Clara, California 95051](#)

#### Meeting Details

PulteGroup invites you to an in-person community meeting regarding the proposed development located at 3521 and 3591 Homestead Road. The proposed development is comprised of a 4,991 square-foot commercial building and 147-unit residential project. City Staff will be in attendance to accept feedback. Additional project information can be found at the [project webpage](#).

**In person:** 3565 Homestead Road, Santa Clara, CA 95051

#### Contact Us

**Project Contact:** Jim Sullivan, Consultant, [jsullivansld@yahoo.com](mailto:jsullivansld@yahoo.com), 408-899-0308

**City Contact:** Meha Patel, Community Development/Planning Division, Associate Planner, [mpatel@santaclaraca.gov](mailto:mpatel@santaclaraca.gov), 408-615-2454

[Click here for more information](#)



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This email was sent to [greenna5000@yahoo.com](mailto:greenna5000@yahoo.com) using GovDelivery Communications Cloud on behalf of: City of Santa Clara - 1500 Warburton Avenue - Santa Clara, CA 95050



**From:** [Rhoda Fry](#)  
**To:** [Public Comments](#)  
**Subject:** non-agenda 3/3/2026  
**Date:** Tuesday, March 3, 2026 10:24:51 AM

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Dear City Council,

I am very worried about the potential of public-safety ramifications of adding 51 4-bedroom 2700 sq-ft homes on two-and-a-half acres at Linda Vista Drive in a known very high fire hazard severity zone (VHFHSZ). **This is the highest fire-hazard designation by Cal Fire.**

**If the very high fire hazard severity zone had been assigned to this land at the time you made your decisions pertaining to the Housing Element, I am confident that you would not have selected this level of density.**

1. A glaring omission is **defensible space**, that has been reduced from the recommended 30 to 100 feet to just 10 feet. Read more here:  
<https://www.fire.ca.gov/dspace#:~:text=the%20property%20line,-.Why?,is%20growing%20near%20a%20tree>.
2. While it is possible that the buildings could be left standing after a fire (having roof-top sprinklers would help), **would the residents of these homes and those of others be able to evacuate?** And this is why I mention 4-bedroom homes - - - because of the likelihood of requiring two vehicles for evacuation, that's an additional 102 vehicles in an area that experiences heavy congestion, especially from the nearby schools (3200 students plus teachers plus staff) that represent over 5% of our city's population. Another potential for further congestion are the 600-trucks per day estimated for the reclamation at Lehigh's Permanente Quarry plus a yet-to-be-determined number for Stevens Creek Quarry reclamation. **I have yet to see anything about evacuation impacts related to this proposed project.**

**Your primary responsibility is to the residents of our community.** Yes, the developer may threaten to sue the City, but our public safety is paramount. **I beg you to ensure the safety of our residents.**

Please also consider that the Planning Commission was asked to vote on 3 resolutions that assumed compliance with AB130. In my opinion, this assumption was incorrect. The AB 130 Qualification Memorandum, by David J. Powers, checked the YES box on Page 11 stating that the project was NOT located in a very high fire hazard severity zone. This is wrong. The box should have been checked NO. Additionally, we have no idea whether a "plan review" comment letter from County Fire was the appropriate type of document to nullify CEQA for this project. Nor was that letter included in the packet. The date of the letter in the Powers

document is listed as January 27, 2026, however a document flashed on the screen during the Planning Commission has a different date. Regardless, that letter should have been included in the agenda packet. The resolutions that the planning commissioners were expected to vote on appear to have been based on incorrect and incomplete information and I think that the City should consider invalidating this hearing and starting over.

Regards,  
Rhoda Fry  
(recipient of CREST award for Public Safety)

**From:** [j w](#)  
**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:** Monday, March 2, 2026 4:35:57 PM

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Please publish for the upcoming meeting if there is one on Mar.2, 2026. Thank you!

On Thursday, February 19, 2026 at 01:44:43 PM PST, j w <jzw97@yahoo.com> wrote:

Please publish. Thank you!

We request the immediate return of all property and belongings taken from us from end of 2021, and 2016 especially end of 2021. 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

Please include in the public record for next meeting-----  
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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 3-3-2026

# 1

Parkland Ballot  
Measure

Written Communications

**From:** [Peggy Griffin](#)  
**To:** [Public Comments](#); [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2026-03-03 City Council Special Mtg-ITEM1 Parkland Measure  
**Date:** Monday, March 2, 2026 3:28:33 PM  
**Attachments:** [2026-03-03 CC Mtg ITEM1-Parkland zoning clean up first.pdf](#)

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**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 THE FOLLOWING EMAIL AND ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear Mayor Moore, Vice Mayor Chao, Councilmembers and Staff,

I am in complete support of a Parkland Measure to protect our current parkland across Cupertino. In preparation for this measure, PLEASE clean up the zoning for 3 park areas PRIOR to the measure being voted on to ensure they are zoned correctly.

These 3 park land areas are:

- #1 – Creekside Park (the oval track area)
- #2 – Franco Park (the storage building area)
- #3 – Library Field

The attached PDF contains diagrams of the parcels from the city's GIS system. PLEASE move quickly to correct these zoning irregularities to protect the entire area of each park.

NOTES:

- Leaving the parcels BA DOES NOT PROTECT them!
  - Schools are zoned BA!
  - One by one, as our CUSD schools are leased to private organizations, the residents of Cupertino have been losing access to our parklands.
- Land CAN BE zoned PR, even if it has a building on it.
  - The Sports Center is zoned PR (parkland).
  - The Monta Vista Rec Center is zoned PR (parkland).
  - There is no reason why the building area of Franco Park cannot be zoned PR, too.

PLEASE PROTECT WHAT LITTLE WE HAVE LEFT!

Sincerely,  
Peggy Griffin

# CLEAN UP ZONING FOR 3 PARK AREAS **BEFORE** PARKLAND MEASURE

**#1 - CREEKSIDE PARK** – has 2 parcels zoned inconsistently

1 parcel is zoned PR

1 parcel is zoned BA (the oval track)

**REQUEST:** Change the parcel that is zoned BA to PR to better identify it and protect it as parkland.



**REZONE FROM BA  
TO PR**

**#2 - FRANCO PARK** – has 2 parcels zoned inconsistently

1 is zoned PR

1 is zoned BA

**REQUEST:** Change the parcel that is zoned BA to PR to better identify it and protect it as parkland.



**REZONE FROM BA  
TO PR**

**#3 - LIBRARY FIELD** – is part of one BIG parcel that includes

- City Hall
- Community Hall
- the Library
- Library Field

REQUEST: Please

- 1) make Library Field a separate parcel and
- 2) rezone it as Parkland (PR)



**1-Separate Library Field  
into a new parcel  
2-Rezone new parcel to  
PR (Parkland)**

**From:** [Peggy Griffin](#)  
**To:** [Public Comments](#); [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2026-03-03 City Council Special Mtg-ITEM1 Parkland  
**Date:** Monday, March 2, 2026 3:12:15 PM  
**Attachments:** [2026-02-19 ITEM8 Parkland Measure-Written Comm \(updated 21926\).pdf](#)

---

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PLEASE INCLUDE THE FOLLOWING EMAIL AND ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear Mayor Moore, Vice Mayor Chao, Councilmembers and Staff,

Please include the attached PDF as part of written communications for ITEM #1 – Parkland Measure. The PDF contains the comments that were submitted for this item in preparation for the 2-19-2026 Item 8 – Parkland Measure that was continued to 3-3-2026.

Thank you,  
Peggy Griffin

CC 2-19-2026

#8

Parkland Ballot Measure

Written Communications

**From:** [Liana Crabtree](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2/19/2026 Council Meeting, Agenda Item 8, Parkland Ballot Measure  
**Date:** Thursday, February 19, 2026 6:13:12 AM

---

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.

Dear Mayor Moore, Vice Mayor Chao, Council Members Fruen, Mohan, and Wang:

Please add my letter to written communication for the 2/19/2026 council meeting, Agenda Item 8, Parkland Ballot Measure - Mapping, Zoning, Legal Review, and Election Considerations.

I am writing in support of a citywide ballot measure to require a majority vote of the residents before parkland and open space may be changed to any other zoning designation or use.

As part of any effort to prepare a parkland ballot measure, I request Council protect today's parkland use of Library Field by changing its zoning from Public Facilities (P[BA]) to Parks and Open Space (PR).

Library Field is a flat, grassy area with shade trees that is valued by the community for its recreational uses, including but not limited to: cricket, soccer, volleyball, walking, picnicking, relaxing, festival enjoyment, and even as a setting for family portraits.

Please protect Library Field for parkland and open space use by changing its zoning from P(BA) to PR in advance of any ballot measure that would protect parklands from development.

Please limit the use of Library Field to those uses "compatible with open space or park and recreation" and otherwise "in conformance with the purposes of the OS or PR zoning district".

Sincerely,

Liana Crabtree  
Cupertino resident

**From:** [Peggy Griffin](#)  
**To:** [City Council](#); [Tina Kapoor](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2026-02-19 City Council Meeting - ITEM 8 Parkland Measure - YES!  
**Date:** Wednesday, February 18, 2026 9:24:07 PM

---

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PLEASE INCLUDE THIS EMAIL AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear Mayor Moore, Vice Mayor Chao, Councilmembers and Staff,

Please move forward with a simple, easy to understand measure that protects our existing parkland from changing its use or ownership. Don't go overboard. Keep it direct. Maybe use wording that has worked in other jurisdictions.

We have so little parkland and new development projects seem to get away with no providing any additional land for their new residents. The in-lieu fees they pay don't cover the cost of land. Please protect what little and we have. Thank you.

Sincerely,  
Peggy Griffin

**From:** [Peggy Griffin](#)  
**To:** [City Council](#); [Tina Kapoor](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2026-02-19 City Council Meeting-ITEM 8 - Parkland Measure-SAVE LIBRARY FIELD!  
**Date:** Wednesday, February 18, 2026 9:18:00 PM  
**Attachments:** [image001.png](#)

---

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PLEASE INCLUDE THIS EMAIL AND ALL ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear Mayor Moore, Vice Mayor Chao, Councilmembers and Staff,

This issue has come up at least one other time...protecting Library Field by designating it PARKLAND. Currently, it is zoned P(BA) and is one parcel that includes City Hall, Community Hall, the Library, etc. It's time to protect it. We, the residents, consider it a park. We use it for sports, for leisure and enjoy the open space with all it's trees.

**REQUEST:** Please make Library Field a separate parcel and rezone it to be zoned PR.



We have seen in the recent past that people have wanted to convert it to parking! Please protect it!

Sincerely,  
Peggy Griffin

**From:** [Peggy Griffin](#)  
**To:** [City Council](#); [Tina Kapoor](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2026-02-19 City Council Meeting-ITEM8 Parkland Measure - CLEANUP ZONING of 2 PARCELS from BA to PR  
**Date:** Wednesday, February 18, 2026 9:05:07 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

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PLEASE INCLUDE THIS EMAIL AND ALL ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear Mayor Moore, Vice Mayor Chao, Councilmembers and Staff,

I am disappointed with the Staff Report. Pointing to a link of the city's interactive zoning map is NOT providing a list of areas with inconsistent zoning. For example:

**CREEKSIDE PARK** – has 2 parcels with one zoned PR and another zoned BA. This is inconsistent zoning.

**REQUEST:** Change the parcel that is zoned BA to PR to better identify it and protect it as parkland.



**FRANCO PARK** – has 2 parcels with one zoned PR and another zoned BA. This is inconsistent zoning.

**REQUEST:** Change the parcel that is zoned BA to PR to better identify it and protect it as parkland.



Rezoning these 2 parcels would make the zoning consistent with other parkland areas such as the Senior Center and Monta Vista Rec Center, both of which are zoned PR.

Please note that schools are zoned BA. When the Council passes zoning regs that impact parcels zoned BA which are typically schools, they can unexpectedly impact the few parcels the city has that we consider parkland but are zoned BA such as:

- The building/storage unit adjacent to Franco Park on Homestead Rd near Safeway.
- The southern end of Creekside Park.

This was done with the previous council as part of dealing with the Tessellations School.

Please protect these 2 parcels by correcting their zoning as parkland which they are!

Sincerely,  
Peggy Griffin

**From:** [Peggy Griffin](#)  
**To:** [Lauren Sapudar](#)  
**Cc:** [City Clerk](#)  
**Subject:** Peggy's Slides for ITEM 8-Parkland Measure  
**Date:** Thursday, February 19, 2026 8:11:59 PM  
**Attachments:** [Peggys Slides-ITEM8 PARKLAND Measure.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.

Hi Lauren,

I plan to speak via Zoom tonight on ITEM 8-Parkland Measure (City Council 2-19-202. Could you please display these slides for me when I speak?

Thank you for your help,  
Peggy Griffin

## CLEAN UP ZONING FOR 2 PARK PARCELS

**CREEKSIDE PARK** – has 2 parcels zoned inconsistently

1 is zoned PR

1 is zoned BA

**REQUEST:** Change the parcel that is zoned BA to PR to better identify it and protect it as parkland.

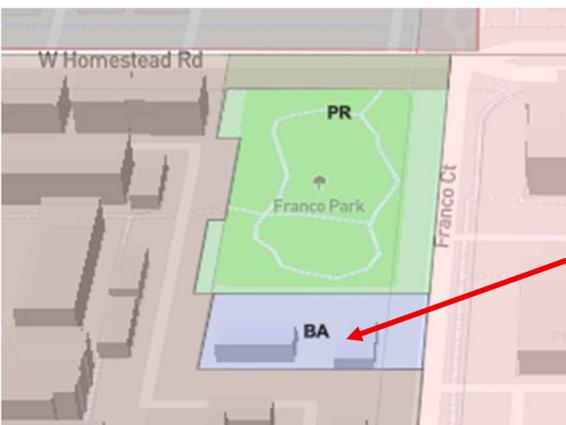


**FRANCO PARK** – has 2 parcels zoned inconsistently

1 is zoned PR

1 is zoned BA

**REQUEST:** Change the parcel that is zoned BA to PR to better identify it and protect it as parkland.



**LIBRARY FIELD** – is part of one BIG parcel that includes

- City Hall
- Community Hall
- the Library
- Library Field

REQUEST: Please

- 1) make Library Field a separate parcel and
- 2) rezone it as Parkland (PR)



**From:** [Srikantan Nagarajan](#)  
**To:** [City Council](#); [Public Comments](#); [Tina Kapoor](#); [City Attorney's Office](#); [City Clerk](#)  
**Subject:** Please include Cupertino Sports Center in the Parkland protection measure  
**Date:** Tuesday, March 3, 2026 1:54:40 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.

Dear City Clerk,

Please include the below in written comments for 03/03/26 council meeting agenda item on parkland ballot measure.

Dear Mayor Moore, Cupertino City Council,

I strongly support placing a parkland protection measure on the November 2026 ballot. Further I urge the Council to draft it broadly enough to include all city facilities including the Cupertino Sports Center. The current scope falls short.

The Sports Center Has Already Been Targeted

In October 2023, a \$76,000 city-commissioned study by Cumming Management Group recommended selling or leasing the Cupertino Sports Center at 21111 Stevens Creek Boulevard to private developers to finance a new City Hall. The proposal was shelved, but only because the economics didn't pencil out, not because any legal protection stopped it. A 3-2 council majority could resurrect this tomorrow. Residents deserve better than luck.

Close the Loophole

Because the Cupertino Sports Center is zoned Public Buildings (BA) rather than Open Space or Public Park, a narrowly drafted measure would leave it completely unprotected. The ballot measure must cover all city-owned facilities regardless of zoning designation, or it will protect meadows while leaving the Sports Center, Community Hall, and other beloved assets exposed to the next developer proposal.

Require Real Thresholds

The measure should require:

- A two-thirds City Council supermajority before any city facility can be converted to private use — so no quiet 3-2 vote can initiate a giveaway; and
- A two-thirds voter supermajority to ratify any conversion, consistent with what Milpitas and Santa Clara voters demanded and won in 2016.

The Bottom Line

The Cupertino Sports Center is not an underutilized asset. It is a community institution. This ballot measure is a once-in-a-generation opportunity to protect it permanently. Please don't draft it in a way that leaves the door open. Please include the Cupertino Sports Center and all city facilities in the ballot measure.

Respectfully submitted,  
Srikantan Nagarajan  
Cupertino Resident  
CSC Member

**From:** [Ravi Shankar](#)  
**To:** [City Council](#)  
**Cc:** [Public Comments](#); [Tina Kapoor](#); [City Clerk](#)  
**Subject:** Parkland Ballot Measure – The Sports Center Must Not Be Left Exposed  
**Date:** Tuesday, March 3, 2026 1:11:13 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.

Dear Mayor Moore, Cupertino City Council,

I strongly support placing a parkland protection measure on the November 2026 ballot. Further I urge the Council to draft it broadly enough to include all city facilities including the Cupertino Sports Center. The current scope falls short.

**\*The Sports Center Has Already Been Targeted\***

In October 2023, a \$76,000 city-commissioned study by Cumming Management Group recommended selling or leasing the Cupertino Sports Center at 21111 Stevens Creek Boulevard to private developers to finance a new City Hall. The proposal was shelved, but only because the economics didn't pencil out, not because any legal protection stopped it. A 3-2 council majority could resurrect this tomorrow. Residents deserve better than luck.

**\*Close the Loophole\***

Because the Cupertino Sports Center is zoned Public Buildings (BA) rather than Open Space or Public Park, a narrowly drafted measure would leave it completely unprotected. The ballot measure must cover all city-owned facilities regardless of zoning designation, or it will protect meadows while leaving the Sports Center, Community Hall, and other beloved assets exposed to the next developer proposal.

**\*Require Real Thresholds\***

The measure should require:

- A two-thirds City Council supermajority before any city facility can be converted to private use — so no quiet 3-2 vote can initiate a giveaway; and
- A two-thirds voter supermajority to ratify any conversion, consistent with what Milpitas and Santa Clara voters demanded and won in 2016.

The Bottom Line

The Cupertino Sports Center is not an underutilized asset. It is a community institution. This ballot measure is a once-in-a-generation opportunity to protect it permanently. Please don't draft it in a way that leaves the door open. Please include the Cupertino Sports Center and all city facilities in the ballot measure.

Respectfully submitted,  
Ravi Shankar  
CSC Member & longtime Cupertino resident

**From:** [Santosh Rao](#)  
**To:** [City Council](#); [Public Comments](#); [City Clerk](#); [Tina Kapoor](#); [Kirsten Squarcia](#); [City Attorney's Office](#); [Floy Andrews](#); [Benjamin Fu](#); [Luke Connolly](#); [Chad Mosley](#); [Rachelle Sander](#); [Alex Corbalis](#); [CPRP](#); [Colleen Ferris](#)  
**Subject:** Protect the Cupertino Sports Center. Add it to the ballot.  
**Date:** Tuesday, March 3, 2026 12:55:46 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.

Dear City Clerk,

Please include the below in public comments for the parkland ballot measure agenda item on today's city council meeting.

[Writing on behalf of myself only as a Cupertino resident]

Dear Mayor Moore, Vice-Mayor Chao, Cupertino Council Members,

I write in wholehearted support of a parkland protection measure on the November 2026 ballot, and respectfully urge the Council to ensure it is drafted with sufficient breadth to protect what the community actually values. As presently scoped, it does not. Please include the Cupertino Sports Center and all city facilities in the ballot measure.

### **Cupertino Sports Center Has Already Been Placed in the Crosshairs**

In October 2023, a city-commissioned study by a consultant, procured at a significant cost to Cupertino taxpayers, recommended selling or entering into long-term leases of city-owned property, explicitly identifying the Cupertino Sports Center as a candidate site for private residential development, ostensibly to finance a new City Hall.

The proposal was quietly set aside, though not on account of any legal safeguard that stood in its way. It foundered on large outburst from the community of CSC members and that alone saved it thanks to the votes of 3 council members including then council members Kitty Moore and Liang Chao.

A future council, persuaded by a different set of numbers and holding a bare 3-2 majority, could revive it without obstruction. That is not a position in which residents ought to find themselves.

### **A Drafting Gap That Must Be Remedied**

The Cupertino Sports Center is zoned Public Buildings (BA), not Open Space or Public Park. A measure confined to those latter designations would afford it no protection whatsoever, an outcome that would strike most residents as precisely contrary to the measure's purpose. The Council must direct staff to draft language covering all city-owned facilities and properties, irrespective of zoning designation. To do otherwise would be to protect the periphery whilst leaving the heart exposed.

### **The Thresholds Must Be Meaningful**

The measure should establish two clear requirements:

- A two-thirds supermajority of the full City Council as a prerequisite before any proposal to convert a city facility to private use may advance, precluding a narrow majority from acting unilaterally on the public's behalf; and
- A two-thirds supermajority of voters to ratify any such conversion, a standard already embraced with resounding enthusiasm by the electorates of Milpitas and Santa Clara in 2016.

### **In Closing**

The Cupertino Sports Center is a well-loved civic institution, and its protection ought not to be left to the vagaries of political circumstance or the mercy of a developer's spreadsheet. This ballot measure presents a singular opportunity to enshrine that protection in perpetuity. The Council should seize it and ensure, in doing so, that no facility of this city is left vulnerable by an oversight in drafting.

I trust the Mayor, Vice-Mayor and Council will act with the decisiveness this moment warrants.

Respectfully submitted,  
San Rao (writing on behalf of myself only as a Cupertino resident)

**From:** [Rhoda Fry](#)  
**To:** [Public Comments](#)  
**Subject:** Special Meeting 3/3/2026 #1 Parkland Ballot  
**Date:** Tuesday, March 3, 2026 10:31:32 AM

---

**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.

Hi Council,

Regarding Special Meeting 3/3/2026 #1 Parkland Ballot, I concur with the comment from Peggy and Liana and appreciate the forward-thinking of our City Council on this matter that has been adopted by other cities. We must protect our public parks for future generations (including the widely used Library Field). Particularly as the City adds more residents and high-density projects that offer little open space, it is even more important that we have parks - we cannot create any more land.

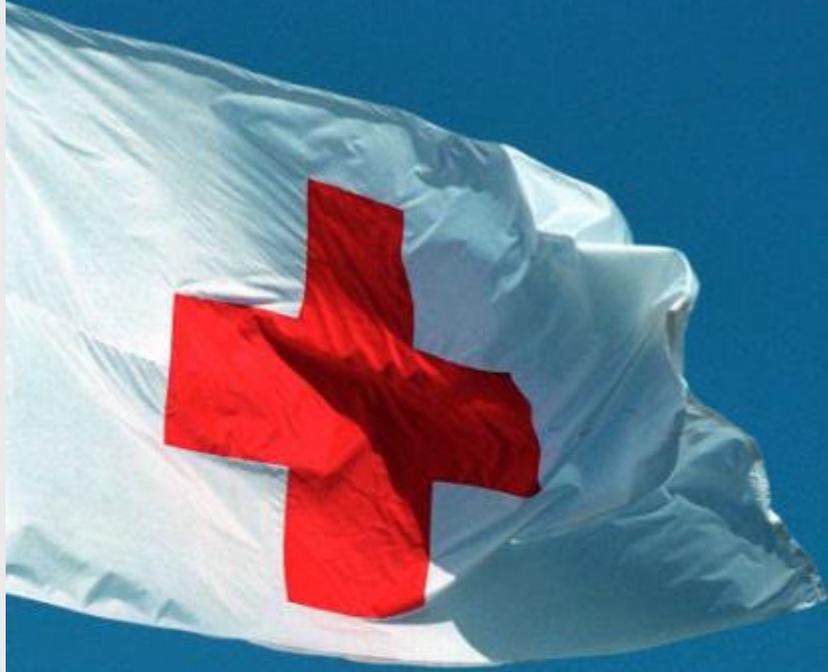
Warm Regards,  
Rhoda Fry

CC 3-3-2026

# 1 - Ceremonial Items

Recognition of March  
as American Red  
Cross Month

Written Communications



## Mission

The American Red Cross prevents and alleviates human suffering in the face of emergencies by mobilizing the power of volunteers and the generosity of donors.



**American  
Red Cross**



# Our Services

Down the Street. Across the Country. Around the World.®



**Disaster Services**



**Blood Services**



**Preparedness,  
Health and  
Safety Services**



**International Services**



**Service to the  
Armed Forces**

# Our Work Impacts Lives Every Day

Every 8 minutes  
people are assisted  
by the American  
Red Cross.



180

Times a day, Red Cross workers help a family affected by a home fire or other disaster.



365

Days a year, we provide services to military members, veterans, and their families.



1 in 7

People entering the hospital need blood



Millions

Of Red Cross Trained individuals stand ready to provide CPR as well as other lifesaving skills.



90%

Of Red Cross impact is delivered by Volunteers.



# Santa Clara Valley Impact 2025

**109**

Disasters responded to by the American Red Cross in Santa Clara County.



**1,741**

Services provided to military members, veterans and their families.



**18,228**

Blood donations collected.



**2,106**

Volunteers deliver our Humanitarian mission.





**Thank you!**

CC 3-3-2026

#2

No Net Loss (RHNA)

Written Communications

**From:** [Piu Ghosh \(she/her\)](#)  
**To:** [City Clerk](#)  
**Subject:** FW: City Council Meeting March 3, 2026 Special Meeting Study Session- Public Comment  
**Date:** Tuesday, March 3, 2026 11:55:09 AM  
**Attachments:** [Letter to City Council 3-3-26.pdf](#)

---

FYI...



**Piu Ghosh (she/her)**  
Planning Manager  
Community Development  
[PiuG@cupertino.gov](mailto:PiuG@cupertino.gov)  
[\(408\) 777-3277](tel:(408)777-3277)

---

**From:** Greg Endom <[grendom@yahoo.com](mailto:grendom@yahoo.com)>  
**Sent:** Tuesday, March 3, 2026 11:48 AM  
**To:** Kitty Moore <[kmoore@cupertino.gov](mailto:kmoore@cupertino.gov)>  
**Cc:** Liang Chao <[liangchao@cupertino.gov](mailto:liangchao@cupertino.gov)>; J.R. Fruen <[jrfruen@cupertino.gov](mailto:jrfruen@cupertino.gov)>; sheilamohan@cupertino.gov; R "Ray" Wang <[rwang@cupertino.gov](mailto:rwang@cupertino.gov)>; Benjamin Fu <[benjaminf@cupertino.gov](mailto:benjaminf@cupertino.gov)>; Luke Connolly <[lukec@cupertino.gov](mailto:lukec@cupertino.gov)>; Piu Ghosh (she/her) <[piug@cupertino.gov](mailto:piug@cupertino.gov)>; Gian Martire <[gianm@cupertino.gov](mailto:gianm@cupertino.gov)>; Kirsten Squarcia <[kirstens@cupertino.org](mailto:kirstens@cupertino.org)>; Amy Chan <[achanhome@gmail.com](mailto:achanhome@gmail.com)>  
**Subject:** City Council Meeting March 3, 2026 Special Meeting Study Session- Public Comment

**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:

Please see the attached letter related to tonight's Special Session - Agenda Item 2- State RHNA Goals.

Thank you.

Greg Endom  
+1 925 550 8082  
DRE# 00766333

# Marina Plaza Shopping Center

Sent via email and Hand Delivered

March 3, 2026

Honorable Kitty Moore, Mayor  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014

Via email to [kmoore@cupertino.gov](mailto:kmoore@cupertino.gov)

RE: City Council Meeting March 3, 2026 - Special Meeting 5:30 PM  
Agenda Item 2. Study Session, CA State RHNA Goals  
60-80 Dwelling Units an Acre for Marina Plaza Shopping Center

Dear Mayor Moore:

I am the Project Manager of the Marina Plaza Shopping Center (10118-10122 Bandlely Drive) and the adjacent former restaurant Mandarin Gourmet parcel (10145 N DeAnza Blvd.). As part of City's compliance with the No Net Loss requirement in the Regional Housing Needs Allocation, I am writing to ask City Council to upzone our combined five-acre parcel to 60-80 dwelling units an acre (DUA).

Marina Plaza LLC and Cupertino 10145 LLC own the combined 5.11-acre site in Cupertino (APNs 326-34-066, 326-34-043). This property is located at the busy intersection of Stevens Creek Boulevard and De Anza Boulevard and currently has an aging shopping center on the premises. We would like to develop a mixed housing and commercial housing project on this site. The current entitlements of the property allow for 25-35 dwelling units per acre (DUA) mixed-use project (DP-2022-001). Unfortunately, we cannot build this project at such a low density because of high construction costs and the needed economies of scale needed for a mixed-use project. However, we can build a mixed-use housing project if City Council grants us greater density.

As part of the update to the Housing Element, please increase the allowable density to 60-80 dwelling units an acre (DUA) for our two parcels. At that density, we would be able to work with City staff to build a beautiful, mixed-use development project that provides over 300 units of mixed-income housing for the City. Our project will be in full compliance with the City's affordable housing requirements and provide public art and other commercial benefits to the community.

Honorable Kitty Moore, Mayor

March 3, 2026

Page 2

Sincerely,

On behalf of Marina Plaza Shopping Center



Greg Endom

Project Manager

cc: Liang Chao, Vice Mayor via email to [lchao@cupertino.gov](mailto:lchao@cupertino.gov)  
J.R. Fruen, Councilmember via email to [jrfruen@cupertino.gov](mailto:jrfruen@cupertino.gov)  
Sheila Mohan, Councilmember via email [smohan@cupertino.gov](mailto:smohan@cupertino.gov)  
R. "Ray" Wang, Councilmember via email to [rwang@cupertino.gov](mailto:rwang@cupertino.gov)  
Benjamin Fu, Dir. of Community Development via email to [benjaminf@cupertino.gov](mailto:benjaminf@cupertino.gov)  
Luke Connelly, Asst. Dir. of Community Development via email to [lukec@cupertino.gov](mailto:lukec@cupertino.gov)  
Piu Ghosh, Planning Manger via email to [piug@cupertino.gov](mailto:piug@cupertino.gov)  
Gian Martire, Senior Planner via email to [gianm@cupertino.gov](mailto:gianm@cupertino.gov)  
Kirsten Squarcia via email to [kirstens@cupertino.gov](mailto:kirstens@cupertino.gov)

CC 3-3-2026

#3

Active Transportation  
Plan

Written Communications

**From:** [Venkat Ranganathan](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** ATP Purple Bike Lane Projects  
**Date:** Saturday, February 21, 2026 8:56:50 AM

---

**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.

Dear Mayor, Vice Mayor, and City Council,

Thank you for your ongoing work and dedication to improving transportation and safety in Cupertino. I appreciate your commitment to fostering a vibrant, accessible community, and I recognize the complexities involved in balancing innovative transportation solutions with neighborhood needs. I hope my perspective contributes constructively to your decision-making process.

In summary, I respectfully request the removal of the purple-marked bike lane projects listed in Attachment D of the Active Transportation Plan, specifically due to concerns regarding neighborhood parking, emergency access, and school safety.

Projects requested for removal:

- Homestead Road (buffered/separated bike lanes)
- Stevens Creek Boulevard (separated bike lanes)
- Stelling Road (buffered/separated bike lanes)
- Blaney Avenue (buffered bike lanes)
- Bollinger Road (buffered bike lanes)
- Foothill Boulevard / Wolfe Road (separated bike lanes)
- Bonny Avenue / Pepper Tree Lane
- Mary Avenue / McClellan Road school routes

Key concerns:

- **\*\*Loss of curb parking:\*\*** The removal of on-street parking, particularly on residential streets such as Stelling Road and Blaney Avenue, would significantly affect seniors, visitors, caregivers, and delivery services. Alternatives for parking in these areas are limited, making the impact substantial for residents and guests.
- **\*\*Emergency vehicle access:\*\*** The installation of concrete barriers for separated bike lanes, as proposed for corridors like Stevens Creek Boulevard and Foothill Boulevard, may restrict access for fire trucks and ambulances. This is especially concerning near the new Westport senior housing development and the De Anza medical clinic, where timely emergency response is critical.
- **\*\*School safety and operations:\*\*** Modifications on Bonny Avenue and Pepper Tree Lane would disrupt drop-off and pick-up operations for more than 600 students attending Faria Elementary School, potentially impacting both safety and efficiency.

It is my understanding that the City's own scoring criteria penalize projects that remove parking, yet these bike lane proposals appear to rely heavily on this approach. As such, they do not seem to meet the established evaluation standards.

Suggested alternatives:

Prioritize improvements in technology and commercial corridors.

Enhance crosswalks and targeted school safety measures to improve mobility without compromising neighborhood access or emergency response.

Engage the community in identifying solutions that address safety and accessibility collaboratively.

I understand that finding the right balance between transportation enhancements and neighborhood needs can be challenging. I am happy to provide further input or participate in community forums to help shape solutions that serve all residents.

Thank you again for your consideration and for your service to Cupertino. I look forward to your thoughtful review of these concerns and am available to discuss them further at your convenience.

Sincerely,  
Venkat Ranganathan

**From:** [Devayani Kukade](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Request to Remove All Purple Bike Lane Projects from ATP  
**Date:** Friday, February 20, 2026 1:26:50 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.

Dear Mayor Moore, Vice Mayor Chao, and City Council,

I am writing to formally express my opposition to the bike lane projects marked in purple within Attachment D of the Active Transportation Plan (ATP). These projects negatively impact parking, safety, and school access, and I respectfully request their removal.

Specifically, I am asking for the removal of the following projects:

- Homestead Rd (buffered/separated lanes)
- Stevens Creek Blvd (separated lanes)
- Stelling Rd (buffered/separated)
- Blaney Ave (buffered)
- Bollinger Rd (buffered)
- Foothill/Wolfe (separated)
- Bonny/Pepper Tree lanes
- Mary/McClellan school routes

My primary concerns include:

- **Loss of Residential Parking:** The removal of curb parking will significantly impact elderly residents, guests, and deliveries on residential streets.
- **Emergency Vehicle Access:** Concrete barriers may obstruct emergency vehicles, which is particularly concerning given the new Westport senior housing and De Anza clinic.
- **School Infrastructure:** The proposed changes on Bonny and Pepper Tree would disrupt the drop-off process for over 600 students at Faria Elementary.

The current scoring system acknowledges the negative impact of parking removal; I believe these projects fail to meet the necessary standards for approval.

I encourage the Council to instead consider alternative safety improvements, such as technology corridors, enhanced crosswalks, and targeted school safety measures.

Thank you for your time and for prioritizing the safety of our families and community.

Sincerely,

Devayani Kukade

**From:** [Mohsen Jamali](#)  
**To:** [Public Comments](#); [City Council](#)  
**Subject:** Opposition to proposed bike lanes that remove street parking  
**Date:** Friday, February 20, 2026 12:59:06 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.

Good evening Mayor and Councilmembers.

I live in the Crescent Court / Crescent Road neighborhood. I'm here to oppose any proposed bike lanes that remove on-street parking.

Street parking in our neighborhood is not excess capacity — it is essential infrastructure. Families, seniors, caregivers, and visitors rely on it daily. Removing parking will directly impact residents who already struggle during peak hours.

If bike lanes can be added without eliminating parking, that's one discussion. But taking away parking from established neighborhoods is not the right solution.

I also ask that you remove the stretch near Varian Park from this proposal. We do not want incremental steps that create pressure for future expansions.

Please reject any project that eliminates residential street parking.

Thank you.

Mohsen Jamali

**From:** [Kalyan Tummala](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Urgent Concerns Regarding Proposed Bike Lane Projects Impacting School Access and Neighborhood Parking  
**Date:** Friday, February 20, 2026 11:38:25 AM

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**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.

Dear City Clerk,

Please include my email in written communications for the upcoming city council meeting.

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Dear Mayor Moore, Vice Mayor Chao, and Members of the Cupertino City Council,

I am writing as a Cupertino resident and parent to respectfully express serious concerns about the proposed bike lane projects, particularly those affecting neighborhood streets such as Pepper Tree Lane, Bonny Drive, Shelly Drive, Rodrigues Avenue, and surrounding areas near **Faria Elementary**.

I strongly support safe transportation and thoughtful infrastructure planning. However, the current proposals risk creating unintended and significant consequences for families, students, and neighborhood safety.

### **Key Concerns:**

#### **1. Loss of Critical School Parking**

Many parents rely on street parking on Bonny, Pepper Tree, Shelly, and Rodrigues to safely park and walk their children to school. Removing this parking will eliminate the most practical and safe options currently used by families. Not all children can independently navigate drop-off lanes. Walking children to campus is especially important for younger grades and promotes safety, supervision, and community engagement.

#### **2. Increased Traffic Congestion and Safety Risks**

If street parking is removed, parents will be forced into the existing drop-off line. For a school serving hundreds of students, this could mean 600+ vehicles funneling into a single queue during peak times.

This will:

- Increase idling traffic and congestion in surrounding streets
- Create longer queues spilling into main roads
- Increase risk of vehicle-pedestrian conflicts
- Reduce emergency vehicle accessibility

What is currently a distributed, manageable system will become centralized congestion.

#### **3. Discouraging Walkability**

Ironically, eliminating neighborhood parking may reduce safe walking. Parents who currently park nearby and walk their children will instead be forced into vehicle queues. This

undermines both walkability and community interaction.

#### **4. Lack of School-Specific Planning**

If these changes move forward, what is the city's concrete plan for managing school access?

- Has a school impact analysis been conducted during peak drop-off/pick-up times?
- Has coordination occurred with school administrators and parents?
- Is there a mitigation strategy to replace lost parking capacity?

Without a clear operational plan, these changes risk creating chaos rather than improving safety.

#### **5. Equity and Practical Use Considerations**

Neighborhood bike lanes that remove high-demand school parking may benefit a small number of cyclists during limited hours while disproportionately impacting hundreds of families daily. Infrastructure decisions must balance sustainability goals with real-world usage patterns and community needs.

I respectfully request that the City:

- Reevaluate bike lane placements on streets directly serving school parking needs
- Conduct a school-specific traffic and safety impact study before final approval
- Engage directly with affected school communities
- Explore alternative bike routing options that preserve essential parking

I support safe biking as a road biker myself. I support sustainability. But we also need solutions that protect school access, neighborhood safety, and the daily functioning of families.

Please do not move forward with changes that significantly impact school operations without a clear, practical mitigation plan.

Thank you for your consideration and for serving our community.

Sincerely,  
Kalyan Tummala  
Resident and Parent

**From:** [Jithin George](#)  
**To:** [Tina Kapoor](#); [Public Comments](#); [City Council](#)  
**Subject:** Request to Remove All Purple Bike Lane Projects from ATP  
**Date:** Friday, February 20, 2026 10:54:30 AM

---

**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.

Dear Mayor Moore, Vice Mayor Chao, and City Council,

I respectfully oppose the purple-marked bike lane projects in Attachment D. They harm parking, safety, and school access. Please remove them all.

Projects to remove:

- Homestead Rd buffered/separated lanes
- Stevens Creek Blvd separated lanes
- Stelling Rd buffered/separated
- Blaney Ave buffered
- Bollinger Rd buffered
- Foothill/Wolfe separated
- Bonny/Pepper Tree lanes
- Mary/McClellan school routes
- 

Key concerns:

- Curb parking lost for elders, guests, deliveries on residential streets.
- Emergency vehicles blocked by concrete barriers, especially with new Westport senior housing and De Anza clinic.
- Faria Elementary drop-off disrupted for 600+ kids on Bonny/Pepper Tree.

Your scoring system penalizes parking removal. These projects fail that test.

Better options: Technology corridors, crosswalks, school safety measures.

Request: Please delete all purple bike lanes from the ATP.

Thank you for prioritizing families and safety.

Sincerely,  
Jithin George,  
Parent of Faria Kid (Cupertino resident on Homestead/Blaney)

**From:** [Ravi Kiran Singh Sapaharam](#)  
**To:** [City Council](#); [Public Comments](#)  
**Cc:** [Tina Kapoor](#)  
**Subject:** Request to Reconsider Purple Bike Lane Projects in ATP  
**Date:** Friday, February 20, 2026 10:34:52 AM

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Dear Mayor Moore, Vice Mayor Chao, and Members of the Cupertino City Council,

I am writing as a **Cupertino resident** to respectfully request reconsideration of the purple bike lane projects

While I support roadway safety improvements, several of these proposals raise concerns regarding residential parking loss, school drop-off logistics, traffic congestion, and emergency vehicle access — particularly along Homestead, Stevens Creek, Stelling, Blaney, Bollinger, Foothill, Wolfe, Bonny, Pepper Tree, and the Mary/McClellan school routes.

Many families rely on curbside parking near homes and schools, and maintaining reliable emergency access along key corridors is critical. I encourage the Council to carefully weigh these community impacts before advancing these projects.

I respectfully suggest prioritizing alternatives that enhance safety without reducing parking or travel lanes — such as crosswalk upgrades, traffic calming measures, and school-area safety improvements.

Thank you for your time and consideration.

Sincerely, Ravi | Cupertino Resident



**Ravi Kiran Singh Sapaharam**

Public Safety Commissioner  
[RSapaharam@cupertino.gov](mailto:RSapaharam@cupertino.gov)



**From:** [Nidhi Parekh](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Request to Remove All Purple Bike Lane Projects from ATP  
**Date:** Friday, February 20, 2026 9:29:06 AM

---

**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.

Dear Mayor Moore, Vice Mayor Chao, and City Council,

I am writing to express my respectful opposition to the purple-marked bike lane projects listed in Attachment D. I believe these projects will negatively impact parking, safety, and school access, and I request their removal from the Active Transportation Plan (ATP).

Specifically, I am requesting the removal of the following projects:

- Homestead Rd: buffered/separated lanes
- Stevens Creek Blvd: separated lanes
- Stelling Rd: buffered/separated lanes
- Blaney Ave: buffered lanes
- Bollinger Rd: buffered lanes
- Foothill/Wolfe: separated lanes
- Bonny/Pepper Tree: lanes
- Mary/McClellan: school routes

My primary concerns include:

- Parking Loss: The removal of curb parking on residential streets will significantly affect elderly residents, guests, and delivery services.
- Emergency Access: Concrete barriers may obstruct emergency vehicles, which is a particular concern given the proximity of the new Westport senior housing and the De Anza clinic.
- School Disruption: The proposed lanes on Bonny and Pepper Tree would disrupt the drop-off process for over 600 students at Faria Elementary.

The current scoring system penalizes the removal of parking, and I believe these projects fail to meet that standard. I encourage the Council to consider better alternatives, such as technology corridors, enhanced crosswalks, and targeted school safety measures.

Please delete all purple bike lanes from the ATP. Thank you for your commitment to prioritizing families and community safety.

Sincerely,  
Nidhi Parekh

**From:** [Pramod Negi](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Request to Reconsider and Remove Purple Bike Lane Projects from ATP  
**Date:** Friday, February 20, 2026 9:15:31 AM

---

**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.

Dear Mayor Moore, Vice Mayor Chao, and Honorable Members of the City Council,

I am writing as a concerned resident and parent to respectfully request the removal of all purple-marked bike lane projects listed in Attachment D from the Active Transportation Plan (ATP).

While I understand and support the broader goal of improving safety and mobility in our city, I am deeply concerned that the proposed buffered and separated bike lanes in these locations will negatively impact neighborhood parking availability, emergency access, and safe school drop-off operations.

**Projects I request be removed include:**

- Stevens Creek Boulevard – separated lanes
- Stelling Road – buffered/separated lanes
- Blaney Avenue – buffered lanes
- Bollinger Road – buffered lanes
- Bonny/Pepper Tree – lanes
- Mary/McClellan – school routes

**Key concerns:**

- **Loss of curb parking** on residential streets, which directly affects seniors, visiting family members, and essential deliveries.
- **Potential obstruction for emergency vehicles** due to concrete barriers and narrowed lanes—especially concerning given the proximity to Westport senior housing and the De Anza clinic.
- **Disruption to Faria Elementary School drop-off and pick-up**, impacting over 600 students and their families who rely on safe and efficient vehicle access along Bonny and Pepper Tree.

Additionally, the City’s own scoring criteria penalizes projects that remove parking. Based on that standard, these proposals do not appear to meet the intended balance between safety, access, and community impact.

I respectfully urge the Council to consider alternative safety improvements—such as enhanced crosswalk visibility, traffic calming, school-zone protections, and targeted improvements along commercial or technology corridors—rather than implementing residential parking removal and concrete-separated lanes.

Please prioritize family access, senior mobility, and emergency response by removing all purple bike lane projects from the ATP.

Thank you for your service to our community and for carefully considering the voices of residents.

Sincerely,  
Pramod Negi

**From:** [P Hershey](#)  
**To:** [Public Comments](#)  
**Subject:** Request to remove all purple bike lane projects from ATP  
**Date:** Friday, February 20, 2026 8:52:29 AM

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>  
> Dear Mayor Moore, Vice Mayor Chao, and City Council,  
>  
> I respectfully oppose the purple-marked bike lane projects in Attachment D. They harm parking, safety, and school access. Please remove them all.  
>  
> Projects to remove:  
>  
> • Homestead Rd buffered/separated lanes  
> • Stevens Creek Blvd separated lanes  
> • Stelling Rd buffered/separated  
> • Blaney Ave buffered  
> • Bollinger Rd buffered  
> • Foothill/Wolfe separated  
> • Bonny/Pepper Tree lanes  
> • Mary/McClellan school routes  
> •  
> Key concerns:  
>  
> • Curb parking lost for elders, guests, deliveries on residential streets.  
> • Emergency vehicles blocked by concrete barriers, especially with new Westport senior housing and De Anza clinic.  
> • Faria Elementary drop-off disrupted for 600+ kids on Bonny/Pepper Tree.  
>  
> Your scoring system penalizes parking removal. These projects fail that test.  
>  
> Better options: Technology corridors, crosswalks, school safety measures.  
>  
> Request: Please delete all purple bike lanes from the ATP.  
>  
> Thank you for prioritizing families and safety.  
>  
> Sincerely,  
> Pamela Hershey  
  
> Sent from my iPhone

**From:** [Deepti Rokkam](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Request to reconsider bike lanes around Faria Elementary school  
**Date:** Friday, February 20, 2026 8:13:17 AM

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Dear Mayor Moore, Vice Mayor Chao, and members of the city council,

I recently found out about the proposal to eliminate parking to introduce bike lanes on Rodriguez, Bonnie, and Pepper tree lanes. As a parent sending her child to Faria Elementary school, this proposal caused me significant concern.

As one of ~650 children attending the school, the 15 minute drop off and pick up periods are only possible because of the availability of street parking. Loss of street parking will increase chaos around the school, and will impact school safety. Please reconsider your proposal.

Respectfully,  
Deepti

**From:** [Angan Das](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Please stop bike lane projects: Remove all purple lines from ATP  
**Date:** Friday, February 20, 2026 7:42:30 AM

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**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.

Dear members of city council,

Now that we have bike lanes in all major thoroughfares like De Anza, Stevens Creek, McClellan, can we please stop continuing them literally till every residence's gateway? It benefits 5 families, but puts 50 more at disadvantage.

Bike lanes favor neighborhoods with a rising younger generation. On the contract, Cupertino is a city with rising empty nesters. And they need more off-street parking for visiting friends and family. Moreover, schools also benefit from the same.

I understand there are dedicated funds for staff and resources towards bike lane programs. But I hope we can find alternate ways to divert & utilize those funds towards more meaningful purposes.

- Angan Das  
Former Cupertino Housing Commissioner  
408-204-2486

**From:** [valerie](#)  
**To:** [Public Comments](#); [City Council](#); [City Clerk](#)  
**Subject:** Opposition to Proposed Bike Lanes in Cupertino Neighborhoods -particularly Faria Elementary neighborhood  
**Date:** Tuesday, March 3, 2026 10:10:05 AM

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Dear City Clerk,

Please include my mail in written communications for the upcoming city council meeting.  
Thanks!

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Dear Members of the Cupertino City Council,

I am writing to express my strong opposition to the proposed creation of bike lanes in the City of Cupertino that would remove existing street parking, particularly in the Faria Elementary School neighborhood. The affected streets—including Pepper Tree Lane, Stelling Road, Shelly Drive, Bonny Drive, Rodrigues Avenue, and Terry Way—serve as vital parking and access points for residents and visitors alike.

I have lived in this neighborhood for over 20 years. I drive through the area daily and walk around the neighborhood every day. Based on my consistent, firsthand observation over two decades, I rarely see bicyclists using these streets—at most, I see one bike perhaps once a month. This raises serious questions about whether there is sufficient demand to justify removing valuable street parking that hundreds of residents rely on.

My primary concern is that this proposal appears to benefit a very small number of individuals at the expense of the broader community. Removing parking spaces will significantly impact homeowners, guests, caregivers, and service providers. Before implementing such sweeping changes, I urge the City to conduct objective traffic studies—such as installing traffic cameras or performing formal usage counts on the proposed streets—to determine how many bicyclists truly use these routes on a daily basis.

Additionally, special events at Freya parking already create congestion challenges in the area. Eliminating street parking will only exacerbate these issues. With the upcoming development at 20865 McClellan Road, which will add approximately 20 townhomes, the neighborhood can expect a substantial increase in vehicle density. Reducing parking capacity at the same time that housing density increases does not seem practical or responsible.

Monta Vista High School already has access via McLaren Avenue, which adequately serves student cyclists in that area. If the City determines that additional bike lanes are necessary, they should be implemented selectively where there is clear demand and community support—not as a blanket policy applied across all Cupertino streets regardless of neighborhood impact.

I would also like to address the advocacy efforts of Walk Bike Cupertino members. While I respect that some residents enjoy biking to work and to other destinations, that is a personal choice and, for many, a luxury. Not everyone is able to bike to work or travel by bicycle. In my own case, I was traumatized by a past bicycle accident and am unable to bike as a result. I must rely on a vehicle for transportation. Are the rights and needs of residents like myself to

be sacrificed in order to accommodate the preferences of a small group?

I am further concerned that decisions affecting our neighborhood are being driven by individuals who do not reside here and who may not fully understand the daily realities and needs of our community. Local residents should have meaningful input in determining how their streets are used.

In conclusion, I respectfully urge the City Council to reconsider the current bike lane proposal, particularly in the Faria Elementary School neighborhood, and to prioritize the needs, safety, and accessibility of the broader residential community over a limited and unproven demand.

Thank you for your time and consideration.

Sincerely,  
VJ

**From:** [E. Poon](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** Proposals for concrete barriers for bike lanes on Stelling, Blaney and Finch  
**Date:** Tuesday, March 3, 2026 3:49:35 PM

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**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:** Concerns Regarding Permanent Concrete Curbs for Bike Lanes

Dear Councilmembers,

I am writing to formally share my perspective on the proposed installation of permanent concrete curbs for our local bike lanes. While the goal of increasing cyclist safety is one we all share, I have significant concerns regarding the long-term impacts of using rigid concrete barriers as the primary solution.

Based on practical challenges observed in other regions, as well as our own local infrastructure needs, I urge the Council to consider the following drawbacks:

**Emergency & Law Enforcement Access:**

Permanent concrete curbs create a rigid “island” effect that can hinder emergency and police vehicle access. Cupertino is a relatively small city, and the short response time of our deputies has always been an asset. This advantage should not be given up lightly.

**Drainage and Maintenance:**

Unlike flexible or modular options, poured concrete can interfere with existing street drainage. Raised concrete may worsen ponding already observed at some intersections. The addition of barriers could make the street surface more hazardous and increase the City’s exposure to liability.

**Aesthetic and Neighborhood Impact:**

The “hardened” look of concrete barriers can feel industrial and stark, potentially detracting from the character of our residential streets compared with greener or landscaped separation methods.

**Lack of Flexibility:**

Once poured, concrete is difficult and expensive to modify. A “quick-build” or mock-up approach would allow the City to test traffic patterns and make adjustments before committing to a permanent, high-cost project. A mock-up could also help alert local residents to what is being planned. Public outreach is costly and not easy. So far, only about 600 residents have been reached by ATP consultants, which represents a very small percentage of the City’s population.

In the past, I attended a safety meeting in the downstairs room of City Hall where several Sunnyvale residents—likely from the Walk Bike Cupertino group—discussed walking and biking safety to Cupertino schools via Zoom. I recall that one participant mentioned measuring the proposed bike lane on Homestead and concluding that it was too narrow to be of practical use. That comment is food for further thought.

All of the proposals involve existing roadways built decades ago. Before remodeling them for any purpose, we need careful measurement and realistic mock-ups. However, the ATP reports often note that technical details are not included and are instead held by City departments. In the final analysis, consultants are not responsible for measurements—our City staff is.

Thank you for your time and for considering the concerns of local residents on this matter.

Sincerely,  
Emily Poon  
Resident since 2007

CC 2-19-2026

#9

Active Transportation  
Plan

Written Communications

**From:** [Tracy Kosolcharoen](#)  
**To:** [City Council](#); [Tina Kapoor](#); [City Clerk](#)  
**Cc:** [David Stillman](#); [Matt Schroeder](#)  
**Subject:** Written comments -- Agenda Item 9, ATP  
**Date:** Wednesday, February 18, 2026 7:46:59 AM  
**Attachments:** [2026 Sheriff Memo Re SCC Concrete Lanes.pdf](#)

---

Dear City Council,

(writing on behalf of myself) — **please do not make roadway changes that delay our emergency response times.** Some of the latest ATP project proposals do not fully account for their impact on emergency vehicles.

**Both our sheriff and fire departments confirmed that they travel slower on small roads with concrete bike barriers like McClellan,** in my direct conversations. Please see the attached written statement from the sheriff's department, which notes that during peak hours, the sheriff must take alternate routes to avoid congested, concrete-buffered roads like McClellan. They cannot even turn on their sirens on these roads because it confuses drivers who cannot pull aside. Constricting more high-traffic two-lane roads across Cupertino cumulatively degrades response times across our city.

**We can increase bike safety without delaying public safety response. Most of the ATP proposes painted buffered bike lanes along our 2-lane roads, which I very much support. Painted buffers are a proven option** that still allows cars to pull aside for emergency vehicles to pass. In fact, the last city memo on the De Anza bike lane changes showed that the new painted buffer bike lanes significantly improved safety for bikers and vehicles alike.

**I ask City Council to consider painted buffer bike lanes in lieu of concrete separation on three of the ATP proposals** for Stelling (mostly two-way in the proposal), Blaney (mostly two-way and curved in the proposal), and Finch (all two-way). Please do not create additional strains on law enforcement that prevent them from turning left on the left side of vehicles, or create gridlock that they must subsequently avoid during peak hours.

Note that I am not asking to change the Foothill, Homestead, or Stevens Creek concrete lane ATP project listings, which are wider roads with space for turning.

**Please consult our own city's law enforcement and emergency response first and foremost,** and consider their feedback before any outside research studies. During the last planning commission meeting, some commissioners referenced studies from entirely different states and with different scenarios (4- to 3-lane conversion). Please compare similar

scenarios involving 2-lane roads, not 3- or 4-lane roads.

**Increased response times would put lives at risk due to longer transit times to hospitals, and make our city a greater target for crime.** Many residents choose to live in Cupertino because it is safe and has rapid emergency response rates. Per the latest sheriff and fire department reports, Cupertino experiences at least 6K sheriff and fire department incidents per year. We enjoy exemplary sheriff response times compared to the rest of the county. Moreover, as we add hundreds of new housing units, and our aging population continues to grow, we can expect increased strain on our law enforcement and emergency response.

**Is council willing to slow down our emergency response?**

**For many of us, protecting emergency response times is non-negotiable.**

**We can make biking safer without physically preventing cars from yielding to emergency vehicles. Please enable our sheriff to fight crime and save lives quickly and effectively.**

Thank you for your consideration,  
Tracy

P.S. -- there is a minor correction on the memo from Sergeant Slauch and the reference to the raised island on Wolfe & SCB should read "prevents vehicles from moving left," not right. I'll send through a corrected version when I have it.



**Tracy Kosolcharoen**  
Chair, Planning Commission  
TKosolcharoen@cupertino.gov

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# County of Santa Clara

## Office of the Sheriff

55 West Younger Avenue  
San Jose, California 95110-1721  
(408) 808-4400



## MEMORANDUM

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Robert Jonsen  
Sheriff

**TO** : Tracy Kosolcharoen

**FROM** : Sergeant A. Slauch #1922 / West Valley Traffic Sergeant

**SUBJECT** : Emergency Vehicle Response Re: solid bike lane barriers

**DATE** : February 13, 2026

---

In response to whether the Emergency Response of the Sheriff's Office is impacted by a solid barrier between the far most right lane, bike lane and shoulder of any roadway, I offer this statement as the opinion of an emergency responder.

The California Vehicle Code, section **21806(a)(1)**, states that when an authorized emergency vehicle is operating its forward-facing red lights and siren, *"The driver of every other vehicle shall yield the right-of-way and shall immediately drive to the right-hand edge or curb of the highway, clear of any intersection, and thereupon shall stop and remain stopped until the authorized emergency vehicle has passed."* This law exists so that emergency responders can arrive swiftly to emergency calls for service.

Several locations within the City of Cupertino currently present conditions where, during peak commute hours, traffic congestion prevents motorists from complying with this legal requirement. In these areas, the installation of cement barriers or raised curbs designed to protect bicycle lanes leaves drivers with **no physical space to yield to the right**, as required by law.

In some segments—such as Stevens Creek Boulevard east of Wolfe Road—there is a raised island that prevents vehicles from moving right. In other areas, such as McClellan Road, there is **no two-way left-turn lane**, making it impossible for an emergency vehicle to pass on the left. Department policy requires emergency vehicles operating with lights and sirens to pass on the left whenever feasible. When both sides are obstructed, an impasse is created, resulting in confusion for motorists and delayed response times for emergency personnel.

In these situations, emergency responders often must bypass the main arterial altogether and divert through residential neighborhoods to reach their destination. While veteran deputies familiar with the area can navigate these alternate routes efficiently, newer deputies—who rely more heavily on GPS—may experience additional delays, potentially impacting response times during critical incidents.

**From:** [Rhoda Fry](#)  
**To:** [Public Comments](#)  
**Cc:** [City Council](#)  
**Subject:** February 19 2026 City Council Agenda Item #9  
**Date:** Tuesday, February 17, 2026 4:25:21 PM

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**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.

Dear City Council,

Regarding February 19 2026 City Council Agenda Item #9.

I am concerned about the continued erosion of public parking in favor of bike paths.

We need to find a way to satisfy both needs.

Since installation of the bike path near Lawson school, which resulted in an avoidable loss of parking, neighboring streets have become very congested with on-street parking and there are more people speeding through the neighborhoods because of the dearth of parking near the school.

In order to protect public safety and quality of life, please retain on-street parking when designing new bike paths.

Regards,  
Rhoda Fry

**From:** [Peggy Griffin](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2026-02-19 City Council Meeting-ITEM 9 Study session ATP Update  
**Date:** Wednesday, February 18, 2026 8:22:58 PM

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PLEASE INCLUDE THIS EMAIL AS PART OF WRITTEN COMMUNICATIONS FOR THE 2-19-2026 CITY COUNCIL MEETING, AGENDA ITEM #9-ATP.

Dear Mayor Moore, Vice Mayor Chao, Councilmembers and Staff,

I am very concerned at the resulting project rankings for the ATP due to the scoring of the Project Prioritization Matrix. When I looked at the highest priority work it emphasizes routes that I would consider some of the safer routes compared to those that were ignored. BOTH the Planning Commission and the Bike/Pedestrian Commission along with those who spoke in public comments are all in agreement – the scoring of the project rankings needs to be adjusted to prioritize the more dangerous intersections in Cupertino, where there has been death, injuries and collisions.

REQUESTS: Please reassess the scoring matrix to

**1. INCREASE the emphasis/scoring for areas where there are injuries, deaths and collisions.**

- a. The priority should be where people have been killed, injured or there have been accidents!
- b. EXAMPLE OF UNDESIRE POINT RESULTS...the highest priority project is the intersection of Lazaneo Dr (near the Donut Wheel) and De Anza Blvd
  - i. 90 points = Intersection of De Anza Blvd and Lazaneo
  - ii. 60 points = intersection of De Anza Blvd and Homestead Rd
    1. This is by far a more dangerous intersection for everyone (pedestrians, bikes and vehicles)! Vehicles running the red lights don't just run the light, they increase their speeds to run the light. I have seen as many as 5 cars run the light AFTER it turns red. If pedestrians, cyclists and other vehicles don't see them they risk injury or death...and yet it's #60 on this list!

**1. REDUCE the priority on Safe Routes to School routes and give more priority to the Vision Zero High Injury locations and areas.**

- a. In "Attachment A – Revised Prioritization Criteria"

- i. Table 1, Safety gives the max of 20 points if it's ANYWHERE ALONG the SR2S route. Please note that these routes are selected because the ARE the safer routes already!
- ii. Table 2, Safety gives the max of 20 points if it's ANYWHERE ALONG the SR2S route.
- iii. Table 3, Safety gives the max of 20 points if it's ANYWHERE ALONG the S42S route.
  - 1. NOTE in this Table 3 that parks, the library, senior center/facilities, rec centers, shopping get a max of 5 points!
- iv. Table 4, Safety, again gives the max of 20 points if it is along 75% of the SR2S route
  - 1. NOTE under Safety that Collision History can only get a max of 10 points!

**2. INCREASE POINTS for parks, the library, senior center/facilities, rec centers, shopping centers.**

**3. INCREASE the emphasis on the use of technology**

- a. Our Sheriff's contract is increasing, we can't afford to add deputies but technology can help increase safety. Please use it!

**REQUEST:**

- 1. **LOSS OF PARKING** - There are quite a few projects on this list that anyone driving down the specified road would know the impact without having to spend 30% of the design cost for a consultant to tell you. Once a project is started, even 30%, it is not stopped. It's basically a done-deal.
  - a. With our city's growing density and the state's requirement to NO REQUIRE parking for housing projects, the elimination of existing parking becomes more significant.
  - b. **ADD POINT DEDUCTIONS for loss of parking.**
- 2. **PUBLIC NOTICE – for potential projects**, NO WHERE is there a mention that the residents/businesses will be notified BEFORE a decision is made.
  - a. As the Planning Commissioner Rao pointed out, at the public events, no mention of potential loss of parking was mentioned.
- 3. **SEPARATED BIKE LANES** – please use sparingly for high speed corridors (35-40 mph or more) with multiple lanes, not 2-lane roads.

Sincerely,  
Peggy Griffin

**From:** [Deepa Mahendraker](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Please Reject All Bike Lane Projects in the ATP  
**Date:** Thursday, February 19, 2026 9:07:23 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.

Dear City Clerk,

Please include the below in written comments for the upcoming city council meeting.

Subject: Please Reject All Bike Lane Projects in the ATP

Dear Mayor Moore, Vice Mayor Chao, and Cupertino City Council,

I am a Cupertino resident and auto user who supports safe walking and commutes. I strongly oppose every bike lane project shown in purple in the Active Transportation Plan and respectfully ask that you cancel all proposed bike lane projects.

These include:

- Homestead Road buffered and separated bike lanes
- Stevens Creek Boulevard separated bike lanes
- Stelling Road buffered and separated bikeways
- Blaney Avenue buffered bikeways
- Bollinger Road buffered bikeways
- Foothill Boulevard separated bikeways
- Wolfe Road separated bikeways
- Bonny Avenue bike lanes
- Pepper Tree Lane bike lanes
- Related school-access segments on Mary Avenue and McClellan Road

Please reject all of these purple row identified bike lane projects.

On-street parking is essential for families. Many homes rely on curb space for elders, caregivers, visiting relatives, and everyday guests. Removing parking on residential segments of Homestead, Blaney, Bollinger, Stelling, Bonny, Pepper Tree, Mary, and McClellan will push cars into smaller side streets and make daily life harder for residents.

Emergency response will suffer. Concrete-separated and tightly buffered lanes on Stevens Creek, Stelling, Foothill, Wolfe, and Homestead leave no room for drivers to move over. With a hard curb on one side and a center line on the other, cars cannot clear a path. Fire trucks and ambulances will be forced to inch through traffic instead of getting a clear lane in seconds.

This is especially risky because we are adding more high-need destinations. Senior assisted-living and memory-care units at Westport (Mary and Stevens Creek) and the proposed medical clinic at De Anza College will increase emergency calls on Stevens Creek, Stelling, Pepper Tree, Mary, McClellan, and nearby streets. At the same time, hard-separated bike lanes would make yielding to those emergency vehicles more difficult.

School access will be damaged. At Faria Elementary, more than 600 families use Bonny Avenue and Pepper Tree Lane twice every day. Parents park on these streets and walk their children in. If you remove street parking on Bonny and Pepper Tree for bike lanes, the current drop-off system breaks. Queues will

back up onto arterials, and more children will be forced to cross busy streets from farther away.

Similar problems will appear near schools that depend on Stelling, Homestead, Blaney, Bollinger, Mary, and McClellan for drop-off and pick-up.

The City's own framework emphasizes data, cost-effectiveness, and negative scoring when removing many parking spaces or travel lanes. Yet the purple projects are exactly where those impacts will be largest. Advancing them without clear block-by-block information on parking loss, congestion, and emergency response would go against those principles.

I respectfully ask you to:

- Remove all purple-listed bike lane projects on Homestead Road, Stevens Creek Boulevard, Stelling Road, Blaney Avenue, Bollinger Road, Foothill Boulevard, Wolfe Road, Bonny Avenue, Pepper Tree Lane, Mary Avenue, McClellan Road, and other affected streets from the ATP; and
- Focus instead on technology-based measures that do not remove on-street parking or emergency-vehicle maneuvering room.

We all want fewer crashes and safer streets. We should not achieve that by making it harder for families to live, gather, and reach medical care, or for emergency responders to reach people in time.

Please do not approve the purple row or any other bike lane projects.

Thanks,  
Deepa

**From:** [Vidya Gurikar](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** ATP projects  
**Date:** Thursday, February 19, 2026 7:56:27 PM

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**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.

I am a longtime Cupertino homeowner and daily driver. I value safe streets for everyone. But the purple-marked bike lane projects in the Active Transportation Plan will make our city less safe.

The number of motorists that use the streets far outnumber the small number of bicyclists. The ATP projects take away precious street space from motorists and make the streets unsafe for everyone.

I urge you to remove them all.

Here are the projects to reject:

- Homestead Road buffered/separated bike lanes
- Stevens Creek Blvd separated bike lanes
- Stelling Rd buffered/separated bikeways
- Blaney Ave buffered bikeways
- Bollinger Rd buffered bikeways
- Foothill Blvd separated bikeways
- Wolfe Rd separated bikeways
- Bonny Ave bike lanes
- Pepper Tree Ln bike lanes
- Mary Ave and McClellan Rd school segments

Three reasons why these projects should be rejected:

1. Emergency vehicles get blocked. Hard concrete bike lanes trap cars between barriers and center lines. No room to pull right. Fire engines and ambulances crawl through traffic. This hits hardest where we need fastest response: new Westport senior/memory care at Mary-Stevens Creek, De Anza College medical clinic, plus all our schools and neighborhoods.
2. School drop-off chaos. Faria Elementary serves 600+ kids. Parents park on Bonny and Pepper Tree, walk kids in safely. Strip that parking for bike buffers? Lines spill onto arterials. Kids dart across roads from distant spots. Same story for schools near Stelling, Homestead, Blaney, Bollinger.
3. Families lose parking. Curb space isn't optional. It's for grandparents, guests, service vans, family events. Residential stretches of Homestead, Blaney, Bollinger, Stelling, Bonny, Pepper Tree, Mary, McClellan – all lose it. Cars flood narrower streets. Congestion worsens everywhere.

Pleasr reject them now, before they lock in harm.

Please consider the following to improve the safety for everyone:

Speed cameras. Smart signals.  
Crosswalk beacons.  
Neighborhood slow streets.  
School guards.

All of the above deliver safety without sacrificing parking or blocking emergency vehicles.

Action requested:

- Delete every purple bike lane from the ATP.
- Prioritize tech, intersections, and school fixes instead.

Cupertino works because streets serve cars, bikes, peds, and emergencies equally. These projects break that balance.

Please Vote no. Reject all new bike lanes.

Sincerely,  
Shrividya Gurikar

**From:** [Mahesh Gurikar](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Cancel all purple bike lane projects in ATP  
**Date:** Thursday, February 19, 2026 7:38:51 PM

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**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.

Dear Mayor Moore, Vice Mayor Chao, and Cupertino City Council,

I am a longtime Cupertino homeowner and daily driver. I value safe streets for everyone. But the purple-marked bike lane projects in the Active Transportation Plan will make our city less safe. I urge you to remove them all.

Here are the projects to reject:

- Homestead Road buffered/separated bike lanes
- Stevens Creek Blvd separated bike lanes
- Stelling Rd buffered/separated bikeways
- Blaney Ave buffered bikeways
- Bollinger Rd buffered bikeways
- Foothill Blvd separated bikeways
- Wolfe Rd separated bikeways
- Bonny Ave bike lanes
- Pepper Tree Ln bike lanes
- Mary Ave and McClellan Rd school segments

Three clear reasons why these projects should be rejected:

1. Emergency vehicles get blocked. Hard concrete bike lanes trap cars between barriers and center lines. No room to pull right. Fire engines and ambulances crawl through traffic. This hits hardest where we need fastest response: new Westport senior/memory care at Mary-Stevens Creek, De Anza College medical clinic, plus all our schools and neighborhoods.
2. School drop-off chaos. Faria Elementary serves 600+ kids. Parents park on Bonny and Pepper Tree, walk kids in safely. Strip that parking for bike buffers? Lines spill onto arterials. Kids dart across roads from distant spots. Same story for schools near Stelling, Homestead, Blaney, Bollinger.
3. Families lose parking. Curb space isn't optional. It's for grandparents, guests, service vans, family events. Residential stretches of Homestead, Blaney, Bollinger, Stelling, Bonny, Pepper Tree, Mary, McClellan – all lose it. Cars flood narrower streets. Congestion worsens everywhere.

Please reject them now, before they lock in harm.

Better fixes exist. Speed cameras. Smart signals. Crosswalk beacons. Neighborhood slow streets. School guards. All deliver safety without killing parking or blocking fire trucks.

Action requested:

- Delete every purple bike lane from the ATP.

- Prioritize tech, intersections, and school fixes instead.

Cupertino works because streets serve cars, bikes, peds, and emergencies equally. These projects break that balance.

Please Vote no. Reject all new bike lanes.

Sincerely,  
Mahesh Gurikar

**From:** [Chirali Bhandari](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Request to Remove All Purple Bike Lane Projects from ATP  
**Date:** Thursday, February 19, 2026 6:20:27 PM

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**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.

Dear Mayor Moore, Vice Mayor Chao, and City Council,

I respectfully oppose the purple-marked bike lane projects in Attachment D. They harm parking, safety, and school access. Please remove them all.

Projects to remove:

- Homestead Rd buffered/separated lanes
- Stevens Creek Blvd separated lanes
- Stelling Rd buffered/separated
- Blaney Ave buffered
- Bollinger Rd buffered
- Foothill/Wolfe separated
- Bonny/Pepper Tree lanes
- Mary/McClellan school routes
- 

Key concerns:

- Curb parking lost for elders, guests, deliveries on residential streets.
- Emergency vehicles blocked by concrete barriers, especially with new Westport senior housing and De Anza clinic.
- Faria Elementary drop-off disrupted for 600+ kids on Bonny/Pepper Tree.

Your scoring system penalizes parking removal. These projects fail that test.

Better options: Technology corridors, crosswalks, school safety measures.

Request: Please delete all purple bike lanes from the ATP.

Thank you for prioritizing families and safety.

Sincerely,  
Chirali Bhandari

**From:** [Seema Lindskog](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#); [Cupertino City Manager's Office](#); [City Attorney's Office](#)  
**Subject:** Serious Ethics Concerns Regarding Planning Commission Chair Communications on the ATP agenda item  
**Date:** Thursday, February 19, 2026 6:09:26 PM

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**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.

Dear Mayor, Council members, and City Attorney,

I am a commissioner with the Cupertino Planning Commission but I am writing today as a resident. City Clerk, please include this email as public communication for the ATP agenda item at tonight's Council meeting.

Tracy Kosolcharoen, Chair of the Planning Commission, sent an email to the City Council on Wednesday Feb 18 2026 regarding emergency response times and protected bike lanes. The email– and how it came to be – raises serious governance and ethics concerns.

The issue raised in the email was discussed during the Planning Commission meeting of February 10, at which time Chair Kosolcharoen introduced adding a criteria to the ATP to consider emergency response times and therefore deprioritize projects for protected bike lanes on some city streets as a potential recommendation of the Planning Commission. That recommendation did not proceed, receiving two votes in favor and three votes against. As a result, the Planning Commission explicitly decided not to recommend the position expressed.

Yesterday, Chair Kosolcharoen sent an email to the City Council expressing opposition to protected bike lanes due to her concern about emergency response times. The email was sent from her official [@cupertino.gov](mailto:seema.lindskog@cupertino.gov) email address and included her official title as Chair of the Planning Commission. Although the message states that she was “writing on behalf of myself,” the context and manner of the communication raise several significant concerns related to governance, ethics, and the appropriate role of appointed officials. As a member of the Planning Commission myself, I am very mindful to ensure that if I write to council or outside agencies on my own behalf on any matter within the jurisdiction of Cupertino, to do so from my private, personal communication and to acknowledge that the communication is personal and does not reflect the position of the Commission. Council has previously and recently discussed this standard.

More concerningly, Chair Kosolcharoen also used her official email and title to reach out to a sergeant in the Sheriff's Office. Nowhere in the email did she disclaim that she was acting in her official capacity. City staff were not aware that Chair Kosolcharoen sent the email. Because the email came from her official email and with her official letterhead and title, the sheriff's office mistakenly assumed it was an official request from the City of Cupertino. In fact, the city staff knew nothing about it and it was not an official staff request. This has resulted in quite a bit of confusion and public resources being used in support of a personal question by Chair Kosolcharoen as a resident.

Specifically, these two communications appear to implicate the following principles:

1. Use of public resources for personal advocacy

Under California Government Code § 8314, public resources may not be used for personal or political purposes. Chair Kosolcharoen's use of an official city email account and signature block associated with a city-appointed role to advocate a personal policy position may constitute misuse of public resources,

regardless of disclaimers included in the message.

## 2. Improper invocation of official title following contrary commission action

Ethics guidance from the Fair Political Practices Commission (FPPC) emphasizes that public officials may not leverage the prestige or authority of their office to influence governmental decisions when acting in a personal capacity. This concern is heightened where the official's communication follows a recorded vote of the body rejecting the same position, creating a reasonable risk that the communication could be interpreted as conveying an institutional or insider view that does not, in fact, exist.

## 3. Circumvention of the commission's collective, noticed process

The Planning Commission acts only through noticed meetings and majority votes. After the Commission voted on Feb 10, 2026 not to advance the recommendation, a unilateral communication by Chair Kosolcharoen to the City Council on the same issue – using her official email address and title – undermines the integrity of the advisory process and the public's understanding of how recommendations are formed.

## 4. Undue influence

Chair Kosolcharoen's clear use of her title and official city email address, and failure to disclaim to obtain preferential responses from the Sheriff's Office created an undue influence on the Sheriff's Office (the impression that the communication was an official request of the City of Cupertino) that induced the Sheriff's Office to produce a prospectively favorable memo in response. It would be inappropriate for a Councilmember to breach the Council-Manager relationship in this fashion. It cannot be acceptable for Council's commission appointees to circumvent it either. It is for this reason that the Commissioner's Handbook and the city's Ethics Policy admonish against misuse of official titles.

## 5. Inconsistency with local ethics and commission conduct standards

While I defer to the City Attorney on specific municipal code citations, most municipal ethics codes and commission handbooks require appointed officials to:

- Clearly distinguish personal views from official positions
- Avoid use of city resources for private advocacy
- Refrain from representing themselves as speaking for the body absent formal authorization

This communication is clearly inconsistent with those standards.

I raise these concerns not to question intent, but to safeguard the integrity of the City's governance processes and ensure clear boundaries for appointed officials, particularly where the Planning Commission has already taken formal action on the issue. I respectfully request that the City Attorney review this matter and provide guidance to Chair Kosolcharoen regarding appropriate communication practices following commission votes, including the use of official email accounts, titles, and disclaimers.

Thanks,

Seema Lindskog

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"You must be the change you want to see in the world." - Mahatma Gandhi  
*This message is from my personal email account. I am only writing as myself, not as a representative or spokesperson for any other organization.*

**From:** [David Yan](#)  
**To:** [City Council](#); [Public Comments](#); [Tina Kapoor](#)  
**Subject:** Request to remove purple bike lane projects from ATP  
**Date:** Thursday, February 19, 2026 5:59:14 PM

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**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.

Councilmembers,

I am writing to oppose the purple marked bike lane projects. They harm parking, safety, and school access.

Projects to remove:

- Homestead Rd buffered/separated lanes
- Stevens Creek Blvd separated lanes
- Stelling Rd buffered/separated
- Blaney Ave buffered
- Bollinger Rd buffered
- Foothill/Wolfe separated
- Bonny/Pepper Tree lanes
- Mary/McClellan school routes

\*

Key concerns:

- Curb parking lost for elders, guests, deliveries on residential streets.
- Emergency vehicles blocked by concrete barriers, especially with new Westport senior housing and De Anza clinic.

Better options: Technology corridors, crosswalks, school safety measures.

Please delete all purple bike lanes from the ATP.

**From:** [Ram Sripathi](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Request to Remove All Purple Bike Lane Projects from ATP  
**Date:** Thursday, February 19, 2026 5:55:02 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.

Dear Mayor Moore, Vice Mayor Chao, and City Council,

I am a Cupertino senior resident. I respectfully oppose the purple-marked bike lane projects in Attachment D. They harm parking, safety, and school access. Please remove them all.

Projects to remove:

- Homestead Rd buffered/separated lanes
- Stevens Creek Blvd separated lanes
- Stelling Rd buffered/separated
- Blaney Ave buffered
- Bollinger Rd buffered
- Foothill/Wolfe separated
- Bonny/Pepper Tree lanes
- Mary/McClellan school routes

Key concerns:

- Curb parking lost for elders, guests, deliveries on residential streets.
- Emergency vehicles blocked by concrete barriers, especially with new Westport senior housing and De Anza clinic.
- Faria Elementary drop-off disrupted for 600+ kids on Bonny/Pepper Tree.

Your scoring system penalizes parking removal. These projects fail that test.

Better options: Technology corridors, crosswalks, school safety measures.

Request: Please delete all purple bike lanes from the ATP.

Thank you for prioritizing families and safety.

Sincerely,

Ram Sripathi

Cupertino resident forever

Sent from my iPhone

**From:** [Deepak Balasubramaniam](#)  
**To:** [Public Comments](#); [City Council](#); [Tina Kapoor](#)  
**Subject:** Request to Remove All Purple Bike Lane Projects from ATP  
**Date:** Thursday, February 19, 2026 5:46:44 PM

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**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.

Dear Mayor Moore, Vice Mayor Chao, and City Council,  
As a Cupertino resident who will be affected by the bike lane project proposal, I respectfully oppose the purple-marked bike lane projects in Attachment D. They harm parking, safety, and school access. Please remove them all.

The current bike lanes and safety blockades have created more distractions, dangerous situations and overall frustration for residents. Instead of solving issues through education, enforcement, upgrading pavements, and monitoring we are spending money unnecessarily on these projects that don't help the majority of residents. We will continue spending money on maintaining these projects in the future too which wastes taxpayer money.

Projects to remove:

- Homestead Rd buffered/separated lanes
- Stevens Creek Blvd separated lanes
- Stelling Rd buffered/separated
- Blaney Ave buffered
- Bollinger Rd buffered
- Foothill/Wolfe separated
- Bonny/Pepper Tree lanes
- Mary/McClellan school routes

Key concerns:

- Curb parking lost for elders, guests, deliveries on residential streets.
- Emergency vehicles blocked by concrete barriers, especially with new Westport senior housing and De Anza clinic.
- Faria Elementary drop-off disrupted for 600+ kids on Bonny/Pepper Tree.

Your scoring system penalizes parking removal. These projects fail that test.

Better options: Technology corridors, crosswalks, school safety measures.

Request: Please delete all purple bike lanes from the ATP.

Thank you for prioritizing families and safety.

Sincerely,  
Deepak

**From:** [Santosh Rao](#)  
**To:** [City Council](#); [Public Comments](#); [Tina Kapoor](#); [City Attorney's Office](#); [Kirsten Squarcia](#); [City Clerk](#)  
**Subject:** Opposition to Bike Lane projects in ATP  
**Date:** Thursday, February 19, 2026 4:14:20 PM

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**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.

Dear City Clerk,

Please include the below in written communications for the upcoming city council meeting.

[Writing on behalf of myself only as a Cupertino resident]

Subject: Opposition to Purple-Lined Bike Lane Proposals in ATP

Dear Mayor Moore, Vice Mayor Chao, and Cupertino City Council,

I am writing on behalf of myself only as a Cupertino resident.

I oppose the bike lane projects shown in purple in Attachment D of the Active Transportation Plan (ATP) agenda materials. While I support safer walking and biking, these particular bike lane proposals would create serious, localized impacts on residents' ability to live and function on affected streets, especially around on-street parking, school access, and emergency response.

Because the purple projects are not simply paint on wide arterials but often require removal of existing curbside parking and/or conversion to concrete-separated Class IV facilities, they directly conflict with the ATP goal of "**Multimodal Balance**" and with the "**Community Impacts**" language in the General Plan Mobility Element, which calls for minimizing adverse impacts and avoiding simply moving problems from one street to another.

Below I outline overarching concerns, then request that you remove each purple-identified bike lane project from the list, before adopting the ATP.

### **Overarching concerns**

- **Loss of on-street parking and guest parking:** The revised prioritization criteria explicitly recognize parking and lane removal as negative impacts, with point deductions when "five or more regularly used parking spaces are removed" or when a travel lane is eliminated over more than 10% of a project's length. The purple projects by definition are the ones most likely to require these trade-offs, and yet the plan does not provide project-by-project parking loss numbers that residents can evaluate today. Approving these facilities in concept, and deferring the true parking analysis to a later 30% design phase, pushes a large, real impact onto individual households without giving them clear information now.

- **Emergency vehicle access and lane width:** Many of the purple projects contemplate either buffered or concrete-separated Class IV bikeways on constrained corridors. Once a hard median or curb-separated bikeway is built adjacent to a narrower general-purpose lane, cars

can no longer pull right into a wide shoulder or curb lane to yield to fire trucks or ambulances. This is especially problematic on corridors that will see more emergency responder trips in the near future, such as Stevens Creek Boulevard and connecting streets serving medical and senior facilities. The ATP is asking you to pre-approve these corridors before that impact is fully analyzed.

- **One-size-fits-all separated design:** Some community members asked to “upgrade buffered bike lanes to separated bikeways” on high-speed corridors. That preference on wide arterials should not automatically drive the choice of concrete separation on constrained residential segments, where loss of curb access, driveway conflicts, school drop-off operations, and emergency operations are far more acute. The ATP should explicitly distinguish where full separation is essential (e.g., high-speed, multi-lane arterials) versus where lower-speed neighborhood streets can safely be served with shared or advisory treatments that preserve parking and curb flexibility.

- **Data-first policy conflicts:** The revised prioritization framework emphasizes objective metrics, removal of “Fairness” as a subjective criterion, and additional negative scoring for projects that impact arterials or remove parking and lanes. Yet the purple corridors are being advanced as network “must-haves” without the same level of quantitative balancing for neighborhood and school impacts, especially emergency response and daily school circulation.

### **New development and emergency response impacts**

Several near-term projects will significantly increase emergency responder activity along Stevens Creek Boulevard and adjacent streets:

- The planned **Westport** development at Mary Avenue and Stevens Creek Boulevard, which includes more than 130 assisted-living units and 36 memory-care units, will generate frequent ambulance and fire responses due to the frailty of its residents.
- The proposed 25,000-square-foot medical clinic facility at **DeAnza College** Parking Lot B will add another high-intensity medical destination, increasing emergency calls and patient transport along Stevens Creek, Stelling, Mary, Pepper Tree Lane, McClellan Road, and the surrounding network.

These facilities will rely on rapid access along exactly the streets where concrete-separated bike lanes are being proposed in purple. When general-purpose lanes are narrowed and a rigid curb or median separates traffic from the bikeway, drivers can no longer swing into an extra-wide curb lane or shoulder to create space for emergency vehicles. Instead, traffic often becomes “trapped” between the separation and the centerline, forcing fire trucks and ambulances to thread slowly through the middle of the lane, adding seconds or minutes to response times when every second matters.

Designing these corridors with unforgiving concrete separation, at the same time we are adding high-need medical and senior uses, is an avoidable conflict. The ATP should explicitly recognize these planned uses and direct that on Stevens Creek Boulevard, Stelling Road, Mary Avenue, Pepper Tree Lane, McClellan Road, and nearby connections, emergency access and yield-space remain a hard constraint on bikeway design.

### **School access and Faria Elementary (Bonny Avenue and Pepper Tree Lane)**

Two of the purple-proposed bike facilities are on Bonny Avenue and Pepper Tree Lane, which directly serve Faria Elementary. Over 600 families drive on these roads twice a day for school drop-off and pick-up.

Parents rely on exactly this curb space to:

- Queue vehicles safely in an organized fashion.
- Park on Bonny and Pepper Tree and then walk the last segment with their children into campus.

Removing street parking on Bonny Avenue and Pepper Tree Lane to meet buffer or separation width requirements would fundamentally disrupt this daily operation for roughly 600 students.

It would:

- Force parents into longer, more chaotic queues on already-congested arterials.
- Push parking and loading activity deeper into adjacent residential side streets that are not designed for this intensity.
- Increase the number of children crossing uncontrolled or mid-block locations as families hunt for replacement parking further away from school.

A plan that claims to prioritize Safe Routes to School cannot simultaneously remove the very curb space parents use to stage and walk the “last stretch” to Faria. Any purple bikeway concept on Bonny and Pepper Tree should be removed from the ATP and replaced with a school-specific circulation and safety plan that preserves on-street parking and focuses on speed management, crosswalk upgrades, and crossing-guard support rather than lane and parking removal.

### **Other school drop-off and pick-up impacts**

The same pattern of conflict appears along several other purple corridors:

- Homestead Road: Serves multiple school communities; parking and wide lanes along some segments are used informally for staging and drop-off. Converting these segments to concrete-separated bikeways will constrain both school circulation and emergency yield space.
- Stelling Road: Carries heavy school-hour traffic and walking/biking to nearby schools. Removing curbside parking and hard-separating the bikeway would reduce safe, legal short-term parking near schools and limit options for parents to pull over when children need assistance.
- Blaney Avenue: Used by families accessing nearby schools and the Blaney/Stevens Creek intersection. Wider buffered lanes at the expense of residential curb parking would make it harder for parents to find safe, proximate parking and walk children to school.
- Bollinger Road, Mary Avenue, McClellan Road, and connecting residential streets: All function as part of the practical school access network, even if not directly fronting school property. Removing parking on these streets as part of purple bike lane projects will displace school-hour parking and loading into other blocks and complicate traffic patterns around schools.

The ATP already emphasizes the importance of Suggested Routes to School, Safe Routes to

School programming, and intersection-level safety measures. It would be far more consistent with those goals to prioritize intersection improvements, traffic calming, and crossing safety, rather than corridor-wide parking and lane removals on the very streets that families depend on for daily school access.

Corridor-by-corridor opposition (summary)

For the reasons above, I oppose the purple-designated bike lane projects that would remove parking or narrow emergency-critical lanes on:

- Homestead Road (buffered and separated bike lanes)
- Stevens Creek Boulevard (separated bike lanes, especially near Westport and De Anza College)
- Stelling Road (buffered and separated bikeways)
- Blaney Avenue (buffered bikeways on residential segments)
- Bollinger Road (buffered bikeways)
- Foothill Boulevard and Wolfe Road (separated bikeways on constrained sections)
- Bonny Avenue and Pepper Tree Lane (bike lanes affecting Faria Elementary access)

On each of these corridors, I ask that Council explicitly remove the purple row identified bike lane projects from the ATP.

### **Requests to Council**

In light of the above, I respectfully request that the Cupertino City Council:

1. Direct staff to **remove all purple-designated bike lane segments from the ATP** including but not limited to the segments of Stevens Creek Boulevard, Homestead Road, Stelling Road, Blaney Avenue, Bollinger Road, Foothill Boulevard, Wolfe Road, Bonny Avenue, Pepper Tree Lane, Mary Avenue, McClellan Road, and nearby school-access streets.
2. Explicitly account for the upcoming Westport senior assisted-living and memory-care project and the planned De Anza College medical clinic in any design decisions for Stevens Creek Boulevard and its feeder streets, treating emergency response and yield-space as non-negotiable design constraints.
3. Protect school access by prohibiting ATP projects that remove curbside parking or materially disrupt drop-off/pick-up operations around Faria Elementary and other schools, unless and until a replacement circulation and parking plan is designed with parents, school staff, and public safety and is approved in a separate, transparent process.
4. Where safety concerns are real, prioritize technology-based safety improvements only rather than corridor-wide parking and lane removals.

This approach would allow Cupertino to pursue genuine safety improvements in line with its Vision Zero and Climate Action Plan goals, while still honoring the daily realities of residents who need curbside access for their families, caregivers, and guests and who depend on clear, unobstructed paths for emergency response, particularly as the City adds new senior and medical facilities that will increase the volume and urgency of emergency medical calls. Thank you for considering this perspective as you refine the ATP.

Sincerely,  
San Rao (writing on behalf of myself only as a Cupertino resident)

CC 3-3-2026

#8

Vacating a Portion of  
Public Right-of-Way on  
Mary Avenue

Written Communications

**From:** [Mark Zavislak](#)  
**To:** [Public Comments](#)  
**Date:** Monday, March 2, 2026 3:10:13 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.

Dear City Council Members,

In order to pass the resolution vacating a portion of Mary Avenue (APN 326-27-053), you must make a finding that such portion is "unnecessary" for present use as well as prospective use. However, as a resident of the neighborhood, I drive over that portion of the road several times a day, as do countless other individuals. Cars are literally driving over Parcel 1 as you consider this resolution. While long-term prospective use is under vigorous debate, present use is not. The proposed portion to be vacated is currently very much necessary for present use as an active, integrated part of the traffic network whose removal cannot be safely evaluated on paper.

Until such time as the street is reconfigured to entirely remove that portion of Mary Avenue from active public use, you have no choice but to vote no on this resolution.

The resulting impacts after reconfiguration will be easier to understand, and all residents and other road users will be fully informed about whether to make the change permanent.

Sincerely,  
Mark

**From:** [Walter Li](#)  
**To:** [City Council](#); [Tina Kapoor](#); [City Clerk](#); [Luke Connolly](#); [Benjamin Fu](#); [Public Comments](#)  
**Cc:** [Lina](#); [Shaun Fong](#); [Brian Avery](#); [Roberta Murai](#)  
**Subject:** Strong Objection to the Vacation of Mary Ave  
**Date:** Sunday, February 22, 2026 2:47:32 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.

Dear City Clerk,

Please include the below in written communications for the upcoming city council meeting.

As a long time Cupertino resident (33+ years), I am very surprised by the poor attitude, misguided actions and irresponsiveness of Cupertino City towards us, the residents who elected them. Despite

... showing to the City Council that it has violated various city codes and state laws with regards to vacation of Mary Ave. Right-of-Way, you insist on moving forward. You should stop immediately and think about the consequences of your actions.

... hearing from ex-mayor Liang Chao and council member Ray Wang in recent council meeting, publicly stating that they are very disappointed with their own city staff for insisting on following the current path of vacation with ROW, and not providing alternatives.

... Cupertino so far, has not provided and shown to the residents of Cupertino any evidence of why they do not have to adhere to ALL points of the City General Plan. Following some parts of the General Plan is Not the same as following the General Plan.

... Cupertino so far, has not provided clear and transparent evidence why ROW on Mary Ave is not needed by residents, and can be vacated.

... Mary Ave Villas Project as proposed includes less parking spaces than legally required. Low income and IDD residents have to live on housing built on grounds contaminated by lead and chemicals, as well as living on housing with reduced offset spacing than legally required from freeways.

I therefore urge the Council to not go through with the vacation process. Work with the residents, not non city-associated organizations. It is us, Cupertino residents who elect and provide payroll to you.

Sincerely

Walter Li  
408-781-7894

**From:** [Santosh Rao](#)  
**To:** [City Council](#); [Floy Andrews](#); [City Attorney's Office](#); [Tina Kapoor](#); [Luke Connolly](#); [City Clerk](#); [Public Comments](#); [Chad Mosley](#)  
**Subject:** Informational Memo Clarifying Procedural Sequence in Right-of-Way Vacation and Surplus Land Processes  
**Date:** Thursday, February 26, 2026 7:48:53 AM  
**Attachments:** [ontario-sla-nov-061825.pdf](#)

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**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.

Dear City Clerk,

Please include the below in written communications for items not on the agenda for the upcoming State of the City council meeting today. In addition please include as written communications for the next upcoming city council meeting.

[Writing on behalf of myself only as Cupertino resident]

Subject: Request for Informational Memo Clarifying Procedural Sequence in Right-of-Way Vacation and Surplus Land Processes

Dear Mayor Moore, City Manager Kapoor, Attorney Andrews, and Honorable Cupertino City Council Members,

I am writing to respectfully request that the City publish an informational memorandum clarifying the City's interpretation and procedural rationale regarding the sequencing of steps involved in actions such as: vacation of public right-of-way, deeming of land as surplus, notification to the Department of Housing and Community Development (HCD), issuance of an RFP, bid evaluation, selection of a proposal, or determination that a property is surplus-exempt.

Specifically, I request that the memo address why the City believes it is not required under state or local law to maintain sequentiality in these steps, and that it describe the criteria used to determine surplus exemption and related procedural pathways.

In addition, I would appreciate clarification on how the City Council determined and signed findings of General Plan conformance prior to the Planning Commission conducting its own hearing on that matter. It would be helpful for residents and stakeholders to understand the legal and procedural basis for Council's authority to certify such conformance before the Commission's review occurred.

To avoid future misunderstandings and ensure transparency, I ask that this informational memo include a detailed explanation and rebuttal of any suggestions of procedural noncompliance with state-defined sequential steps.

Note that deeming land as exempt surplus is a very narrowly defined qualification criteria. Please publish the state defined qualification criteria for exempt surplus and why the city believes it qualifies to deem this land as exempt surplus. Further single party negotiation must not occur prior to deeming land as exempt surplus. A RFP must not occur on public right of way land before the city has heard evidence that the land can be vacated and heard from the

community. Running a RFP prior to these steps indicated pre-biased positions by the city and lack of a fair adjudication of the process to vacate, process to deem surplus, process to deem exempt surplus as the city already ran a RFP and enacted next steps with a single party. Council is expected to take no positions ahead of council hearings whereas the actions of this RFP process indicate council assumes it is already acceptable to vacate land, deem surplus or exempt surplus, assumes no interest from other HCD notification list parties and gives preference unduly to a single party prior to any of those steps. If the RFP has a single bidder the RFP must be rerun.

If the City identifies any curative measures that may be appropriate, I urge that they be implemented proactively to maintain compliance and public confidence.

Given the City's fiscal constraints, prudence would suggest minimizing exposure to potential litigation costs through full procedural transparency and adherence to defined statutory processes. I believe that publishing such a memo will help reaffirm the public's trust in the City's governance and procedural integrity.

Thank you for your attention to this request and for your continued service to the community. I look forward to your response and the City's informational clarification on these important matters.

Sincerely,  
San Rao (writing on behalf of myself only as a Cupertino resident)

Begin forwarded message:

On Tuesday, December 2, 2025, 11:46 PM, Santosh Rao <santo\_a\_rao@yahoo.com> wrote:

[Writing on behalf of myself only as a Cupertino resident, taxpayer, voter]

Dear City Clerk,

Please include this letter in written communications for agenda item 12 for 12/2/25 council meeting and for the next upcoming council meeting.

Subject: Request to Halt Negotiations or Disposition until SLA Process Is Completed in Accordance with 2025 HCD Precedent

Dear Mayor Chao, Vice-Mayor Moore, Council Members, Attorney Andrews, CAO, CM Kapoor,

Please note the precedent in the below and attached HCD notice of violation to the city of Ontario dated June 18 2025. The precedent directly applies to the actions in progress currently in the city of Cupertino attempting to move forward with appointing a negotiator. take steps towards disposition and engaging in exclusive negotiations with a pre-determined buyer without first completing the SLA process and required notices and noticing period.

I write to respectfully urge the Council to **pause any efforts to approve a negotiator, enter into negotiation, or take any steps toward disposition or sale of public land** until the city has fully satisfied the notice, findings, and waiting-period requirements of the Surplus Land Act (SLA), including providing required documentation to HCD and observing the legally mandated notice/negotiation windows.

### **Background — Relevant Legal Obligation**

Under the SLA (Gov. Code §§ 54220–54234), a local agency must first declare property “surplus” (not needed for public use), adopt a resolution to that effect, and then issue a formal Notice of Availability (NOA) to: (1) HCD; (2) any local public entities within the jurisdiction; and (3) developers on HCD’s list of those interested in surplus public land for affordable housing. [California Housing Dept.+2Banning, CA+2](#) After that NOA is issued, the city must allow a minimum statutory waiting period (60 days for responses) and, if any eligible entities respond, a mandated 90-day good-faith negotiation period before disposing of the land. [Banning, CA+2California Housing Dept.+2](#)

Furthermore, under recent amendments to the SLA (2024), if a local agency receives a Notice of Violation (NOV) from HCD for noncompliance, the agency is required to hold an open public meeting to evaluate the NOV — and the agency may not proceed with any disposal until that process is complete. [Allen Matkins - Allen Matkins+2California Housing Dept.+2](#)

### **Precedent — HCD’s 2025 Finding Against City of Ontario**

In a September 22, 2025 Follow-Up Notice of Violation addressed to Ontario’s City Manager, HCD found that Ontario had violated the SLA by disposing of a 2.368-acre parcel (APN 0218-111-12-0000) without first declaring the land surplus and without issuing the required notices. [California Housing Dept.+1](#)

**HCD concluded that the disposition and the fact that the City had “exclusively negotiated with the Developer” prior to complying with SLA requirements—constituted a clear SLA violation.** [California Housing Dept.+1](#)

HCD also invoked applicable statutory penalties under Gov. Code § 54230.5 for the first-time violation (30 % of the disposition value) and warned that future violations would trigger even higher penalties (50 % of the disposition value). [California Housing Dept.+1](#)

The Ontario case demonstrates that **HCD is actively enforcing SLA compliance** including penalizing cities that attempt to circumvent the required surplus-land process by negotiating in advance with a favored developer, or disposing of land without the required surplus declaration and notice.

### **Risk of Noncompliance and Fiscal/Legal Consequences**

Given the recent Ontario finding:

- Proceeding with negotiations, designating a "negotiator," or otherwise taking substantive steps toward disposition before completing the full SLA process would risk very likely violation of state law.

- Noncompliance may expose the City to substantial financial penalties (per SLA enforcement provisions) and reputational risk.
- Such action may also frustrate the primary public-purpose objective of the SLA: to give first priority to affordable-housing proponents or other public entities, rather than to private developers selected in advance.

### **Pause and Complete SLA Process Before Any Further Action**

In light of the above, I respectfully request that the Council adopt a temporary moratorium on any of the following steps until the SLA-required process has been fully observed and documented, and until any required findings and waiting periods have been completed:

- Appointment of a negotiator or negotiation team
- Entering into or approving formal negotiations with any private developer
- Any pre-disposition activity regarding sale or lease of the land (including drafting term sheets, letters of intent, exclusivity agreements, or similar)
- Any vote toward approval of disposition, transfer, or sale of the land

At minimum, the city should first:

1. Declare the parcel “surplus” or exempt surplus after written findings with evidence via a formal Council resolution;
2. Issue a NOA to HCD, local public entities, and certified developers per SLA requirements;
3. Observe the 60-day notice period, await any responses, and if responses are received allow full 90-day good-faith negotiations;
4. Submit documentation of the notice and negotiation process, and any recorded restrictions or covenants, to HCD for review per SLA guidelines. [California Housing Dept.+2Banning, CA+2](#)

### **Conclusion**

The state’s recent 2025 decision in the Ontario case makes clear that SLA compliance is no longer optional, and that state enforcement can and will penalize cities that attempt to circumvent the process.

Given the potential legal and financial risks, and the public’s interest in transparent, fair, and affordable-housing–oriented land disposition, I strongly urge the Council to suspend any further steps toward negotiation or sale until full compliance with SLA has been completed and documented.

Thank you for your consideration of this request.

Respectfully,

San Rao (writing on behalf of myself only as a Cupertino resident, taxpayer,  
voter)

**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](http://www.hcd.ca.gov)



June 18, 2025

Scott Ochoa, City Manager  
City of Ontario  
303 E. B Street  
Ontario, CA 91764

SENT VIA EMAIL TO: [sochoa@ontarioca.gov](mailto:sochoa@ontarioca.gov)

Dear Scott Ochoa:

**RE: City of Ontario's Surplus Land Disposition of a 2.368-Acre Portion of the Property Located at the Southeast Corner of East Riverside Drive and Ontario Avenue (APN 0218-111-12-0000) – Notice of Violation**

The California Department of Housing and Community Development (HCD) hereby issues this Notice of Violation, pursuant to Government Code sections 54230.5, 65585, and 65585.1, to the City of Ontario (City) regarding the City's disposition of a 2.368-acre portion of the property located at the southeast corner of East Riverside Drive and Ontario Avenue in the City of Ontario, with Assessor's Parcel Number (APN) 0218-111-12-0000 (Property).

Pursuant to Government Code section 65585.1, subdivision (a), HCD must notify a local agency if it finds that the local agency is in violation of the Surplus Land Act (SLA), and HCD may notify the California Office of the Attorney General that a local agency is in violation of the SLA.

The City has 60 days from receipt of this letter to cure or correct the violations noted herein.<sup>1</sup> If the City does not cure or correct all such violations by August 18, 2025, a penalty will be assessed to the City equal to 30 percent of the disposition value.<sup>2</sup> In the event of a sale, the disposition value is the greater of the final sale price of the land or the fair market value of the surplus land at the time of the sale.<sup>3</sup> HCD may also pursue additional remedies authorized under Government Code sections 65585 and 65585.1.

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<sup>1</sup> Gov. Code, § 54230.5, subd. (a)(1).

<sup>2</sup> *Ibid.*

<sup>3</sup> Gov. Code, § 54230.5, subd. (a)(2).

## **Background**

HCD initially received a Notice of Alleged Violation (enclosed) pursuant to Section 502 of the SLA Guidelines on March 14, 2025, from UNITE HERE Local 11 (Local 11) regarding the City's approval of a Disposition and Development Agreement (DDA) for sale of the Property. Local 11 provided prior correspondence, including a letter to the City requesting information on how the action complied with the SLA, prior to the City Council taking action to authorize the sale and disposition of the Property at a public meeting on February 18, 2025.

On March 21, 2025, HCD requested a meeting with the City to discuss the alleged violations. On April 8, 2025, HCD met with City staff, who asserted that disposition was undertaken pursuant to the Economic Opportunity Law.<sup>4</sup> The City is also in the process of developing this Property in addition to 190 acres of adjacent City-owned lands for the Ontario Regional Sports Complex. The City shared during the conversation that close of escrow and disposition of the Property to Ontario Ranch Hotels, LLC (Developer) was completed on April 4, 2025.

On April 10, 2025, the City provided HCD documentation regarding the disposition, which includes the City Council's action to approve the DDA between the City and the Developer at a public meeting on February 18, 2025. The documentation includes a resolution describing the City's "exclusive negotiations" with the Developer for sale and development of the Property as a "luxury 5-star hotel" with 227 guest rooms. The terms and conditions of the DDA also require the Developer to convey to the City approximately 25,489 square feet area of easements for right-of-way and temporary construction purposes. While the documentation included a summary report of written findings claiming that the disposition met the statutory requirements of the Economic Opportunity Law, no such findings or statements were made with respect to meeting the statutory requirements of the SLA. The City further confirmed details of the disposition during a follow-up conversation with HCD on May 5, 2025 and by providing the close of escrow documentation on May 13, 2025. The additional documentation notes an approximate net payment of \$979,219.51 to the City, based upon the easements value and closing costs being credited against the Property's fair market value.

## **Analysis**

Based on a review and analysis of the City's documentation and subsequent disposition of the Property, HCD finds that the City violated the SLA, as discussed below.

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<sup>4</sup> Gov. Code, § 52201.

The City Did Not Make the Land Available Pursuant to the SLA

Government Code section 54221, subdivision (b)(1) states:

**“‘Surplus land’ means land owned in fee simple by any local agency** for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use. **Land shall be declared either ‘surplus land’ or ‘exempt surplus land,’ as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency’s policies or procedures.** A local agency, on an annual basis, may declare multiple parcels as ‘surplus land’ or ‘exempt surplus land.’” (Emphasis added.)

In addition, Government Code section 54222 requires the following:

**“[A]ny local agency disposing of surplus land... shall send, before disposing of that property or participating in negotiations to dispose of that property with a prospective transferee, a written notice of availability of the property** to all of the following: (a)(1) **A written notice of availability for developing low- and moderate-income housing** shall be sent to any local public entity, as defined in Section 50079 of the Health and Safety Code, that has jurisdiction where the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, that have notified the Department of Housing and Community Development of their interest in surplus land shall be sent a notice of availability for the purpose of developing low- and moderate-income housing. All notices shall be sent by electronic mail, or by certified mail, and shall include the location and a description of the property.” (Emphasis added.)

Government Code section 54230.5, subdivision (b)(1) further states:

**“Before agreeing to terms for the disposition of surplus land, a local agency shall provide to the Department of Housing and Community Development a description of the notices of availability sent, and negotiations conducted with any responding entities, in regard to the disposal of the parcel of surplus land and a copy of any restrictions to be recorded against the property** pursuant to Section 54222.5, 54233, or 54233.5, whichever is applicable, in a form prescribed by the Department of Housing and Community Development.” (Emphasis added.)

The City’s approval of a DDA between the City and the Developer for sale and development of the Property as a hotel on February 18, 2025, and close of escrow on

April 4, 2025, qualify as a disposition of surplus land under the SLA. When the Property qualifies as surplus land, then the City must send notices of availability (NOA) for developing low- and moderate-income housing to all entities required under Government Code section 54222 prior to disposing of or participating in negotiations to dispose of the Property. The City must also provide to HCD a description of the NOAs sent and negotiations conducted with any of the responding entities above, in addition to a copy of any restrictions to be recorded against the property, pursuant to the above requirements. Similarly, the SLA also requires that exempt surplus land determinations be supported by written findings and documentation. All local agency reporting requirements for surplus land and exempt surplus land are described further in Section 400 of the SLA Guidelines.<sup>5</sup>

However, the City has not provided any such documentation to HCD regarding this transaction prior to exclusively negotiating with the Developer, entering into a subsequent DDA with the Developer, and closing escrow. The documentation provided to date, including the public meeting held on February 18, 2025, makes no reference of the Property as surplus land or exempt surplus land and does not include any written findings pursuant to the SLA. Thus, the City has not complied with these key provisions of the SLA prior to disposing of the Property.

#### Economic Opportunity Law Does Not Relieve the City of SLA Requirements

During the meeting on April 8, 2025, the City claimed that it met statutory requirements by disposing of the Property under the Economic Opportunity Law, or Government Code section 52201. The City's documentation includes written findings, stating that the disposition will "(i) [strengthen] the City's land use and social structure, (ii) [alleviate] economic and physical blight on the Property and in the surrounding community, (iii) generate property tax revenue, (iv) produce new jobs, (v) stimulate economic vitality and (vi) continue to inspire additional investment within the Ontario Sports Empire."

The Economic Opportunity Law, in relevant part, states that "[a] city, county, or city and county **may** sell or lease property to create an economic opportunity."<sup>6</sup> (Emphasis added.) The use of the word "may," instead of "shall," indicates that the City is not required to utilize the Economic Opportunity statutes, whereas the SLA includes mandatory requirements for local agencies, stating: "Land **shall** be declared either 'surplus land' or 'exempt surplus land,' as supported by written findings, before a local

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<sup>5</sup> Updated Surplus Land Act Guidelines available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/final-updated-surplus-land-act-guidelines-2024.pdf>.

<sup>6</sup> Gov. Code, § 52201, subd. (a)(1).

agency may take any action to dispose of it consistent with an agency's policies or procedures."<sup>7</sup> (Emphasis added).

Notably, the City was aware of HCD's position on this precise issue before finalizing the disposition of the Property. Local 11's March 14, 2025 Notice of Alleged Violation, which was provided to the City, references a similar letter that HCD issued to the City of Moreno Valley.<sup>8</sup> As Local 11 points out, "HCD rejected the claims that the SLA conflicts with the Economic Opportunity Law...." HCD reached out to the City just a week later, on March 21, 2025, but the City disposed of the Property on April 4, 2025, just days before meeting with HCD on April 8, 2025. The City should have paused and consulted with HCD upon receipt of Local 11's letter and again when HCD reached out to schedule a meeting. Instead, the City moved forward with the disposition.

Further, HCD is not aware of, nor has the City provided, any statutory or decisional authorities standing for the proposition that disposition of the Property under Economic Opportunity Law excuses or exempts the City from complying with SLA requirements. As such, HCD finds that disposition of the Property and any surplus land under the Economic Opportunity Law is in violation of the SLA.

### **Conclusion and Next Steps**

Based on the information provided, HCD finds that the City's disposition of the Property is in violation of the SLA because the City failed to make the surplus land available for affordable housing, and the City has not provided any documentation demonstrating compliance with, or exemption from, the SLA before disposing of the Property. The City further violated the SLA by exclusively negotiating with the Developer and by subsequently moving forward with a disposition and sale of the Property.

As discussed above, under Government Code section 542320.5, subdivision (a)(1), the City has 60 days following receipt of this letter, or August 18, 2025, to cure or correct the violations noted herein, or it will be assessed a penalty equal to 30 percent of the disposition value. The City may have few options to cure or correct the violations, and HCD invites the City to discuss further. Pursuant to Section 502 of the SLA Guidelines, HCD has informed Local 11 of the violations noted herein.

Furthermore, should the City proceed to dispose of additional surplus land or exempt surplus land that would constitute subsequent violations of the SLA, including under the Economic Opportunity Law, the City will be assessed a penalty equal to 50 percent of the applicable disposition values.<sup>9</sup>

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<sup>7</sup> Gov. Code, § 54221, subd. (b)(1).

<sup>8</sup> City of Moreno Valley Notice of Violation available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/moreno-valley-nov-101823.pdf>.

<sup>9</sup> Gov. Code, § 54230.5, subd. (a)(1).

Scott Ochoa, City Manager  
Page 6

If the City or its representatives have any questions or need additional technical assistance regarding the SLA, please contact Linda Ly, Senior Housing Policy Specialist, at [Linda.Ly@hcd.ca.gov](mailto:Linda.Ly@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Zisser", with a long horizontal stroke extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability

Enclosure

cc: Jennifer McLain Hiramoto, Executive Director, Economic Development Agency  
Rudy Zeledon, Executive Director, Community Development Agency  
Ruben Duran, City Attorney, Best Best & Krieger LLP

# **LAW OFFICE OF JORDAN R. SISSON**

LAND USE, ENVIRONMENTAL & MUNICIPAL LAW

3993 Orange Street, Suite 201  
Riverside, CA 92501

Office: (951) 405-8127  
Direct: (951) 542-2735

jordan@jrjssisonlaw.com  
www.jrjssisonlaw.com

March 14, 2025

**VIA U.S. MAIL, EMAIL & ONLINE PORTAL:** [https://calhcd.service-now.com/csp?id=sc\\_cat\\_item&sys\\_id=91e19b8ac31955109a97251ce0013105](https://calhcd.service-now.com/csp?id=sc_cat_item&sys_id=91e19b8ac31955109a97251ce0013105)

Department of Housing and Community Development ([HAUPortal@hcd.ca.gov](mailto:HAUPortal@hcd.ca.gov))  
Division of Housing Policy Development  
Housing Accountability Unit  
651 Bannon Street, Suite 400  
Sacramento, CA 95811

**RE: POTENTIAL VIOLATION OF SURPLUS LAND ACT;  
ITEM 12, CITY OF ONTARIO CITY COUNCIL MEETING FEBRUARY 18, 2025;  
DDA FOR 2.3-ACRE PROPERTY LOCATED AT E. RIVERSIDE DR./VINEYARD AVE.**

Dear Housing Accountability & Enforcement Unit (“HAU”):

On behalf of UNITE HERE Local 11 (“Local 11”), this office respectfully writes to the California Department of Housing and Community Development (“HCD”) requesting its investigation of a potential violation of the Surplus Land Act (Gov. Code §§ 54220–54234) (“SLA”)<sup>1</sup> involving the City of Ontario (“City”) disposition of a 2.368-acre property located at the corner of East Riverside Drive and Vineyard Avenue (i.e., APN 0218-111-12-0000) (“Property”).

On February 18, 2025, the City Council approved a Disposition and Development Agreement (“DDA”) for the sale of the City-owned Property to Ontario Ranch Hotels, LLC (“Developer”), citing the Economic Opportunity Law (Gov. Code §§ 52200-52201).<sup>2</sup> Before the City approved the DDA, Local 11 submitted written and verbal comments raising questions about whether the City complied with the SLA. (See Local 11 letter dated February 18, 2025 [attached hereto].) As raised in these comments, Local 11’s research has not found any confirmation that the Property was first made available to housing sponsors via a written notice of availability (“NOA”). (See e.g., Gov. Code § 54222; HCD SLA Guidelines § 201.) Nor has Local 11’s research found any confirmation that the City made appropriate exempt surplus land findings during a regular public meeting. (See e.g., Gov. Code § 54221(b)(1); SLA Guidelines §§ 103(c), 400(e).) These types of SLA issues, if verified, have been the subject of Notice of Violations (“NOV(s)”) issued by HCD for other jurisdictions, including

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<sup>1</sup> Inclusive of SLA Guidelines (8/1/24) <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/final-updated-surplus-land-act-guidelines-2024.pdf>.

<sup>2</sup> See City Council Agenda (2/18/25) Agenda, Item 12, [https://granicus\\_production\\_attachments.s3.amazonaws.com/ontarioca/8b1c31aa587d3d63597574d77713d4830.pdf](https://granicus_production_attachments.s3.amazonaws.com/ontarioca/8b1c31aa587d3d63597574d77713d4830.pdf); Id., Agenda Report, <https://d2kbkoa27fdvtw.cloudfront.net/ontarioca/ccfc6d371db4ae6a268fd028108a650c0.pdf>; Id., Resolution, [https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/3152722/PH\\_13\\_Ontario\\_Ranch\\_Hotels\\_DDA\\_02\\_RESO\\_RM.pdf](https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/3152722/PH_13_Ontario_Ranch_Hotels_DDA_02_RESO_RM.pdf); Id., Summary Report, [https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/3096019/Ontario\\_Ranch\\_Hotels\\_LLC\\_52201\\_Summary\\_Report\\_ED\\_Opp\\_03.pdf](https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/3096019/Ontario_Ranch_Hotels_LLC_52201_Summary_Report_ED_Opp_03.pdf).

an NOV issued to the City of Moreno Valley, where HCD rejected the claims that the SLA conflicts with Economic Opportunity Law (Gov. Code §52200-52203).<sup>3</sup>

The City approved the DDA over objections made by the public, including Local 11's request that the City stay its action until after seeking technical advice from HCD. To date, we have yet to receive any legally sufficient explanation from the City of whether and how the City's DDA approval has complied with the SLA requirements to make land available for housing development or declared it properly exempt. Local 11 supports housing laws intended to promote genuine housing, particularly affordable housing projects. Therefore, Local 11 respectfully requests that HCD review our attached comment letter and investigate whether the City's approval of the DDA complied with the SLA and HCD Guidelines.

We thank you in advance for your consideration of this matter. Please do not hesitate to contact me directly if you have any questions regarding this matter.

Sincerely,

  
\_\_\_\_\_  
Jordan R. Sisson, Esq.  
Attorney for UNITE HERE Local 11

ATTACHMENT: UNITE HERE Local 11 Letter (2/18/24)

CC: (email only)

Sheila Mautz, City Clerk ([SMautz@ontarioca.gov](mailto:SMautz@ontarioca.gov))

Scott Ochoa, City Manager ([sochoa@ontarioca.gov](mailto:sochoa@ontarioca.gov))

Jennifer McLain Hiramoto, Exec. Director Econ. Dev. ([JHiramoto@ontarioca.gov](mailto:JHiramoto@ontarioca.gov))

<sup>3</sup> City of Moreno Valley (10/18/2023) Notice of Violation RE Northwest Corner of Alessandro Boulevard and Nason Street, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/moreno-valley-nov-101823.pdf>; see also San Bernardino (5/24/2023) Notice of Violation RE 295 Carousel Mall, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/San-Bernardino-Carousel-Mall-Follow-Up-Letter-052423.pdf>; Roseville (12/4/2023) Notice of Violation RE 6382 Phillip Road, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/roseville-nov-sla-120423.pdf>; Anaheim (12/8/21) Notice of Violation RE 2000 East Gene Autry Way, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/anaheim-surplus-land-act-nov-120821.pdf>.

# **LAW OFFICE OF JORDAN R. SISSON**

LAND USE, ENVIRONMENTAL & MUNICIPAL LAW

3993 Orange Street, Suite 201  
Riverside, CA 92501

Office: (951) 405-8127  
Direct: (951) 542-2735

jordan@jrsissonlaw.com  
www.jrsissonlaw.com

February 18, 2025

**VIA EMAIL:**

City Council, City of Ontario  
303 East B Street, Ontario, CA 91764  
publiccomments@ontarioca.gov

**RE: Item 12, City Council Meeting February 18, 2025;  
Disposition and Development Agreement for Land Sale and 227-Room Hotel;  
UNITE HERE Local 11 Comments**

Dear Mayor Leon and Honorable City Councilmembers:

On behalf of UNITE HERE Local 11 (“Local 11”), this office respectfully provides the following comments<sup>1</sup> to the City of Ontario (“City”) regarding the proposed Disposition and Development Agreement (“DDA”) between the City and Ontario Ranch Hotels, LLC (“Developer”). The DDA would allow for the sale of a 2.368-acre City-owned property located at the corner of East Riverside Drive and Vineyard Avenue (i.e., APN 0218-111-12-0000) (“Site” or “Property”) in anticipation of a 227-room, 5-star luxury hotel (“Project”). According to the staff report for the above-referenced item,<sup>2</sup> the Project was considered in the Ontario Regional Sports Complex (“ORSC”) Environmental Impact Report (i.e., SCH No. 2023110328) (“EIR”),<sup>3</sup> which was certified and approved by the City Council on July 16, 2024. (Agenda Report, p. 2.)

Upon review of the relevant documents, Local 11 has several concerns with the DDA, including several live issues with the DDA and the proposed 227-room hotel’s compliance with the Surplus Land Act (“SLA”), the California Environmental Quality Act (“CEQA”),<sup>4</sup> and the City’s zoning code. As further explained below, it is unclear if the City has complied with the SLA requirement to make land available for housing development or declared it properly exempt. Additionally, it seems that the prior EIR only considered a 100-room hotel in a different location. So too, the significantly larger hotel is likely to exacerbate vehicle miles traveled (“VMT”) and associated greenhouse gas (“GHG”) impacts, which could be further mitigated through feasible mitigation measures not considered. Furthermore, the staff report fails to provide and/or explain critical information about key financial aspects of the DDA or explain why the City does not require a hotel-specific conditional use permit (“CUP”) at this time, as required under the City’s zoning code.

For these reasons, Local 11 respectfully asks the City to stay action on the DDA until all SLA requirements have been satisfied, a CEQA-compliant review has been conducted, a hotel-specific mandatory commuter trip reduction program is added, and there is an opportunity for the public to vet key financial studies associated with the DDA along with all entitlements for the hotel Project.

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<sup>1</sup> Herein, page citations are either the stated pagination (i.e., “p. #”) or PDF-page location (i.e., “PDF p. #”).

<sup>2</sup> Inclusive of the “[Agenda Report](#)” dated 2/18/25, “[Summary Report](#)” regarding the DDA, “[Exhibit A](#)” Property view, [DDA](#), and the proposed “[DDA Resolution](#)”.

<sup>3</sup> Inclusive of the Draft EIR (“[DEIR](#)”), Final EIR (“[FEIR](#)”), and Mitigation Monitoring Requirements Program (“[MMRP](#)”).

<sup>4</sup> Including “CEQA Guidelines” codified at 14 Cal. Code. Regs. § 15000 et seq.

## I. LOCAL 11'S STANDING

Local 11 represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix—including approximately 450 members who live and/or work in Ontario. The union has a First Amendment right to petition public officials in connection with matters of public concern, including compliance with applicable zoning rules and CEQA, just as developers, other community organizations, and individual residents do. Protecting its members' interest in the environment, including advocating for the environmental sustainability of development projects and ensuring the availability of housing and hotels (in compliance with state and local rules), is part of Local 11's core function. Recognizing unions' interest and union members' interest in these issues, California courts have consistently upheld unions' standing to litigate land use and environmental claims. (See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.) Furthermore, Local 11 has public interest standing to challenge the Project Approvals given the City's public duty to comply with applicable zoning and CEQA laws, which Local 11 seeks to enforce. (See e.g., *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916, n.6; *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206; *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, 169-170.)

## II. SPECIFIC ISSUES WITH THE DDA & PROJECT

### 1. IT IS UNCLEAR IF THE CITY HAS COMPLIED WITH THE SURPLUS LAND ACT

The Surplus Land Act (Gov. Code §§ 54220-54234) ("SLA"), inclusive of its guidelines ("SLA Guidelines") prepared by the Department of Housing and Community Development ("HCD"), aims to make local public land that is no longer needed for government purposes available for building affordable homes.<sup>5</sup> The SLA applies to all cities, including charter cities. (See *Anderson v. City of San Jose* (2019) 42 Cal.App.5th 683.) Generally, before disposing of surplus land, a local agency must send a written notice of availability ("NOA") of the property to HCD, any local public entity within the jurisdiction where the surplus local land is located, and affordable housing sponsors who have notified HCD. (See Gov. Code § 54222; HCD SLA Guidelines §201.) While there are exceptions to this requirement, a local agency's determination that land is exempt surplus land must be supported by written findings during a regular public meeting of the agency, with those findings sent to the HCD. (See Gov. Code § 54221(b)(1); SLA Guidelines §§ 103(c) and 400(e).)

Here, the City is proposing the disposition of the City-owned Property, but the available documentation reviewed by Local 11 does not mention whether the Property was subject to a NOA or declared exempt. Nor is it clear whether the Property falls within any of the categories of "exempt surplus land" under Gov. Code § 54221(f)(1). While subdivision (c) notes an exemption for land exchanged for "another property necessary for the agency's use", it is unclear how and whether that exemption would apply to the DDA, which references a proposed exchange of 25,489 square feet (0.585 acres) non-exclusive, right-of-way remained owned by the land owner (i.e., 7-25

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<sup>5</sup> See HCD Public Lands for Affordable Housing Development (identifying land acquisition as one of the biggest challenges to new affordable housing, and outlining several actions taken by the state to enhance the SLA, such as Executive Order N-06-19 [Gov. Newsom, 2019], AB 1486 [Ting, 2019], AB 1255 [Robert Rivas, 2019]), <https://www.hcd.ca.gov/planning-and-community-development/public-lands-affordable-housing-development>.

feet adjacent to dirt sidewalk area) and temporary construction easement would apply.<sup>6</sup> The sidewalk is less than one-fourth the size of the 2.368-acre Property,<sup>7</sup> and there appears to be ample space within existing rights-of-way (i.e., dirt side walk and road) to access existing utility lines along Riverside Drive.<sup>8</sup> Furthermore, future street improvements (e.g., street, sewer, traffic signal, utility lines, etc. ) are already anticipated along Vineyard right-of-way (i.e., five-lane with 8-foot multi-use trail) as subject to the previously approved ORSC.<sup>9</sup>

In sum, it is unclear how this significantly smaller temporary construction easement is necessary here to qualify as exempt, which would nevertheless have to be declared exempted at a regular public meeting.

## 2. THE DDA'S PROPOSAL OF A 227-ROOM HOTEL WAS NOT ANALYZED UNDER THE PRIOR EIR

Under CEQA, once an EIR has been prepared, a subsequent or supplement EIR is required for granting a later discretionary approval when there have been: (i) substantial changes to the project, (ii) substantial changes in the circumstances involving the project, or (iii) significant new information involving the project. (See Pub. Res. Code § 21166; CEQA Guidelines § 15162.) Projects not contemplated or not within the geographic area may require additional CEQA analysis.<sup>10</sup> Here, the DDA contemplates a 227-room hotel, which the staff report suggests was covered by the previously certified EIR.<sup>11</sup> However, the EIR does not mention the DDA or the proposed 227-room hotel Project. Instead, the EIR contemplated a mere 100-room hotel located in planning area ("PA") 3, and anticipated retail uses within PA2 (i.e., where the City-owned Property is located).<sup>12</sup> It is unclear if the City is now contemplating a single larger hotel in a different location (i.e., a 227-room hotel in PA2) or is considering two hotels (i.e., 227-rooms in PA2 plus the 100-room hotel in PA3). As discussed below, even a single larger hotel would likely have exacerbated impacts not analyzed or mitigated under the certified EIR. Therefore, the proposed 227-room hotel development appears

<sup>6</sup> See Agenda Report, p. 2; Exhibit A (area generally located along sidewalk area); DDA, PDF p. 7, 59, 78 (section 1.1.49, Exhs. A-1 & D-1).

<sup>7</sup> For example, this SLA exemption has been cited by other agencies exchanging relatively comparable properties. (See e.g., Capitola Planning Commission Agenda Report (4/4/24), p. 1 [5,592-sf property [Soquel Union Elementary School District] in exchange for 4,284-sf property [City of Capitola]], <https://mccmeetingspublic.blob.core.usgovcloudapi.net/capitolaca-meet-7a1699cfde7f4d0f8d2bce5df22a5e22/ITEM-Attachment-003-fa130eb7dab849d0a07fab4d3f57eaa1.pdf>.

<sup>8</sup> See GoogleMaps, [https://www.google.com/maps/place/S+Vineyard+Ave+%26+E+Riverside+Dr,+Ontario,+CA+91761/@34.019553,-117.6108423,3a,60y,275.55h,90.32t/data=!3m7!1e1!3m5!1sg62gK6vh1vo5oTVRplSt-w!2e0!6shttps%3F%2Fstreetviewpixels-pa.googleapis.com%2Fv1%2Fthumbnail%3Fcb\\_client%3Dmaps\\_sv.tactile%26w%3D900%26h%3D600%26pitch%3D-0.31853410523336834%26panoid%3Dg62gK6vh1vo5oTVRplSt-w%26yaw%3D275.5462992542434!7i16384!8i8192!4m6!3m5!1s0x80c334cd1f399d7b:0x14ca414b23038095!8m2!3d34.0195981!4d-117.610924!16s%2F%2F11gdzt7tpb?entry=ttu&g\\_ep=EgoyMDI1MDIxMi4wIKXMDSoJLDEwMjExNDU1SAFQAw%3D%3D](https://www.google.com/maps/place/S+Vineyard+Ave+%26+E+Riverside+Dr,+Ontario,+CA+91761/@34.019553,-117.6108423,3a,60y,275.55h,90.32t/data=!3m7!1e1!3m5!1sg62gK6vh1vo5oTVRplSt-w!2e0!6shttps%3F%2Fstreetviewpixels-pa.googleapis.com%2Fv1%2Fthumbnail%3Fcb_client%3Dmaps_sv.tactile%26w%3D900%26h%3D600%26pitch%3D-0.31853410523336834%26panoid%3Dg62gK6vh1vo5oTVRplSt-w%26yaw%3D275.5462992542434!7i16384!8i8192!4m6!3m5!1s0x80c334cd1f399d7b:0x14ca414b23038095!8m2!3d34.0195981!4d-117.610924!16s%2F%2F11gdzt7tpb?entry=ttu&g_ep=EgoyMDI1MDIxMi4wIKXMDSoJLDEwMjExNDU1SAFQAw%3D%3D).

<sup>9</sup> See DEIR, PDF p. 101, 117, 127-136, 151-159, 692; see also [Agenda Report](#) (7/16/24, Item 20, p. 4).

<sup>10</sup> See e.g., *Concerned Citizens of Costa Mesa, Inc. v 32nd Dist. Agric. Ass'n* (1986) 42 C3d 929, 937 (plans for approved amphitheater project changed to increase seating significantly, expand the site, and reorient the stage to face nearby residences); *Save Berkeley's Neighborhoods v Regents of Univ. of Cal.* (2020) 51 CA5th 226, 237 (claim that university changed project described in campus long-range development plan by approving increases in student enrollment well beyond development plan and EIR projections, without considering whether further CEQA review was required, alleged violation of CEQA).

<sup>11</sup> See Summary Report, p. 1; Agenda Report, p. 2; DDA, PDF p. 60 [Exh. B Scope of Development].

<sup>12</sup> DEIR, PDF pp. 32, 41-43, 114-117 (project components and planning areas), 176-178 (listing the project approvals); MMRP, PDF p. 7.

to reflect substantial changes to the project, meaning that further CEQA review should be required before the City approves the DDA.

### 3. EXACERBATED GHG/VMT IMPACTS CAN BE FURTHER MITIGATED

As mentioned above, the staff report suggests the proposed action was covered by the prior FEIR, including the Council finding that “all environmental impacts” have been addressed within the prior EIR and that “no new or additional mitigation measures or alternatives are required.” (Proposed Resolution, p. 3.) However, the prior EIR contemplated only a 100-room hotel, including assessing VMTs and GHGs associated with the hotel use.<sup>13</sup> By more than doubling that size, the anticipated Project would possibly significantly increase the amount of VMTs and GHGs (including those deriving from mobile emissions) associated with the hotel use (i.e., new or exacerbated impacts). These are impacts going above and beyond those previously found significant and unavoidable.<sup>14</sup> As it relates to hotel-related development within PAs 2 and 3, the EIR largely relies on mitigation measures GHG-4 (i.e., point system under City’s Community Climate Action Plan (“CCAP”)) and TRAF-1a (development of Transportation Demand Management (“TDM”)).<sup>15</sup> (See excerpts below.)

*GHG-4 The City of Ontario shall require applicants to design and construct buildings in Planning Areas 2, 3, and 4 to achieve a 100-point score with the 2022 Community Climate Action Plan (CCAP), Table 6, “Screening Table for Implementing GHG Performance Standards for Commercial, Office, Medical, Hotel, Industrial, and Retail Development, 2030.” Alternatively, the analysis of development projects can be done through emissions calculations to demonstrate equivalent reductions using CalEEMod or a similar tool. Projects that do not use the CCAP Screening Tables to demonstrate consistency with the 2022 CCAP must demonstrate that they will generate annual GHG emissions that do not exceed the following emission screening thresholds from the CCAP:*

- 1. For residential development completed between 2020 and 2030, the project shall not produce GHG emissions greater than 5.85 MTCO 2e/dwelling unit.*
- 2. For residential development completed after 2030, the project shall not produce GHG emissions greater than 1.53 MTCO 2e/dwelling unit.*
- 3. For nonresidential developments of all types completed between 2020 and 2030, the project shall not produce GHG emissions greater than 8.84 MTCO2e/2,500 square feet of conditioned space.*
- 4. For nonresidential developments of all types completed after 2030, the project shall not produce GHG emissions greater than 3.61 MTCO 2e/2,500 square feet of conditioned space.*

*For projects that include both residential and nonresidential space, the residential and nonresidential components must be assessed separately against their respective applicable thresholds*

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<sup>13</sup> DEIR, [Appendix D1](#) (Air Quality GHG Modeling), PDF pp. 4, 31, 683; DEIR, [Appendix L1](#) (VMT Memorandum), PDF pp. 9, 34; FEIR, PDF p. 171.

<sup>14</sup> See e.g., [CEQA Findings of Fact and Statement of Overriding Considerations](#), pp. 105-109, 115-119, 137, 141-142.

<sup>15</sup> *Ibid.*, see also MMRP, pp. 23, 30,

*TRAF-1a Commercial/Hospitality TDM Measures. Applicants for commercial and hotel development in Planning Areas 2, 3, and 4 shall prepare Transportation Demand Management (TDM) measures analyzed under a VMT-reduction methodology consistent with the California Air Pollution Control Officers Association's (CAPCOA) Final Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (2021) and approved by the City of Ontario. Measures shall include but are not limited to:*

- *Implement a voluntary commute trip reduction program for employees.*
- *Implement an employee parking cash-out program for employees.*
- *Collaborate with the City to support transit service expansion.*
- *Comply with requirements detailed in the Parking Management Plan, including providing parking validation for retail and hospitality visitors.*

(See ORSC EIR, MMRP, pp. 23, 30.)

While the ORSC EIR stated there were no other feasible mitigation measures,<sup>16</sup> additionally feasible mitigation measures do seem available to reduce the impacts *exacerbated* by the larger hotel Project<sup>17</sup>—especially measures that can minimize VMTs and associated GHG mobile emissions recommended by the California Air Pollution Control Officers Association (“CAPCOA”) and other public agencies (e.g., Governor’s Office of Planning and Research (“OPR”), the Southern California Association of Governments (“SCAG”), South Coast Air Quality Management District (“SCAQMD”), and the California Air Resources Board (“CARB”)).<sup>18</sup> For example, the City could require a mandatory rather than merely voluntary commute trip reduction program (“CTRP”), provide subsidized transit passes, include bike/scooter-share facilities, and other strategies.<sup>19</sup> CAPCOA estimates that a mandatory CTRP is more than six times more effective at reducing GHG impacts (i.e., up to 26%) as compared to a voluntary CTRP (i.e., up to 4%).<sup>20</sup> Furthermore, it is unclear why some of the 227 rooms could not accommodate some form of on-site housing, such as affordable or

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<sup>16</sup> Ibid., 109, 119

<sup>17</sup> To the extent impacts are part of the existing baseline conditions, it is nevertheless proper to evaluate a development’s *exacerbating effects* on existing impacts. (See *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 194 [quoting *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 377, 388].)

<sup>18</sup> See CAPCOA (Dec. 2021) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity, pp. 31-32, 73, 76, 80-96, [https://www.airquality.org/ClimateChange/Documents/Final%20Handbook\\_AB434.pdf](https://www.airquality.org/ClimateChange/Documents/Final%20Handbook_AB434.pdf); CAPCOA (Aug. 2010) Quantifying GHGs and Mitigation, pp. 64-74, <https://www.contracosta.ca.gov/DocumentCenter/View/34123/CAPCOA-2010-GHG-Quantification-PDF>; OPR (Dec. 2018) Technical Advisory, pp. 27, [https://opr.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf); SCAG (Dec. 2019) Final Program EIR, pp. 2.0-18 – 2.0-71 (see project-level mitigation measures for air quality, GHG, and transportation impacts), [https://scag.ca.gov/sites/main/files/file-attachments/fpeir\\_connectsocial\\_complete.pdf?1607981618](https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocial_complete.pdf?1607981618); SCAG (Apr. 2024), Program EIR, pp. A-7 – A-48, [https://scag.ca.gov/sites/main/files/file-attachments/exhibit\\_a\\_mmrp\\_508\\_final.pdf?1712003625](https://scag.ca.gov/sites/main/files/file-attachments/exhibit_a_mmrp_508_final.pdf?1712003625); CARB 2022 Scoping Plan, 4, 7, 24, 29 & Appendix D, pp. 23, <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents>; CARB’s 2017 Scoping Plan, Appendix B-Local Action, pp. 1-8, 7-9 & Appendix D, p. 2, [https://www.arb.ca.gov/cc/scopingplan/app\\_b\\_local\\_action\\_final.pdf](https://www.arb.ca.gov/cc/scopingplan/app_b_local_action_final.pdf).

<sup>19</sup> See e.g., CAPCOA (Dec. 2021), supra fn. 16, pp. 83; CAPCOA (Aug. 2010), supra fn. 16, p. 66.

<sup>20</sup> CAPCOA (Dec. 2021), supra fn. 16, at pp. 83, 86.

work-force housing. Therefore, we urge the City to consider a more robust, hotel-specific mandatory commuter reduction program that could include:

- Specific performance level to be reached (e.g., specific VMT or average daily trip reduction or both);
- Specified participation level (e.g., 100% of employees);
- Participation in guaranteed ride programs for employees who need to respond to emergencies arising when normal public transit is infeasible;
- Incentivize employee carpool/vanpool access to preferential parking spaces or hotel valet service or both;
- Subsidized transit passes for hotel workers and patrons;
- Provide end-of-trip facilities; and
- Dedicated shuttle service for hotel patrons toward nearby destinations.<sup>21</sup>

#### 4. MISSING INFORMATION AND PROJECT PIECEMEALING

The staff report also fails to explain and/or provide other key information. For example, the staff report cites a Thompson & Thompson Real Estate Valuation and Consulting, Inc. appraisal, which is not included. (See Summary Report, p. 3.) This is significant because the staff report does not explain to the public numerous key issues with the DDA, for example: (1) how was the fair market value of the City-owned property determined to be “\$14.00 per square foot”; (2) what is the difference between the City’s purchase price (i.e., \$1.4 million) and the estimated reuse value of the Property to the Developer, which is admittedly valued “significantly higher”; and (3) how much increased “revenue” is the City expecting from the new hotel (e.g., property tax, TOT, etc.). (Id.) Furthermore, as part of the City’s action in July 2024, the Property was rezoned CCS,<sup>22</sup> which requires a hotel CUP under section 5.03.250 of the City’s Development Code, which requires (among other things) a market feasibility study<sup>23</sup>—also not mentioned or provided in the staff report.

Additionally, the increased hotel component and failure to consider the CUP here raises the concern of whether the City is improperly piecemealing the Project and project approvals. Under CEQA, the City must assess “the whole of an action” and not improperly piecemeal a project’s analysis whereby the full impacts of a development are masked by chopping up the overall project into smaller development projects. (CEQA Guidelines §§ 15003(h), 15378(a).<sup>24</sup>) This analysis must include all phases of the project and all reasonably foreseeable consequences of the project. (Id., § 15126.<sup>25</sup>) This analysis should be prepared as early as feasible in the planning process and before the City commits to any action. (Id., § 15004(b).) Here, the prior EIR looked at only a 100-room hotel—not a 227-room hotel—and the City seems to be considering committing to the larger hotel Project without conducting a subsequent CEQA analysis and evaluating a CUP.

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<sup>21</sup> See e.g., Santa Monica Municipal Code § 9.5.130(B)(2)(b); <https://www.octa.net/getting-around/rideshare/oc-rideshare/employers/guaranteed-ride-home-program/>; <https://www.ci.healdsburg.ca.us/AgendaCenter/ViewFile/Item/3098?fileID=21731>.

<sup>22</sup> see July Resolution, PDF pp. 1-2.

<sup>23</sup> Dev. Code, PDF p. 17, 44, 54, 130-132.

<sup>24</sup> See also *Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454; *San Joaquin Raptor/Wildlife Rescue Center v. Cnty. of Stanislaus* (1994) 27 Cal.App.4th 713, 730.

<sup>25</sup> See also *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396-398; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454.

### III. CONCLUSION

In sum, Local 11 is concerned that the City may not be following normal SLA rules that would make the City Parcels available to housing developers. Local 11 is also concerned about the City's reliance on an inadequate CEQA review and mitigation that seems to have never contemplated the DDA or a 227-room hotel at the Property (among other concerns). Local 11 respectfully urges the City to stay action on the DDA until the issues mentioned above are adequately addressed.

Local 11 reserves the right to supplement these comments at future hearings and proceedings for this Project. (See *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120 [CEQA litigation not limited only to claims made during EIR comment period].) This office requests, to the extent not already on the notice list, all notices of CEQA actions and any approvals, Project CEQA determinations, or public hearings to be held on the Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them. (See Pub. Res. Code §§, 21092.2, 21167(f) and Gov. Code § 65092.) Please send notice by electronic and regular mail to the address identified on page one of this letter.

Thank you for consideration of these comments. We ask that this letter is placed in the administrative record for the Project.

Sir -----

  
\_\_\_\_\_  
Jordan R. Sisson, Esq.  
Attorney for UNITE HERE Local 11

**From:** [Santosh Rao](#)  
**To:** [City Council](#); [Public Comments](#); [Tina Kapoor](#); [City Attorney's Office](#); [Luke Connolly](#); [Benjamin Fu](#); [Chad Mosley](#); [City Clerk](#)  
**Subject:** Fw: Request to Halt Negotiations or Disposition until SLA Process Is Completed in Accordance with 2025 HCD Precedent  
**Date:** Friday, February 20, 2026 9:31:39 AM  
**Attachments:** [ontario-sla-nov-061825.pdf](#)

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**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.

Dear City Clerk,

Please include the below in written communications for council.

[Writing on behalf of myself only as a Cupertino resident]

Dear Mayor Moore, Vice-Mayor Chao, Council, CM Kapoor, CAO,

I am re-submitting the below previously submitted. Please carefully study the cited case precedents.

The HCD notification has not occurred. Claims that a RFP was run are questionable since the city cannot run a RFP on right of way. That is public land. The land needs to be vacated and deemed surplus and await interest from notified parties before deeming exempt surplus. The conditions to deem exempt surplus are very narrow and do not apply here.

If a RFP got a single response the city needs to re-run the RFP. Further the RFP and the response need to be included as staff attachments. Did it describe the offering as a ground lease or disposition. What were the terms. Is that still the same now.

Any vacation requires written evidence that the land can be vacated and has no use. The PC was not allowed to seek or examine such written evidence. Gal conformance absent the same and absent any other findings other than a named housing element project raise the question of whether such a project can be cited in a finding when the negotiation cannot be entered while land is public right of way.

Please ensure you slow down and evaluate impact to the city due to any potential exposure. All of you have a duty to be fiscally responsible with taxpayer dollars and ensure the city avoids any actions that may not be legally defensible.

I implore you to set aside your personal positions and act solely and wholly on the basis of legal correctness and sequentiality of actions as expected by state law in the matter of vacation, HCD notification, bids from interested parties, deeming surplus, deeming exempt surplus, basis for each of the prior steps and noticing, hearings and required written evidence at each step as defined by state law.

Thank you for maintaining full fidelity to state law and expected ordering of actions implied by state law and conformed by past case precedent cited below.

Thanks,  
San Rao (writing on behalf of myself only as a Cupertino resident)

Begin forwarded message:

On Tuesday, December 2, 2025, 11:46 PM, Santosh Rao <santo\_a\_rao@yahoo.com> wrote:

[Writing on behalf of myself only as a Cupertino resident, taxpayer, voter]

Dear City Clerk,

Please include this letter in written communications for agenda item 12 for 12/2/25 council meeting and for the next upcoming council meeting.

Subject: Request to Halt Negotiations or Disposition until SLA Process Is Completed in Accordance with 2025 HCD Precedent

Dear Mayor Chao, Vice-Mayor Moore, Council Members, Attorney Andrews, CAO, CM Kapoor,

Please note the precedent in the below and attached HCD notice of violation to the city of Ontario dated June 18 2025. The precedent directly applies to the actions in progress currently in the city of Cupertino attempting to move forward with appointing a negotiator. take steps towards disposition and engaging in exclusive negotiations with a pre-determined buyer without first completing the SLA process and required notices and noticing period.

I write to respectfully urge the Council to **pause any efforts to approve a negotiator, enter into negotiation, or take any steps toward disposition or sale of public land** until the city has fully satisfied the notice, findings, and waiting-period requirements of the Surplus Land Act (SLA), including providing required documentation to HCD and observing the legally mandated notice/negotiation windows.

#### **Background — Relevant Legal Obligation**

Under the SLA (Gov. Code §§ 54220–54234), a local agency must first declare property “surplus” (not needed for public use), adopt a resolution to that effect, and then issue a formal Notice of Availability (NOA) to: (1) HCD; (2) any local public entities within the jurisdiction; and (3) developers on HCD’s list of those interested in surplus public land for affordable housing. [California Housing Dept.+2Banning, CA+2](#) After that NOA is issued, the city must allow a minimum statutory waiting period (60 days for responses) and, if any eligible entities respond, a mandated 90-day good-faith negotiation period before disposing of the land. [Banning, CA+2California Housing Dept.+2](#)

Furthermore, under recent amendments to the SLA (2024), if a local agency receives a Notice of Violation (NOV) from HCD for noncompliance, the agency is required to hold an open public meeting to evaluate the NOV — and the agency may not proceed with any disposal until that process is complete. [Allen Matkins -](#)

[Allen Matkins+2California Housing Dept.+2](#)

### **Precedent — HCD’s 2025 Finding Against City of Ontario**

In a September 22, 2025 Follow-Up Notice of Violation addressed to Ontario’s City Manager, HCD found that Ontario had violated the SLA by disposing of a 2.368-acre parcel (APN 0218-111-12-0000) without first declaring the land surplus and without issuing the required notices. [California Housing Dept.+1](#)

**HCD concluded that the disposition and the fact that the City had “exclusively negotiated with the Developer” prior to complying with SLA requirements—constituted a clear SLA violation.** [California Housing Dept.+1](#)

HCD also invoked applicable statutory penalties under Gov. Code § 54230.5 for the first-time violation (30 % of the disposition value) and warned that future violations would trigger even higher penalties (50 % of the disposition value). [California Housing Dept.+1](#)

The Ontario case demonstrates that **HCD is actively enforcing SLA compliance** including penalizing cities that attempt to circumvent the required surplus-land process by negotiating in advance with a favored developer, or disposing of land without the required surplus declaration and notice.

### **Risk of Noncompliance and Fiscal/Legal Consequences**

Given the recent Ontario finding:

- Proceeding with negotiations, designating a "negotiator," or otherwise taking substantive steps toward disposition before completing the full SLA process would risk very likely violation of state law.
- Noncompliance may expose the City to substantial financial penalties (per SLA enforcement provisions) and reputational risk.
- Such action may also frustrate the primary public-purpose objective of the SLA: to give first priority to affordable-housing proponents or other public entities, rather than to private developers selected in advance.

### **Pause and Complete SLA Process Before Any Further Action**

In light of the above, I respectfully request that the Council adopt a temporary moratorium on any of the following steps until the SLA-required process has been fully observed and documented, and until any required findings and waiting periods have been completed:

- Appointment of a negotiator or negotiation team
- Entering into or approving formal negotiations with any private developer
- Any pre-disposition activity regarding sale or lease of the land (including drafting term sheets, letters of intent, exclusivity agreements, or similar)

- Any vote toward approval of disposition, transfer, or sale of the land

At minimum, the city should first:

1. Declare the parcel “surplus” or exempt surplus after written findings with evidence via a formal Council resolution;
2. Issue a NOA to HCD, local public entities, and certified developers per SLA requirements;
3. Observe the 60-day notice period, await any responses, and if responses are received allow full 90-day good-faith negotiations;
4. Submit documentation of the notice and negotiation process, and any recorded restrictions or covenants, to HCD for review per SLA guidelines. [California Housing Dept.+2Banning, CA+2](#)

### **Conclusion**

The state’s recent 2025 decision in the Ontario case makes clear that SLA compliance is no longer optional, and that state enforcement can and will penalize cities that attempt to circumvent the process.

Given the potential legal and financial risks, and the public’s interest in transparent, fair, and affordable-housing–oriented land disposition, I strongly urge the Council to suspend any further steps toward negotiation or sale until full compliance with SLA has been completed and documented.

Thank you for your consideration of this request.

Respectfully,

San Rao (writing on behalf of myself only as a Cupertino resident, taxpayer, voter)

**From:** [Paul Krupka](#)  
**To:** [City Council](#); [City Clerk](#); [Public Comments](#)  
**Cc:** [Lina Meng](#); [Brian Avery](#)  
**Subject:** Public Comment | 03-03-26 | Mary Avenue Villas  
**Date:** Tuesday, February 24, 2026 2:42:01 PM  
**Attachments:** [krupka Georgia t 50.png](#)  
[Public Comment 02-10-26 Item #4 Mary Avenue Public Right-of-Way rev 1 021526.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.

Dear City Council Members:

I am sharing the attached revised public comment letter to the Planning Commission for the public record and your consideration during your deliberations on March 3, 2026.

Thank you!

Sincerely,

Paul Krupka

Paul J. Krupka, PE  
(he/him/his)  
**KRUPKA CONSULTING**  
Trusted Advisor | Transportation  
650.504.2299  
[paul@pkrupkaconsulting.com](mailto:paul@pkrupkaconsulting.com)

**krupka.**

# krupka.

---

February 10, 2026

by email only > [planningcommission@cupertino.gov](mailto:planningcommission@cupertino.gov)

Planning Commission Members  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014

RE: Public Comment – February 10, 2026 – Item #4: Mary Avenue Public Right-of-Way

Dear Planning Commission Members:

I am supporting Brian Avery, owner of the Glenbrook Apartments, Lina Meng, a neighbor, and the Garden Gate Neighborhood Group in providing transportation advisory services and a professional opinion on the Mary Avenue Villas Project. This letter documents my opinion that 1) the vacation of the Mary Avenue public right-of-way and the disposition of the Mary Avenue project site *are not consistent with the General Plan*, and 2), regarding Environmental Impact, *certain Project impacts contradict finding d) “approval of the project would not result in any significant effects relating to traffic...”*.

I offer the following information and comments for your consideration.

## **Qualifications**

I am a registered Civil Engineer and Traffic Engineer in California and have over 45 years of diverse experience across all phases of project delivery, including preliminary assessment, conceptual planning, feasibility analysis, design, and construction. I have demonstrated expertise in transportation, traffic, and transit planning, engineering, and design related to transit-oriented development, transit facilities, parking facilities, roadway and highway improvements, large and small development projects, neighborhood, community, downtown, city, subarea, county, and sub-regional plans, and transit and highway corridors. Finally, I have authored and managed dozens of transportation and circulation studies supporting development and disposition agreements and environmental impact reports for transportation improvements and development projects of all sizes and types.

## **Preparation**

I have visited the Project site and surroundings, observed traffic and parking activities, surveyed peak parking occupancy on Mary Avenue and at Memorial Park, reviewed recent photographic evidence of related parking conditions during Memorial Park events, developed parking estimates, and read many comments and concerns expressed by Garden Gate Neighborhood Group members and other residents. I have reviewed the Transportation Study for Proposed Affordable Housing Project on Mary Avenue (Hexagon Transportation Consultants, Inc., November 13, 2025, the Memorial Park Specific Plan (City of Cupertino, February 2024), including the Memorial Park Parking Study (City of Cupertino, January 2024), the Westport Mixed-Use Project Environmental Impact Report Addendum No. 1 (PlaceWorks, December 2024), and information on current and planned development at De Anza College.

## **KRUPKA CONSULTING**

431 Yale Drive | San Mateo, CA | 94402  
650.504.2299 | [paul@pkrupkaconsulting.com](mailto:paul@pkrupkaconsulting.com) | [pkrupkaconsulting.com](http://pkrupkaconsulting.com)

## Comments

**Mary Avenue Is Not Underutilized Right-of-Way** – The Mobility Element of the General Plan defines Mary Avenue as a Neighborhood Connector. The street is actively used, as set forth in the Mobility Element of the General Plan, providing parking, access, and circulation for the residential neighborhood and serving as a crucial linkage to Memorial Park in line with these Goals.

- M-2 Promote improvements to city streets that safely accommodate all transportation modes and persons of all abilities
- M-3 Support a safe pedestrian and bicycle street network for people of all ages and abilities
- M-5 Ensure safe and efficient pedestrian and bicycle access to schools while working to reduce school-related congestion
- M-6 Promote innovative strategies to provide efficient and adequate vehicle parking

*Therefore, the vacation of the Mary Avenue right-of-way is inconsistent with the General Plan, and it follows that the location, purpose, and extent of the disposition of the Mary Avenue project site are not consistent with the General Plan.*

**Approval of the Project Will Create a Deficiency** - These comments from my February 3, 2026, letter to the City Council (attached) established my opinion that *the Project's impact - reduction in parking supply - creates an unsustainable deficiency that affects residents and visitors alike.*

The parking evaluation (in the Transportation Study) describes typical conditions on Mary Avenue during three weekdays and one weekend day in April 2025. It documents the Project's parking impact on Mary Avenue - a net loss of 89 spaces of public on-street parking, plus the recommended removal of six additional spaces to address a deficiency in driveway sight distance, resulting in a total net loss of 95 spaces on Mary Avenue. This 39% reduction in on-street parking supply will directly affect residents who rely on it, spreading parking demand further into residential neighborhoods. It is surprising to me that the analyst simply notes that there "...would still be enough spaces to meet the anticipated parking demand along the Project frontage."

The parking evaluation does not address the parking conditions on Mary Avenue during a major festival at Memorial Park, when the street is effectively inundated with festival parking. *This is insufficient, given that six major festivals and numerous other events are held at Memorial Park each year, and affected residents have voiced significant concerns to City staff and officials about the Project's impact in this light. Additional study is required to provide findings that inform the reader, City staff, other review agencies, and decision-makers about the Project's impact on parking and potential improvements to address it.*

I reviewed photographic evidence of parking conditions on Mary Avenue during major festivals and events at Memorial Park on Saturday, August 23, 2025 ([Summer Concert Series Kids 'N Fun Festival](#)), Friday, August 29, 2025 (Movies in the Park), September 13, 2025 (Silicon Valley Fall Festival) Saturday, September 20, 2025 (Heritage India Faire Festival), and Saturday, October 29, 2025 (Bay Area Diwali Festival). The sample photos below provide drivers' views of vehicles parked end-to-end on Mary Avenue, from Stevens Creek Boulevard to Lubec Street, during the Saturday, August 23, 2025 event.



A major festival at Memorial Park has a dramatic effect on parking conditions on Mary Avenue without the Project. *The Project's impact - reduction in parking supply - creates an unsustainable deficiency that affects residents and visitors alike. Further study and development of alternative improvements are necessary to enable a fully informed decision on the Project.*

I developed estimates of parking occupancy during two festivals cited in my above comments – August 23, 2025, and September 13, 2025, which found between 140 and 229 vehicles parked on Mary Avenue. The following tables present these estimates, along with the existing parking conditions from the Transportation Study and the with-Project conditions. *It is clear that festival parking inundates Mary Avenue under existing conditions, and the Project's impact - reduction in parking supply by 95 spaces - overloads the system with demand meeting and exceeding supply and creates an unsustainable deficiency.*

<b>ESTIMATED PROJECT PARKING IMPACT TYPICAL AND FESTIVAL CONDITIONS</b>			
<b>FESTIVAL: <del>SUMMER CONCERT SERIES</del>SKIDS 'N FUN FESTIVAL, SATURDAY, AUGUST 23, 2025</b>			
<b>CONDITION</b>	<b>PARKING SUPPLY</b>	<b>PARKED VEHICLES</b>	<b>OCCUPANCY</b>
<b>TYPICAL EXISTING</b>	241	37	<b>15%</b>
<b>TYPICAL EXISTING <u>WITH PROJECT</u></b>	146	37	<b>25%</b>
<b>FESTIVAL EXISTING</b>	241	229	<b>95%</b>
<b>FESTIVAL <u>WITH PROJECT</u></b>	146	229	<b>157%</b>
Sources: Typical Conditions - Transportation Study Festival Condition - Krupka Consulting			

<b>ESTIMATED PROJECT PARKING IMPACT TYPICAL AND FESTIVAL CONDITIONS</b>			
<b>FESTIVAL: SILICON VALLEY FALL FESTIVAL, SATURDAY, SEPTEMBER 13, 2025</b>			
<b>CONDITION</b>	<b>PARKING SUPPLY</b>	<b>PARKED VEHICLES</b>	<b>OCCUPANCY</b>
<b>TYPICAL EXISTING</b>	241	37	<b>15%</b>
<b>TYPICAL EXISTING <u>WITH PROJECT</u></b>	146	37	<b>25%</b>
<b>FESTIVAL EXISTING</b>	241	140	<b>58%</b>
<b>FESTIVAL <u>WITH PROJECT</u></b>	146	140	<b>96%</b>
Sources: Typical Conditions - Transportation Study Festival Condition - Krupka Consulting			

The Transportation Study did not consider large, wide vehicles, which frequent Mary Avenue to and from the Service Center and provide routine waste and recycling services. The vehicles involved are ~~10 to 128~~ to 10 feet wide and often encroach on adjacent travel and parking lanes, as shown in the photo below. This reduces safety and is especially critical to the northbound lane, which is currently 11.5 feet wide. The southbound lane, which is 14 feet wide, accommodates these larger vehicles with less encroachment. *The Project calls for two 11-foot lanes, which will create additional conflicts with large vehicles and exacerbate safety issues.*



Similarly, the Transportation Study did not consider the necessary door swing required for access to parked vehicles, which encroaches on the adjacent travel lane, causes conflicts, and reduces safety. The photo below is an example. *The Project calls for 11-foot lane widths, which will create additional conflicts with street traffic and exacerbate safety issues.*



*These Project impacts contradict finding d) “approval of the project would not result in any significant effects relating to traffic...” and require further study and development of alternative improvements to enable a fully informed decision on the Project.*

**Other Approved and Planned Developments Will Exacerbate this Project Deficiency:** The following nearby projects will increase parking demand, affecting Mary Avenue.

- **Memorial Park enhancements**, intended to serve existing and new patrons, will increase parking demand in the neighborhood and on Mary Avenue. The following observations underscore parking conditions at the park.
  - Observations on ~~November~~September 13, 2025, during the Silicon Valley Fall Festival, indicated that only 34 of the 256 off-street parking spaces (13%) at Memorial Park were available to festival visitors, given that most parking areas were used for food vendors (including loading and unloading, portable restrooms, handwashing, and preferential parking).
  - The only other Park-adjacent residential streets (Christensen Drive, Laretta Drive, and Ann Arbor Court) are not accessible to Park visitors as they require permits from 7:00 a.m. to 10:00 p.m. daily.
  - Notably, the Memorial Park Parking Study (for the Memorial Park Specific Plan) did not include Mary Avenue, even though it provides parking for Memorial Park, and it cited “Maintain Current Parking Configuration Along Mary Avenue” as a recommended management strategy.
  - Three phases of work are involved in implementing the Park Concept, and the suggested timeline, depending on available funding, is as follows: Phase 1 can be completed in 0 to 5 years, Phase 2 in 6 to 10 years, and Phase 3 in 11 to 15 years.
- Completion of the **Westport Mixed-Use Project**, which involves a 36-month buildout period, will reduce residential and retail areas, associated vehicle trips, and the total parking supply, *but will require accommodating the resulting retail parking demand off-site along Mary Avenue*. As a condition of approval, the applicant must update the site plan to add at least 20 on-site parking spaces before building permits are issued.
- **The replacement of the Flint Center at De Anza College** will enhance opportunities for public and on-campus entertainment and increase public reliance on off-site parking on Mary Avenue. This Foothill-De Anza Community College District Measure G project is generally defined below based on publicly available information.
  - Uses: College events, performing arts | cultural events, and community rentals | regional events.
  - Spaces: Primary performance/event space with approximately 1,000 seats; Secondary performance/meeting space with approximately 300 seats.
  - Expected Parking Demand: 1 parking space per 4 fixed seats. For 1,000 seats, 250 parking spaces. The idea is to use the existing on-site parking supply and improve parking and circulation to suit the project.
  - Cost: \$30 million.
  - Development Program and Timeline: Not stated.

I appreciate your consideration.

Sincerely,  
KRUPKA CONSULTING

*Paul Krupka*

Paul Krupka, P.E.  
Owner

Attachment—

Cc (with Attachment): Brian Avery, Lina Meng

Mary & Gary Tietz  
10520 Castine Avenue  
Cupertino, CA 95014  
March 1, 2026

Mayor Kitty Moore  
City Council member Liang-Fang Chao  
City Council member Sheila Mohan  
City Council member J.R. Fruen  
City Council member R. Wang

We are writing in hopes that on March 3rd you will vote against the vacation of the right of way along the westerly edge of Mary Avenue (APN 326-27-053). The narrowing of that section of Mary Avenue will result in a very dangerous situation and possible death of pedestrians and cyclists. Years ago, the city spent a small fortune on the Mary Avenue bike bridge and then added a protected bike lane in order to provide a safe route between Sunnyvale and DeAnza College. We feel that building those units in that location is a very poor decision for the following reasons.

1. If units are placed there, there will be many Amazon, Fed Ex, US Post Office, Uber, food and medical equipment delivery vehicles blocking the roadway. There is a blind corner there and cars trying to get around those vehicles are at risk of head on crashes.
2. This is currently a protected route for pedestrians and cyclists making their way to the many festivals and special events at Memorial Park as well as the monthly flea market and the weekly farmers' market at De Anza. Families are often traveling this way with young children walking or riding bikes.
3. The number of allotted parking spaces for the planned development is not nearly enough for the number of units, so people coming and going will often end up having to wait in the street blocking traffic.
4. This is the route that track and cross country teams run from Homestead High School while training.

5. In case of an emergency, police, fire and other vehicles would either be blocked or block the roadway. That doesn't happen now because there are no homes along that side.
6. After the death of a Monta Vista student cycling to school on McClellan, the city did a good job developing a protected route to school in that area. Please don't take away an already existing protected route.
7. Cupertino currently has vacant properties along Stevens Creek Boulevard where the old Fontanas, Staples and Party City businesses were located. Clearly, those are being considered by developers and the city could require part of that space to be used for something like what is planned for Mary Avenue. That location is much better because safe and convenient access could be included with ample parking and residents would have easy walking and wheel chair access to grocery stores and other shopping.
8. Another potential location with far better access is the underutilized parking area around DeAnza College. The shift to online learning and zoom DeAnza classes has created an opportunity to build this project in the freed up (empty) space in the parking lot. There are significant advantages to this DeAnza location. It would provide convenient and safe access for the proposed project residents to attend classes and activities at the college. The Mary Avenue location is dangerous for those project residents to access educational or cultural opportunities. Crossing both Mary Avenue and Stevens Creek to access DeAnza College in a wheelchair, using a walker or at disabled/senior citizen walking pace is a major problem/liability of the Mary Avenue location.

These issues are things the city planning department and the group pushing this project should have looked at months ago when many of us residents expressed them at meetings at the Quinlin Center a long time ago. We always felt that our concerns were being lightly dismissed in the push to put the project forward.

Respectfully,

*Mary Tietz*  
*Gary Tietz*  
Mary and Gary Tietz

**From:** [Kitty Moore](#)  
**To:** [City Clerk](#); [Lauren Sapudar](#)  
**Subject:** Written Communications Agenda Items 8 and 9 Mary Ave. Villas  
**Date:** Monday, March 2, 2026 6:05:41 PM  
**Attachments:** [Pages from NR 26-47 Response 1 Redacted.pdf](#)  
[Re Your Vote on Mary.pdf](#)

---

Dear City Clerk,

Please include the attached documents and this email in the official administrative record for the Mary Avenue Villas project (Agenda Items 8 and 9) for tomorrow's meeting.

These materials—one discovered through a Public Records Act search and the other sent directly to me—are being submitted specifically to protect the integrity of the quasi-judicial process. Formal inclusion ensures full transparency and upholds the procedural due process required for this project.

Contextual Note: These records involve communications with Joshua Safran, the legal counsel for the project opposition, and John Anzur (who appears to be attorney John Andrew Anzur), regarding legal coordination against the project apparently with Councilmember Wang as intermediary.

Thank you,

Kitty Moore

	<b>Kitty Moore</b>
	Mayor City Council KMoore@cupertino.gov (408) 777-1389
	

**From:** R "Ray" Wang <ray@ray4cupertino.org>  
**Sent:** Monday, February 09, 2026 10:24 PM EST  
**To:** Lina <[REDACTED]>; Brian Avery <[REDACTED]>; Theresa Horng <[REDACTED]>;  
Shaun Fong <[REDACTED]>; Joshua Saitan <jsaitan@strategylaw.com>; Roberta Murai  
<[REDACTED]>; Walter Li <[REDACTED]>; City Council <citycouncil@cupertino.gov>  
**Subject:** Re: Mary Avenue

**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.

Hello Mary Avenue team,

This person wants to help you. I'll let you assess if he's friend or foe but I can tell you he wrote a scathing letter to council and Kitty for her lack of support.

Warmest regards

R "Ray" Wang  
[REDACTED]

Member, Cupertino City Council  
[www.ray4cupertino.org](http://www.ray4cupertino.org)



On Feb 9, 2026, at 14:55, [REDACTED].net wrote:

Ray, writing u on this email. You can forward my email to the leaders of the save cupertino stop mary. We would be willing to donate something to the legal fight to stop it. The newspaper said some legal corners were cut by the city and maybe a court will stop it.

Tks, john

Monday, March 2, 2026 at 14:24:05 Pacific Standard Time

**Subject:** Re: Your Vote on Mary  
**Date:** Friday, February 20, 2026 at 7:30:01 AM Pacific Standard Time  
**From:** [REDACTED]  
**To:** Kitty Moore  
**CC:** R "Ray" Wang, John Andrew Anzur

**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.

Dear Ms Moore, Following up on this email which you did not respond to or even acknowledge. Referring back to the election, you and Ray Wang were elected specifically because of your ability to form an anti development majority on the Board.

Instead you cast a deciding vote to move forward a very locally unpopular development project on Mary. Why do this?

Simply asking for an explanation how u possibly could vote ,and be the deciding vote, to move this forward. It is a betrayal to those who voted u in .

I also understand from the press that not all the legalities were followed. Can y explain this please? Can you also forward my email to the citizens who led the opposition to this project, or send us their email.

Finally, why spar with your colleague. U two were voted in together. The press report some petty retribution. Focus on the important issues.

When these things get built they are permanent. Your decision has long lasting bad implications for this neighborhood.

Look forward to hearing from you .

On Feb 9, 2026 12:55 PM, [REDACTED] wrote:

Dear Ms Moore,

What happened on your vote on Mary Avenue? If you had voted with Wang the ridiculous locally unpopular project was dead (2-2-1). We elected u and Wang as a block to slow development and u ignored your voter block. Really? Would like an explanation why u didnt follow your promises to voters and voted contrary to Wang.

Thank you.

**From:** [Cupertino ForAll](#)  
**To:** [City Council](#)  
**Cc:** [Cupertino City Manager's Office](#); [City Clerk](#)  
**Subject:** Support for Mary Avenue Villas  
**Date:** Monday, March 2, 2026 6:07:14 PM  
**Attachments:** [image.png](#)

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March 02, 2026

Please include the following letter in the Written Communications for City Council Meeting on March 3, 2026.

---

Dear Mayor Moore, Vice Mayor, and Councilmembers,

Subject: Agenda Items 8 & 9, City Council Meeting March 3, 2026, Mary Avenue Villas Project

Cupertino For All (CFA) strongly advocates in favor of, and **urges City Council to approve both Agenda Items 8 & 9, re-stated from Staff Reports below:**

Agenda Item 8: Consider Adopting a Resolution Vacating a Portion of Public Right-of-Way Located Along the Westerly boundary of Mary Avenue (APN 326-27-053)

Recommended Actions: Find project exempt from CEQA

1. Find the project exempt from the California Environmental Quality Act (CEQA)
2. Adopt Resolution No. 26-XXX approving the vacation of a portion of public right-of-way located along the westerly boundary of Mary Ave (APN 326-27-053)

Agenda Item 9: Consider Adopting a Resolution Declaring the Mary Avenue property (APN 326-27-053) Exempt Surplus Land under the California Surplus Land Act.

Recommended Actions:

1. Find project exempt from CEQA
2. Adopt Resolution No. 26-XXX declaring the Mary Avenue property (APN 326-37-

053) to be exempt surplus land pursuant to the provision of the Surplus Land Act codified at California Government Code subsection 54221(f)(1)(F)(i)

**Mary Avenue Villas fills a critical need.** With this housing, Cupertino joins the region in building homes for our most vulnerable residents. This, also, fulfills another goal of the city: preventing people from becoming unhoused.

We honor the dedicated advocates for Extremely Low Income (ELI) Housing for those who are Intellectually Developmentally Disabled (IDD). These advocates have dreamed and worked for this housing for two decades. Many organizations and families have borne witness to the need.

Thank you to several City Councils for their attention and support over many years as this project worked its way through regulatory meetings and decisions required. In 2019, Mayor Scharf put the project for ELI/ IDD housing on the City Priorities which provided City leadership from that time to this important day.

Thank you to Cupertino's knowledgeable, dedicated City Staff, and excellent Attorneys, who have worked diligently over the years to complete the long, detailed list of regulatory steps for this unique site and special-needs housing. As stated in the Staff Reports for both Agenda Items, many actions have been taken, meetings held, findings made, and affirmative decisions made, to move Mary Avenue Villas Project toward final approval.

Thank you to the Public who have spoken and written over the years in support of this critical housing for vulnerable residents. Your warmth and generosity have shone through your presence and words.

Cupertino For All strongly advocates in favor of, and **urges City Council to approve, both Agenda Items 8 & 9.**

**We are here to advocate that this City Council join the several prior Councils that have moved this project forward with the necessary approvals, funding, and with these actions, the land needed to build a place for our most vulnerable neighbors.** A place for them to become. A place for them to enjoy independent lives that allow them to continue to learn and grow, throughout their lives. A place for them to create a community. Those of us who enjoy the independence of our own homes can watch with joy as 40 new homes are added to Cupertino's housing stock to provide such independence to others.

**We urge you to vote "yes" without further delay.**

Sincerely,

Cupertino For All  
Board of Directors

**From:** [louise saadati](#)  
**To:** [City Council](#); [City Clerk](#)  
**Subject:** Agenda Items 8 & 9 of City Council Meeting March 3, 2026, Mary Avenue Villas Project  
**Date:** Monday, March 2, 2026 5:33:30 PM

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March 02, 2026

Please include the following letter in the Written Communications for City Council Meetings for March 3, 2026 \_\_\_\_\_.

Dear Mayor Moore, Vice Mayor Liang and Councilmembers:

Please vote yes for both Agenda Items 8 and 9 in the 3/3/26 council meetings.

This yes vote is needed to allow the Mary Avenue Villas to progress to final approval and development. It has been a slow arduous 20 year process starting with grassroots Cupertino community including advocates for Extremely Low Income (ELI) Housing for Intellectually and those who are Developmentally Disabled (IDD); then obtaining support from the Rotary for more than 10 years; and then Steve Scharf in 2019 to meet the need in Cupertino for some affordable housing for EDD and IDD.

This site is part of the required Housing Element that HCD approved.

**June 16, 2026 is the HCD deadline for Cupertino to meet the Housing Element requirement for below market housing. We need this Mary Avenue Villa to be approved before June 16, 2026 to **KEEP CUPERTINO FREE FROM BUILDERS' REMEDIES.****

Please approve Items 8 and 9 on 3/3/26 Council Meeting and expedite its progress to development and meeting Cupertino's Housing Element requirements.

Thank you to the City Councils, Commissions, City Staff, advocates and community who have worked hard over a 20 year period to make this project be possible and come close to final approval.

Thank you ,  
Louise Saadati

**From:** [Joshua Safran](#)  
**To:** [Lauren Sapudar](#); [City Clerk](#); [City Council](#)  
**Cc:** [Tina Kapoor](#); [Cupertino City Manager's Office](#); [Kirsten Squarcia](#); [Benjamin Fu](#); [City of Cupertino Planning Dept.](#); [Floy Andrews](#); [City Attorney's Office](#)  
**Subject:** Demand Letter to City Council of Cupertino re Mary Avenue Villas Project (March 3, 2026)  
**Date:** Tuesday, March 3, 2026 2:36:00 PM  
**Attachments:** [image001.png](#)  
[Demand Letter to City Council of Cupertino re Mary Avenue Villas Project \(March 3, 2026\).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.

Dear Mayor Moore and Members of the City Council,

Please find attached our Request for Compliance with Law and Objections to Agenda Items 8 & 9 of City Council Agenda of March 3, 2026: Proposed Right-of-Way Vacation (Res. 26-024) and Exempt Surplus Land Declaration (Res. 26-025) for Mary Avenue Villas Project (File #: 26-14737) for due Council consideration and inclusion in the public record.

All the best,

Joshua

Best Regards,

**STRATEGYLAW LLP**

**Joshua Safran**

One Almaden Boulevard, Suite 700

San Jose, California 95113

Phone: 408.478.4100

Email: [jsafran@strategylaw.com](mailto:jsafran@strategylaw.com)

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# STRATEGY LAW, LLP

One Almaden Boulevard, Suite 700 San Jose, CA 95113  
P: (408) 478-4100 F: (408) 295-4100 www.strategylaw.com

March 3, 2026

JOSHUA SAFRAN, ESQ.  
jsafran@strategylaw.com

Cupertino City Council  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014

By Email (citycouncil@cupertino.gov)

**Request for Compliance with Law and Objections to Agenda Items 8 & 9 of  
City Council Agenda of March 3, 2026:  
Proposed Right-of-Way Vacation (Res. 26-024) and  
Exempt Surplus Land Declaration (Res. 26-025) for  
Mary Avenue Villas Project (File #: 26-14737)**

Dear Mayor Moore and Members of the City Council:

We represent the Garden Gate Coalition for Mary Avenue Safety (the “Coalition”), an unincorporated association of residents and community members directly and adversely affected by the proposed Mary Avenue Villas Project (File #: 26-14737) (the “Project”), and the City’s related approvals and commitments affecting the Mary Avenue right-of-way and public parking resources. The Coalition respectfully objects to the actions proposed for tonight under Agenda Items 8 and 9, including the City’s request that the Council (i) again find these actions CEQA-exempt, and (ii) adopt resolutions to vacate a portion of the Mary Avenue public right-of-way and to declare City-owned land “exempt surplus land” under the Surplus Land Act.

At a minimum, Items 8 and 9 should be continued. The record demonstrates that the City has been proceeding in a rushed, backward, and legally indefensible manner – approving and committing first, and attempting to supply required findings and lawful sequencing later – driven by an external financing timeline. Proceeding tonight would compound those defects and further prejudice affected residents.

**I. Tonight’s Actions Are Not “Mere Implementation” and Cannot Lawfully Proceed on a Categorical Exemption**

Item 8’s staff report asks the Council to “[f]ind the project exempt from...CEQA” and adopt the street vacation resolution. Item 9 likewise asks the Council to “[f]ind the project exempt from...CEQA” and adopt the exempt surplus land declaration. The draft exempt-surplus resolution goes further, asserting that “none of the exceptions” apply and that the action is “not...a separate project under CEQA” but “an implementation action within the scope” of the housing development.

The Coalition has already shown, supported by evidence in the record and supplemental expert analysis, that CEQA’s categorical exemption criteria and exceptions are not satisfied and that the City’s CEQA approach reflects improper segmentation of an integrated undertaking. As explained in the Coalition’s Petition for Reconsideration (the “Petition”) filed on February 27, 2026, the DDA approval, public land conveyance, and right-of-way vacation enabling development constitute a single integrated undertaking that must be evaluated as the “whole of the action.”

**II. The City Is Inappropriately Attempting to “Cure” Required Findings After Committing Itself through the DDA**

**A. The City’s Own Staff Report Confirms these Actions Are Conditions Precedent to Perfecting the Transfer under the DDA**

The staff report for Item 9 acknowledges that on February 3, 2026 the Council voted to enter into a contingent DDA, and that the City cannot transfer the City-owned property unless contingencies are satisfied, including (1) declaring the property “exempt surplus land,” and (2) vacating 0.79 acres of public right-of-way. It further states that only after those contingencies are satisfied “may a transfer of property be perfected.”

In other words, tonight’s items are not ministerial follow-through; they are the City’s effort to fulfill legal prerequisites that should have been lawfully analyzed and sequenced *before* the City committed itself through the DDA and related approvals.

**B. The Record Demonstrates “Cart Before the Horse” Sequencing Driven by Applicant Financing Deadlines**

As the Coalition already documented in the Petition, the City’s process for this Project has proceeded as a deadline-driven rush where the City approves and commits first, and attempts to supply legally required findings and sequencing later.

That is precisely what is happening again tonight: staff explicitly links the exempt surplus declaration to “the Project’s financing timeline and regulatory commitments.” Deadline pressure is not a lawful substitute for sequencing required by CEQA, the Surplus Land Act, and right-of-way vacation law.

**C. Belated Planning Commission Actions Cannot Retroactively Legitimize an Invalid Process**

In the Petition, the Coalition has already explained that a belated Planning Commission consistency determination cannot retroactively legitimize an invalid CEQA process or cure improper project segmentation, and that the appropriate course is to reset the process and comply with the sequencing and findings requirements imposed by state law.

Separately, the Coalition has shown that the Planning Commission was inappropriately asked to bless the abandonment of public right-of-way before the City had established what public functions will be eliminated, modified, or displaced, and that this sequencing deprived the Commission and public of a meaningful ability to evaluate General Plan consistency.

**D. The DDA Reflects Impermissible Predetermination of Approvals.**

As set forth in the Coalition's prior submissions, the DDA is not "implementation"; it independently commits the City to convey public land and vacate public rights-of-way and constitutes unlawful predetermination whereby commitments are made before lawful completion of CEQA compliance, surplus land determinations, and right-of-way vacation findings.

**III. The City Cannot Declare "Exempt Surplus Land" on Conclusory Findings that Ignore the Property's Functional Public Use and Rely on Bootstrapping.**

The Item 9 staff report confirms the "Property" includes 0.79 acres of right-of-way and "some on-street parking." The Coalition has already demonstrated that the Surplus Land Act requires a good-faith determination that property is not necessary for present or foreseeable public use, grounded in the property's *actual functional use*, and that the City's approach improperly bootstraps surplus status to the redevelopment decision.

This is not a technicality. Staff expressly states that adoption of the exempt surplus declaration "authorizes the City to proceed toward disposition...in accordance with the Project's financing timeline." The City should not dispose of public assets on conclusory "not necessary" recitals where the record contains substantial evidence of ongoing public use and displaced impacts.

**IV. The Right-Of-Way Vacation Is Not Supported by Substantial Evidence and Cannot Be Treated as "Without Adverse Effect."**

Item 8's staff report repeatedly asserts that the City "must vacate" the right-of-way "[t]o facilitate the project's construction," and that if the Council does not adopt the vacation "the approved development project would not be able to move forward." That is not the legal standard. A right-of-way vacation is a permanent abandonment of a public asset, requiring findings supported by evidence that the area is unnecessary for present or prospective public use.

The Coalition's Petition and supporting submissions also explain that the record contains substantial evidence of adverse traffic/parking/circulation and safety impacts, which further undermines any finding that the vacation (and related actions) can proceed under a categorical exemption.

**V. Councilmembers With Demonstrated Prejudgment/Bias (and Other Disqualifying Relationships) Must Recuse Themselves for Disqualifying Conflicts of Interest**

The Coalition has separately requested that the Council proceed only after compliance with disqualifications due to conflicts of interest. This issue is not abstract; it goes to the validity of any action taken tonight if the voting body is not impartial.

**A. The Petition Documents Record Evidence of Prejudgment and Lack of the Requisite “Open Mind.”**

The Petition explains that a fair quasi-judicial hearing requires decisionmakers to maintain an “open mind,” decide based on law and evidence, and not proceed based on animus, moral condemnation, or prejudgment; it identifies extensive remarks by Councilmember J.R. Fruen that the Coalition contends demonstrate prejudgment and partiality. The Petition further notes that Councilmember Fruen was the “deciding majority vote,” that he seconded the principal motion, and that if he had recused himself “the Decision would not have been made.”

The Petition therefore requests that any rehearing be conducted only after “recusal of any Councilmember who has demonstrated prejudgment or bias inconsistent with an ‘open mind.’” Those same principles apply to tonight’s continued, consequential actions that further implement and entrench the challenged approvals.

**B. Participation Tied to Organizations Promoting the Project Raises Additional Conflict Concerns**

The record also includes a specific request, out of an abundance of caution and to avoid the appearance of impropriety and self-dealing, that Councilmembers who are part of the Rotary Association (associated with and/or promoting the Project) should recuse themselves, and that any city council member who has a conflict of interest must recuse themselves from voting on this Project.

**VI. Requested Relief for Tonight’s Meeting**

For the reasons above, the Coalition respectfully requests that the City Council:

1. Continue Agenda Items 8 and 9 (Res. 26-024 and 26-025).
2. Direct staff to proceed only after full compliance with applicable law, including lawful CEQA review of the whole action, antecedent Government Code § 65402 determinations, right-of-way vacation findings/procedures, and Surplus Land Act compliance.
3. Ensure a lawful and impartial decisionmaking body by requiring recusal of any Councilmember with a disqualifying conflicts of interest, including prejudgment/bias

inconsistent with an “open mind,” and addressing the additional conflict concerns described above.

4. Decline to make or reaffirm categorical exemption findings for these actions where the record shows substantial evidence of impacts and legally defective segmentation/sequencing.

This letter is submitted without prejudice to, and shall not be deemed to waive, any claims, objections, arguments, or remedies available to the Coalition under CEQA, state law, local ordinance, or common law. All such rights and remedies are expressly reserved.

Thank you for your attention to this important matter.

Very truly yours,

STRATEGY LAW, LLP



Joshua Safran, Esq.

cc: Tina Kapoor, City Manager (Tinak@cupertino.gov; citymanager@cupertino.gov)  
Kirsten Squarcia, Interim Deputy City Manager (kirstens@cupertino.gov; )  
Lauren Sapudar, Acting City Clerk (LaurenS@cupertino.gov; cityclerk@cupertino.gov)  
Benjamin Fu, Director of Community Development (BenjaminF@cupertino.gov;  
planning@cupertino.gov)  
Floy Andrews, Interim City Attorney (fandrews@awattorneys.com;  
cityattorney@cupertino.gov)

CC 3-3-2026

#9

Mary Avenue property  
Exempt Surplus Land

Written Communications

**From:** [Santosh Rao](#)  
**To:** [City Council](#); [Floy Andrews](#); [City Attorney's Office](#); [Tina Kapoor](#); [Luke Connolly](#); [City Clerk](#); [Public Comments](#); [Chad Mosley](#)  
**Subject:** Informational Memo Clarifying Procedural Sequence in Right-of-Way Vacation and Surplus Land Processes  
**Date:** Thursday, February 26, 2026 7:48:55 AM  
**Attachments:** [ontario-sla-nov-061825.pdf](#)

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**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.

Dear City Clerk,

Please include the below in written communications for items not on the agenda for the upcoming State of the City council meeting today. In addition please include as written communications for the next upcoming city council meeting.

[Writing on behalf of myself only as Cupertino resident]

Subject: Request for Informational Memo Clarifying Procedural Sequence in Right-of-Way Vacation and Surplus Land Processes

Dear Mayor Moore, City Manager Kapoor, Attorney Andrews, and Honorable Cupertino City Council Members,

I am writing to respectfully request that the City publish an informational memorandum clarifying the City's interpretation and procedural rationale regarding the sequencing of steps involved in actions such as: vacation of public right-of-way, deeming of land as surplus, notification to the Department of Housing and Community Development (HCD), issuance of an RFP, bid evaluation, selection of a proposal, or determination that a property is surplus-exempt.

Specifically, I request that the memo address why the City believes it is not required under state or local law to maintain sequentiality in these steps, and that it describe the criteria used to determine surplus exemption and related procedural pathways.

In addition, I would appreciate clarification on how the City Council determined and signed findings of General Plan conformance prior to the Planning Commission conducting its own hearing on that matter. It would be helpful for residents and stakeholders to understand the legal and procedural basis for Council's authority to certify such conformance before the Commission's review occurred.

To avoid future misunderstandings and ensure transparency, I ask that this informational memo include a detailed explanation and rebuttal of any suggestions of procedural noncompliance with state-defined sequential steps.

Note that deeming land as exempt surplus is a very narrowly defined qualification criteria. Please publish the state defined qualification criteria for exempt surplus and why the city believes it qualifies to deem this land as exempt surplus. Further single party negotiation must not occur prior to deeming land as exempt surplus. A RFP must not occur on public right of way land before the city has heard evidence that the land can be vacated and heard from the

community. Running a RFP prior to these steps indicated pre-biased positions by the city and lack of a fair adjudication of the process to vacate, process to deem surplus, process to deem exempt surplus as the city already ran a RFP and enacted next steps with a single party. Council is expected to take no positions ahead of council hearings whereas the actions of this RFP process indicate council assumes it is already acceptable to vacate land, deem surplus or exempt surplus, assumes no interest from other HCD notification list parties and gives preference unduly to a single party prior to any of those steps. If the RFP has a single bidder the RFP must be rerun.

If the City identifies any curative measures that may be appropriate, I urge that they be implemented proactively to maintain compliance and public confidence.

Given the City's fiscal constraints, prudence would suggest minimizing exposure to potential litigation costs through full procedural transparency and adherence to defined statutory processes. I believe that publishing such a memo will help reaffirm the public's trust in the City's governance and procedural integrity.

Thank you for your attention to this request and for your continued service to the community. I look forward to your response and the City's informational clarification on these important matters.

Sincerely,  
San Rao (writing on behalf of myself only as a Cupertino resident)

Begin forwarded message:

On Tuesday, December 2, 2025, 11:46 PM, Santosh Rao <santo\_a\_rao@yahoo.com> wrote:

[Writing on behalf of myself only as a Cupertino resident, taxpayer, voter]

Dear City Clerk,

Please include this letter in written communications for agenda item 12 for 12/2/25 council meeting and for the next upcoming council meeting.

Subject: Request to Halt Negotiations or Disposition until SLA Process Is Completed in Accordance with 2025 HCD Precedent

Dear Mayor Chao, Vice-Mayor Moore, Council Members, Attorney Andrews, CAO, CM Kapoor,

Please note the precedent in the below and attached HCD notice of violation to the city of Ontario dated June 18 2025. The precedent directly applies to the actions in progress currently in the city of Cupertino attempting to move forward with appointing a negotiator. take steps towards disposition and engaging in exclusive negotiations with a pre-determined buyer without first completing the SLA process and required notices and noticing period.

I write to respectfully urge the Council to **pause any efforts to approve a negotiator, enter into negotiation, or take any steps toward disposition or sale of public land** until the city has fully satisfied the notice, findings, and waiting-period requirements of the Surplus Land Act (SLA), including providing required documentation to HCD and observing the legally mandated notice/negotiation windows.

### **Background — Relevant Legal Obligation**

Under the SLA (Gov. Code §§ 54220–54234), a local agency must first declare property “surplus” (not needed for public use), adopt a resolution to that effect, and then issue a formal Notice of Availability (NOA) to: (1) HCD; (2) any local public entities within the jurisdiction; and (3) developers on HCD’s list of those interested in surplus public land for affordable housing. [California Housing Dept.+2Banning, CA+2](#) After that NOA is issued, the city must allow a minimum statutory waiting period (60 days for responses) and, if any eligible entities respond, a mandated 90-day good-faith negotiation period before disposing of the land. [Banning, CA+2California Housing Dept.+2](#)

Furthermore, under recent amendments to the SLA (2024), if a local agency receives a Notice of Violation (NOV) from HCD for noncompliance, the agency is required to hold an open public meeting to evaluate the NOV — and the agency may not proceed with any disposal until that process is complete. [Allen Matkins - Allen Matkins+2California Housing Dept.+2](#)

### **Precedent — HCD’s 2025 Finding Against City of Ontario**

In a September 22, 2025 Follow-Up Notice of Violation addressed to Ontario’s City Manager, HCD found that Ontario had violated the SLA by disposing of a 2.368-acre parcel (APN 0218-111-12-0000) without first declaring the land surplus and without issuing the required notices. [California Housing Dept.+1](#)

**HCD concluded that the disposition and the fact that the City had “exclusively negotiated with the Developer” prior to complying with SLA requirements—constituted a clear SLA violation.** [California Housing Dept.+1](#)

HCD also invoked applicable statutory penalties under Gov. Code § 54230.5 for the first-time violation (30 % of the disposition value) and warned that future violations would trigger even higher penalties (50 % of the disposition value). [California Housing Dept.+1](#)

The Ontario case demonstrates that **HCD is actively enforcing SLA compliance** including penalizing cities that attempt to circumvent the required surplus-land process by negotiating in advance with a favored developer, or disposing of land without the required surplus declaration and notice.

### **Risk of Noncompliance and Fiscal/Legal Consequences**

Given the recent Ontario finding:

- Proceeding with negotiations, designating a "negotiator," or otherwise taking substantive steps toward disposition before completing the full SLA process would risk very likely violation of state law.

- Noncompliance may expose the City to substantial financial penalties (per SLA enforcement provisions) and reputational risk.
- Such action may also frustrate the primary public-purpose objective of the SLA: to give first priority to affordable-housing proponents or other public entities, rather than to private developers selected in advance.

### **Pause and Complete SLA Process Before Any Further Action**

In light of the above, I respectfully request that the Council adopt a temporary moratorium on any of the following steps until the SLA-required process has been fully observed and documented, and until any required findings and waiting periods have been completed:

- Appointment of a negotiator or negotiation team
- Entering into or approving formal negotiations with any private developer
- Any pre-disposition activity regarding sale or lease of the land (including drafting term sheets, letters of intent, exclusivity agreements, or similar)
- Any vote toward approval of disposition, transfer, or sale of the land

At minimum, the city should first:

1. Declare the parcel “surplus” or exempt surplus after written findings with evidence via a formal Council resolution;
2. Issue a NOA to HCD, local public entities, and certified developers per SLA requirements;
3. Observe the 60-day notice period, await any responses, and if responses are received allow full 90-day good-faith negotiations;
4. Submit documentation of the notice and negotiation process, and any recorded restrictions or covenants, to HCD for review per SLA guidelines. [California Housing Dept.+2Banning, CA+2](#)

### **Conclusion**

The state’s recent 2025 decision in the Ontario case makes clear that SLA compliance is no longer optional, and that state enforcement can and will penalize cities that attempt to circumvent the process.

Given the potential legal and financial risks, and the public’s interest in transparent, fair, and affordable-housing–oriented land disposition, I strongly urge the Council to suspend any further steps toward negotiation or sale until full compliance with SLA has been completed and documented.

Thank you for your consideration of this request.

Respectfully,

San Rao (writing on behalf of myself only as a Cupertino resident, taxpayer,  
voter)

**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](http://www.hcd.ca.gov)



June 18, 2025

Scott Ochoa, City Manager  
City of Ontario  
303 E. B Street  
Ontario, CA 91764

SENT VIA EMAIL TO: [sochoa@ontarioca.gov](mailto:sochoa@ontarioca.gov)

Dear Scott Ochoa:

**RE: City of Ontario's Surplus Land Disposition of a 2.368-Acre Portion of the Property Located at the Southeast Corner of East Riverside Drive and Ontario Avenue (APN 0218-111-12-0000) – Notice of Violation**

The California Department of Housing and Community Development (HCD) hereby issues this Notice of Violation, pursuant to Government Code sections 54230.5, 65585, and 65585.1, to the City of Ontario (City) regarding the City's disposition of a 2.368-acre portion of the property located at the southeast corner of East Riverside Drive and Ontario Avenue in the City of Ontario, with Assessor's Parcel Number (APN) 0218-111-12-0000 (Property).

Pursuant to Government Code section 65585.1, subdivision (a), HCD must notify a local agency if it finds that the local agency is in violation of the Surplus Land Act (SLA), and HCD may notify the California Office of the Attorney General that a local agency is in violation of the SLA.

The City has 60 days from receipt of this letter to cure or correct the violations noted herein.<sup>1</sup> If the City does not cure or correct all such violations by August 18, 2025, a penalty will be assessed to the City equal to 30 percent of the disposition value.<sup>2</sup> In the event of a sale, the disposition value is the greater of the final sale price of the land or the fair market value of the surplus land at the time of the sale.<sup>3</sup> HCD may also pursue additional remedies authorized under Government Code sections 65585 and 65585.1.

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<sup>1</sup> Gov. Code, § 54230.5, subd. (a)(1).

<sup>2</sup> *Ibid.*

<sup>3</sup> Gov. Code, § 54230.5, subd. (a)(2).

## **Background**

HCD initially received a Notice of Alleged Violation (enclosed) pursuant to Section 502 of the SLA Guidelines on March 14, 2025, from UNITE HERE Local 11 (Local 11) regarding the City's approval of a Disposition and Development Agreement (DDA) for sale of the Property. Local 11 provided prior correspondence, including a letter to the City requesting information on how the action complied with the SLA, prior to the City Council taking action to authorize the sale and disposition of the Property at a public meeting on February 18, 2025.

On March 21, 2025, HCD requested a meeting with the City to discuss the alleged violations. On April 8, 2025, HCD met with City staff, who asserted that disposition was undertaken pursuant to the Economic Opportunity Law.<sup>4</sup> The City is also in the process of developing this Property in addition to 190 acres of adjacent City-owned lands for the Ontario Regional Sports Complex. The City shared during the conversation that close of escrow and disposition of the Property to Ontario Ranch Hotels, LLC (Developer) was completed on April 4, 2025.

On April 10, 2025, the City provided HCD documentation regarding the disposition, which includes the City Council's action to approve the DDA between the City and the Developer at a public meeting on February 18, 2025. The documentation includes a resolution describing the City's "exclusive negotiations" with the Developer for sale and development of the Property as a "luxury 5-star hotel" with 227 guest rooms. The terms and conditions of the DDA also require the Developer to convey to the City approximately 25,489 square feet area of easements for right-of-way and temporary construction purposes. While the documentation included a summary report of written findings claiming that the disposition met the statutory requirements of the Economic Opportunity Law, no such findings or statements were made with respect to meeting the statutory requirements of the SLA. The City further confirmed details of the disposition during a follow-up conversation with HCD on May 5, 2025 and by providing the close of escrow documentation on May 13, 2025. The additional documentation notes an approximate net payment of \$979,219.51 to the City, based upon the easements value and closing costs being credited against the Property's fair market value.

## **Analysis**

Based on a review and analysis of the City's documentation and subsequent disposition of the Property, HCD finds that the City violated the SLA, as discussed below.

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<sup>4</sup> Gov. Code, § 52201.

The City Did Not Make the Land Available Pursuant to the SLA

Government Code section 54221, subdivision (b)(1) states:

**“*Surplus land*’ means land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use. Land shall be declared either ‘surplus land’ or ‘exempt surplus land,’ as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency’s policies or procedures.** A local agency, on an annual basis, may declare multiple parcels as ‘surplus land’ or ‘exempt surplus land.’” (Emphasis added.)

In addition, Government Code section 54222 requires the following:

**“[A]ny local agency disposing of surplus land... shall send, before disposing of that property or participating in negotiations to dispose of that property with a prospective transferee, a written notice of availability of the property** to all of the following: (a)(1) **A written notice of availability for developing low- and moderate-income housing** shall be sent to any local public entity, as defined in Section 50079 of the Health and Safety Code, that has jurisdiction where the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, that have notified the Department of Housing and Community Development of their interest in surplus land shall be sent a notice of availability for the purpose of developing low- and moderate-income housing. All notices shall be sent by electronic mail, or by certified mail, and shall include the location and a description of the property.” (Emphasis added.)

Government Code section 54230.5, subdivision (b)(1) further states:

**“Before agreeing to terms for the disposition of surplus land, a local agency shall provide to the Department of Housing and Community Development a description of the notices of availability sent, and negotiations conducted with any responding entities, in regard to the disposal of the parcel of surplus land and a copy of any restrictions to be recorded against the property** pursuant to Section 54222.5, 54233, or 54233.5, whichever is applicable, in a form prescribed by the Department of Housing and Community Development.” (Emphasis added.)

The City’s approval of a DDA between the City and the Developer for sale and development of the Property as a hotel on February 18, 2025, and close of escrow on

April 4, 2025, qualify as a disposition of surplus land under the SLA. When the Property qualifies as surplus land, then the City must send notices of availability (NOA) for developing low- and moderate-income housing to all entities required under Government Code section 54222 prior to disposing of or participating in negotiations to dispose of the Property. The City must also provide to HCD a description of the NOAs sent and negotiations conducted with any of the responding entities above, in addition to a copy of any restrictions to be recorded against the property, pursuant to the above requirements. Similarly, the SLA also requires that exempt surplus land determinations be supported by written findings and documentation. All local agency reporting requirements for surplus land and exempt surplus land are described further in Section 400 of the SLA Guidelines.<sup>5</sup>

However, the City has not provided any such documentation to HCD regarding this transaction prior to exclusively negotiating with the Developer, entering into a subsequent DDA with the Developer, and closing escrow. The documentation provided to date, including the public meeting held on February 18, 2025, makes no reference of the Property as surplus land or exempt surplus land and does not include any written findings pursuant to the SLA. Thus, the City has not complied with these key provisions of the SLA prior to disposing of the Property.

#### Economic Opportunity Law Does Not Relieve the City of SLA Requirements

During the meeting on April 8, 2025, the City claimed that it met statutory requirements by disposing of the Property under the Economic Opportunity Law, or Government Code section 52201. The City's documentation includes written findings, stating that the disposition will "(i) [strengthen] the City's land use and social structure, (ii) [alleviate] economic and physical blight on the Property and in the surrounding community, (iii) generate property tax revenue, (iv) produce new jobs, (v) stimulate economic vitality and (vi) continue to inspire additional investment within the Ontario Sports Empire."

The Economic Opportunity Law, in relevant part, states that "[a] city, county, or city and county **may** sell or lease property to create an economic opportunity."<sup>6</sup> (Emphasis added.) The use of the word "may," instead of "shall," indicates that the City is not required to utilize the Economic Opportunity statutes, whereas the SLA includes mandatory requirements for local agencies, stating: "Land **shall** be declared either 'surplus land' or 'exempt surplus land,' as supported by written findings, before a local

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<sup>5</sup> Updated Surplus Land Act Guidelines available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/final-updated-surplus-land-act-guidelines-2024.pdf>.

<sup>6</sup> Gov. Code, § 52201, subd. (a)(1).

agency may take any action to dispose of it consistent with an agency's policies or procedures."<sup>7</sup> (Emphasis added).

Notably, the City was aware of HCD's position on this precise issue before finalizing the disposition of the Property. Local 11's March 14, 2025 Notice of Alleged Violation, which was provided to the City, references a similar letter that HCD issued to the City of Moreno Valley.<sup>8</sup> As Local 11 points out, "HCD rejected the claims that the SLA conflicts with the Economic Opportunity Law...." HCD reached out to the City just a week later, on March 21, 2025, but the City disposed of the Property on April 4, 2025, just days before meeting with HCD on April 8, 2025. The City should have paused and consulted with HCD upon receipt of Local 11's letter and again when HCD reached out to schedule a meeting. Instead, the City moved forward with the disposition.

Further, HCD is not aware of, nor has the City provided, any statutory or decisional authorities standing for the proposition that disposition of the Property under Economic Opportunity Law excuses or exempts the City from complying with SLA requirements. As such, HCD finds that disposition of the Property and any surplus land under the Economic Opportunity Law is in violation of the SLA.

### **Conclusion and Next Steps**

Based on the information provided, HCD finds that the City's disposition of the Property is in violation of the SLA because the City failed to make the surplus land available for affordable housing, and the City has not provided any documentation demonstrating compliance with, or exemption from, the SLA before disposing of the Property. The City further violated the SLA by exclusively negotiating with the Developer and by subsequently moving forward with a disposition and sale of the Property.

As discussed above, under Government Code section 542320.5, subdivision (a)(1), the City has 60 days following receipt of this letter, or August 18, 2025, to cure or correct the violations noted herein, or it will be assessed a penalty equal to 30 percent of the disposition value. The City may have few options to cure or correct the violations, and HCD invites the City to discuss further. Pursuant to Section 502 of the SLA Guidelines, HCD has informed Local 11 of the violations noted herein.

Furthermore, should the City proceed to dispose of additional surplus land or exempt surplus land that would constitute subsequent violations of the SLA, including under the Economic Opportunity Law, the City will be assessed a penalty equal to 50 percent of the applicable disposition values.<sup>9</sup>

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<sup>7</sup> Gov. Code, § 54221, subd. (b)(1).

<sup>8</sup> City of Moreno Valley Notice of Violation available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/moreno-valley-nov-101823.pdf>.

<sup>9</sup> Gov. Code, § 54230.5, subd. (a)(1).

Scott Ochoa, City Manager  
Page 6

If the City or its representatives have any questions or need additional technical assistance regarding the SLA, please contact Linda Ly, Senior Housing Policy Specialist, at [Linda.Ly@hcd.ca.gov](mailto:Linda.Ly@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal stroke extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability

Enclosure

cc: Jennifer McLain Hiramoto, Executive Director, Economic Development Agency  
Rudy Zeledon, Executive Director, Community Development Agency  
Ruben Duran, City Attorney, Best Best & Krieger LLP

# **LAW OFFICE OF JORDAN R. SISSON**

LAND USE, ENVIRONMENTAL & MUNICIPAL LAW

3993 Orange Street, Suite 201  
Riverside, CA 92501

Office: (951) 405-8127  
Direct: (951) 542-2735

jordan@jrjssisonlaw.com  
www.jrjssisonlaw.com

March 14, 2025

**VIA U.S. MAIL, EMAIL & ONLINE PORTAL:** [https://calhcd.service-now.com/csp?id=sc\\_cat\\_item&sys\\_id=91e19b8ac31955109a97251ce0013105](https://calhcd.service-now.com/csp?id=sc_cat_item&sys_id=91e19b8ac31955109a97251ce0013105)

Department of Housing and Community Development ([HAUPortal@hcd.ca.gov](mailto:HAUPortal@hcd.ca.gov))  
Division of Housing Policy Development  
Housing Accountability Unit  
651 Bannon Street, Suite 400  
Sacramento, CA 95811

**RE: POTENTIAL VIOLATION OF SURPLUS LAND ACT;  
ITEM 12, CITY OF ONTARIO CITY COUNCIL MEETING FEBRUARY 18, 2025;  
DDA FOR 2.3-ACRE PROPERTY LOCATED AT E. RIVERSIDE DR./VINEYARD AVE.**

Dear Housing Accountability & Enforcement Unit (“HAU”):

On behalf of UNITE HERE Local 11 (“Local 11”), this office respectfully writes to the California Department of Housing and Community Development (“HCD”) requesting its investigation of a potential violation of the Surplus Land Act (Gov. Code §§ 54220–54234) (“SLA”)<sup>1</sup> involving the City of Ontario (“City”) disposition of a 2.368-acre property located at the corner of East Riverside Drive and Vineyard Avenue (i.e., APN 0218-111-12-0000) (“Property”).

On February 18, 2025, the City Council approved a Disposition and Development Agreement (“DDA”) for the sale of the City-owned Property to Ontario Ranch Hotels, LLC (“Developer”), citing the Economic Opportunity Law (Gov. Code §§ 52200-52201).<sup>2</sup> Before the City approved the DDA, Local 11 submitted written and verbal comments raising questions about whether the City complied with the SLA. (See Local 11 letter dated February 18, 2025 [attached hereto].) As raised in these comments, Local 11’s research has not found any confirmation that the Property was first made available to housing sponsors via a written notice of availability (“NOA”). (See e.g., Gov. Code § 54222; HCD SLA Guidelines § 201.) Nor has Local 11’s research found any confirmation that the City made appropriate exempt surplus land findings during a regular public meeting. (See e.g., Gov. Code § 54221(b)(1); SLA Guidelines §§ 103(c), 400(e).) These types of SLA issues, if verified, have been the subject of Notice of Violations (“NOV(s)”) issued by HCD for other jurisdictions, including

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<sup>1</sup> Inclusive of SLA Guidelines (8/1/24) <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/final-updated-surplus-land-act-guidelines-2024.pdf>.

<sup>2</sup> See City Council Agenda (2/18/25) Agenda, Item 12, [https://granicus\\_production\\_attachments.s3.amazonaws.com/ontarioca/8b1c31aa587d3d63597574d77713d4830.pdf](https://granicus_production_attachments.s3.amazonaws.com/ontarioca/8b1c31aa587d3d63597574d77713d4830.pdf); Id., Agenda Report, <https://d2kbkoa27fdvtw.cloudfront.net/ontarioca/ccfc6d371db4ae6a268fd028108a650c0.pdf>; Id., Resolution, [https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/3152722/PH\\_13\\_Ontario\\_Ranch\\_Hotels\\_DDA\\_02\\_RESO\\_RM.pdf](https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/3152722/PH_13_Ontario_Ranch_Hotels_DDA_02_RESO_RM.pdf); Id., Summary Report, [https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/3096019/Ontario\\_Ranch\\_Hotels\\_LLC\\_52201\\_Summary\\_Report\\_ED\\_Opp\\_03.pdf](https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/3096019/Ontario_Ranch_Hotels_LLC_52201_Summary_Report_ED_Opp_03.pdf).

an NOV issued to the City of Moreno Valley, where HCD rejected the claims that the SLA conflicts with Economic Opportunity Law (Gov. Code §52200-52203).<sup>3</sup>

The City approved the DDA over objections made by the public, including Local 11's request that the City stay its action until after seeking technical advice from HCD. To date, we have yet to receive any legally sufficient explanation from the City of whether and how the City's DDA approval has complied with the SLA requirements to make land available for housing development or declared it properly exempt. Local 11 supports housing laws intended to promote genuine housing, particularly affordable housing projects. Therefore, Local 11 respectfully requests that HCD review our attached comment letter and investigate whether the City's approval of the DDA complied with the SLA and HCD Guidelines.

We thank you in advance for your consideration of this matter. Please do not hesitate to contact me directly if you have any questions regarding this matter.

Sincerely,

  
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Jordan R. Sisson, Esq.  
Attorney for UNITE HERE Local 11

ATTACHMENT: UNITE HERE Local 11 Letter (2/18/24)

CC: (email only)

Sheila Mautz, City Clerk ([SMautz@ontarioca.gov](mailto:SMautz@ontarioca.gov))

Scott Ochoa, City Manager ([sochoa@ontarioca.gov](mailto:sochoa@ontarioca.gov))

Jennifer McLain Hiramoto, Exec. Director Econ. Dev. ([JHiramoto@ontarioca.gov](mailto:JHiramoto@ontarioca.gov))

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<sup>3</sup> City of Moreno Valley (10/18/2023) Notice of Violation RE Northwest Corner of Alessandro Boulevard and Nason Street, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/moreno-valley-nov-101823.pdf>; see also San Bernardino (5/24/2023) Notice of Violation RE 295 Carousel Mall, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/San-Bernardino-Carousel-Mall-Follow-Up-Letter-052423.pdf>; Roseville (12/4/2023) Notice of Violation RE 6382 Phillip Road, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/roseville-nov-sla-120423.pdf>; Anaheim (12/8/21) Notice of Violation RE 2000 East Gene Autry Way, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/anaheim-surplus-land-act-nov-120821.pdf>.

# **LAW OFFICE OF JORDAN R. SISSON**

LAND USE, ENVIRONMENTAL & MUNICIPAL LAW

3993 Orange Street, Suite 201  
Riverside, CA 92501

Office: (951) 405-8127  
Direct: (951) 542-2735

jordan@jrsissonlaw.com  
www.jrsissonlaw.com

February 18, 2025

**VIA EMAIL:**

City Council, City of Ontario  
303 East B Street, Ontario, CA 91764  
publiccomments@ontarioca.gov

**RE: Item 12, City Council Meeting February 18, 2025;  
Disposition and Development Agreement for Land Sale and 227-Room Hotel;  
UNITE HERE Local 11 Comments**

Dear Mayor Leon and Honorable City Councilmembers:

On behalf of UNITE HERE Local 11 (“Local 11”), this office respectfully provides the following comments<sup>1</sup> to the City of Ontario (“City”) regarding the proposed Disposition and Development Agreement (“DDA”) between the City and Ontario Ranch Hotels, LLC (“Developer”). The DDA would allow for the sale of a 2.368-acre City-owned property located at the corner of East Riverside Drive and Vineyard Avenue (i.e., APN 0218-111-12-0000) (“Site” or “Property”) in anticipation of a 227-room, 5-star luxury hotel (“Project”). According to the staff report for the above-referenced item,<sup>2</sup> the Project was considered in the Ontario Regional Sports Complex (“ORSC”) Environmental Impact Report (i.e., SCH No. 2023110328) (“EIR”),<sup>3</sup> which was certified and approved by the City Council on July 16, 2024. (Agenda Report, p. 2.)

Upon review of the relevant documents, Local 11 has several concerns with the DDA, including several live issues with the DDA and the proposed 227-room hotel’s compliance with the Surplus Land Act (“SLA”), the California Environmental Quality Act (“CEQA”),<sup>4</sup> and the City’s zoning code. As further explained below, it is unclear if the City has complied with the SLA requirement to make land available for housing development or declared it properly exempt. Additionally, it seems that the prior EIR only considered a 100-room hotel in a different location. So too, the significantly larger hotel is likely to exacerbate vehicle miles traveled (“VMT”) and associated greenhouse gas (“GHG”) impacts, which could be further mitigated through feasible mitigation measures not considered. Furthermore, the staff report fails to provide and/or explain critical information about key financial aspects of the DDA or explain why the City does not require a hotel-specific conditional use permit (“CUP”) at this time, as required under the City’s zoning code.

For these reasons, Local 11 respectfully asks the City to stay action on the DDA until all SLA requirements have been satisfied, a CEQA-compliant review has been conducted, a hotel-specific mandatory commuter trip reduction program is added, and there is an opportunity for the public to vet key financial studies associated with the DDA along with all entitlements for the hotel Project.

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<sup>1</sup> Herein, page citations are either the stated pagination (i.e., “p. #”) or PDF-page location (i.e., “PDF p. #”).

<sup>2</sup> Inclusive of the “[Agenda Report](#)” dated 2/18/25, “[Summary Report](#)” regarding the DDA, “[Exhibit A](#)” Property view, [DDA](#), and the proposed “[DDA Resolution](#)”.

<sup>3</sup> Inclusive of the Draft EIR (“[DEIR](#)”), Final EIR (“[FEIR](#)”), and Mitigation Monitoring Requirements Program (“[MMRP](#)”).

<sup>4</sup> Including “CEQA Guidelines” codified at 14 Cal. Code. Regs. § 15000 et seq.

## I. LOCAL 11'S STANDING

Local 11 represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix—including approximately 450 members who live and/or work in Ontario. The union has a First Amendment right to petition public officials in connection with matters of public concern, including compliance with applicable zoning rules and CEQA, just as developers, other community organizations, and individual residents do. Protecting its members' interest in the environment, including advocating for the environmental sustainability of development projects and ensuring the availability of housing and hotels (in compliance with state and local rules), is part of Local 11's core function. Recognizing unions' interest and union members' interest in these issues, California courts have consistently upheld unions' standing to litigate land use and environmental claims. (See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.) Furthermore, Local 11 has public interest standing to challenge the Project Approvals given the City's public duty to comply with applicable zoning and CEQA laws, which Local 11 seeks to enforce. (See e.g., *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916, n.6; *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206; *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, 169-170.)

## II. SPECIFIC ISSUES WITH THE DDA & PROJECT

### 1. IT IS UNCLEAR IF THE CITY HAS COMPLIED WITH THE SURPLUS LAND ACT

The Surplus Land Act (Gov. Code §§ 54220-54234) ("SLA"), inclusive of its guidelines ("SLA Guidelines") prepared by the Department of Housing and Community Development ("HCD"), aims to make local public land that is no longer needed for government purposes available for building affordable homes.<sup>5</sup> The SLA applies to all cities, including charter cities. (See *Anderson v. City of San Jose* (2019) 42 Cal.App.5th 683.) Generally, before disposing of surplus land, a local agency must send a written notice of availability ("NOA") of the property to HCD, any local public entity within the jurisdiction where the surplus local land is located, and affordable housing sponsors who have notified HCD. (See Gov. Code § 54222; HCD SLA Guidelines §201.) While there are exceptions to this requirement, a local agency's determination that land is exempt surplus land must be supported by written findings during a regular public meeting of the agency, with those findings sent to the HCD. (See Gov. Code § 54221(b)(1); SLA Guidelines §§ 103(c) and 400(e).)

Here, the City is proposing the disposition of the City-owned Property, but the available documentation reviewed by Local 11 does not mention whether the Property was subject to a NOA or declared exempt. Nor is it clear whether the Property falls within any of the categories of "exempt surplus land" under Gov. Code § 54221(f)(1). While subdivision (c) notes an exemption for land exchanged for "another property necessary for the agency's use", it is unclear how and whether that exemption would apply to the DDA, which references a proposed exchange of 25,489 square feet (0.585 acres) non-exclusive, right-of-way remained owned by the land owner (i.e., 7-25

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<sup>5</sup> See HCD Public Lands for Affordable Housing Development (identifying land acquisition as one of the biggest challenges to new affordable housing, and outlining several actions taken by the state to enhance the SLA, such as Executive Order N-06-19 [Gov. Newsom, 2019], AB 1486 [Ting, 2019], AB 1255 [Robert Rivas, 2019]), <https://www.hcd.ca.gov/planning-and-community-development/public-lands-affordable-housing-development>.

feet adjacent to dirt sidewalk area) and temporary construction easement would apply.<sup>6</sup> The sidewalk is less than one-fourth the size of the 2.368-acre Property,<sup>7</sup> and there appears to be ample space within existing rights-of-way (i.e., dirt side walk and road) to access existing utility lines along Riverside Drive.<sup>8</sup> Furthermore, future street improvements (e.g., street, sewer, traffic signal, utility lines, etc. ) are already anticipated along Vineyard right-of-way (i.e., five-lane with 8-foot multi-use trail) as subject to the previously approved ORSC.<sup>9</sup>

In sum, it is unclear how this significantly smaller temporary construction easement is necessary here to qualify as exempt, which would nevertheless have to be declared exempted at a regular public meeting.

## 2. THE DDA'S PROPOSAL OF A 227-ROOM HOTEL WAS NOT ANALYZED UNDER THE PRIOR EIR

Under CEQA, once an EIR has been prepared, a subsequent or supplement EIR is required for granting a later discretionary approval when there have been: (i) substantial changes to the project, (ii) substantial changes in the circumstances involving the project, or (iii) significant new information involving the project. (See Pub. Res. Code § 21166; CEQA Guidelines § 15162.) Projects not contemplated or not within the geographic area may require additional CEQA analysis.<sup>10</sup> Here, the DDA contemplates a 227-room hotel, which the staff report suggests was covered by the previously certified EIR.<sup>11</sup> However, the EIR does not mention the DDA or the proposed 227-room hotel Project. Instead, the EIR contemplated a mere 100-room hotel located in planning area ("PA") 3, and anticipated retail uses within PA2 (i.e., where the City-owned Property is located).<sup>12</sup> It is unclear if the City is now contemplating a single larger hotel in a different location (i.e., a 227-room hotel in PA2) or is considering two hotels (i.e., 227-rooms in PA2 plus the 100-room hotel in PA3). As discussed below, even a single larger hotel would likely have exacerbated impacts not analyzed or mitigated under the certified EIR. Therefore, the proposed 227-room hotel development appears

<sup>6</sup> See Agenda Report, p. 2; Exhibit A (area generally located along sidewalk area); DDA, PDF p. 7, 59, 78 (section 1.1.49, Exhs. A-1 & D-1).

<sup>7</sup> For example, this SLA exemption has been cited by other agencies exchanging relatively comparable properties. (See e.g., Capitola Planning Commission Agenda Report (4/4/24), p. 1 [5,592-sf property [Soquel Union Elementary School District] in exchange for 4,284-sf property [City of Capitola]], <https://mccmeetingspublic.blob.core.usgovcloudapi.net/capitolaca-meet-7a1699cfde7f4d0f8d2bce5df22a5e22/ITEM-Attachment-003-fa130eb7dab849d0a07fab4d3f57eaa1.pdf>.

<sup>8</sup> See GoogleMaps, [https://www.google.com/maps/place/S+Vineyard+Ave+%26+E+Riverside+Dr,+Ontario,+CA+91761/@34.019553,-117.6108423,3a,60y,275.55h,90.32t/data=!3m7!1e1!3m5!1sg62gK6vh1vo5oTVRplSt-w!2e0!6shttps:%2F%2Fstreetviewpixels-pa.googleapis.com%2Fv1%2Fthumbnail%3Fcb\\_client%3Dmaps\\_sv.tactile%26w%3D900%26h%3D600%26pitch%3D-0.31853410523336834%26panoid%3Dg62gK6vh1vo5oTVRplSt-w%26yaw%3D275.5462992542434!7i16384!8i8192!4m6!3m5!1s0x80c334cd1f399d7b:0x14ca414b23038095!8m2!3d34.0195981!4d-117.610924!16s%2Fg%2F11gdzt7tpb?entry=ttu&g\\_ep=EgoyMDI1MDIxMi4wIKXMDSoJLDEwMjExNDU1SAFQAw%3D%3D](https://www.google.com/maps/place/S+Vineyard+Ave+%26+E+Riverside+Dr,+Ontario,+CA+91761/@34.019553,-117.6108423,3a,60y,275.55h,90.32t/data=!3m7!1e1!3m5!1sg62gK6vh1vo5oTVRplSt-w!2e0!6shttps:%2F%2Fstreetviewpixels-pa.googleapis.com%2Fv1%2Fthumbnail%3Fcb_client%3Dmaps_sv.tactile%26w%3D900%26h%3D600%26pitch%3D-0.31853410523336834%26panoid%3Dg62gK6vh1vo5oTVRplSt-w%26yaw%3D275.5462992542434!7i16384!8i8192!4m6!3m5!1s0x80c334cd1f399d7b:0x14ca414b23038095!8m2!3d34.0195981!4d-117.610924!16s%2Fg%2F11gdzt7tpb?entry=ttu&g_ep=EgoyMDI1MDIxMi4wIKXMDSoJLDEwMjExNDU1SAFQAw%3D%3D).

<sup>9</sup> See DEIR, PDF p. 101, 117, 127-136, 151-159, 692; see also [Agenda Report](#) (7/16/24, Item 20, p. 4).

<sup>10</sup> See e.g., *Concerned Citizens of Costa Mesa, Inc. v 32nd Dist. Agric. Ass'n* (1986) 42 C3d 929, 937 (plans for approved amphitheater project changed to increase seating significantly, expand the site, and reorient the stage to face nearby residences); *Save Berkeley's Neighborhoods v Regents of Univ. of Cal.* (2020) 51 CA5th 226, 237 (claim that university changed project described in campus long-range development plan by approving increases in student enrollment well beyond development plan and EIR projections, without considering whether further CEQA review was required, alleged violation of CEQA).

<sup>11</sup> See Summary Report, p. 1; Agenda Report, p. 2; DDA, PDF p. 60 [Exh. B Scope of Development].

<sup>12</sup> DEIR, PDF pp. 32, 41-43, 114-117 (project components and planning areas), 176-178 (listing the project approvals); MMRP, PDF p. 7.

to reflect substantial changes to the project, meaning that further CEQA review should be required before the City approves the DDA.

### 3. EXACERBATED GHG/VMT IMPACTS CAN BE FURTHER MITIGATED

As mentioned above, the staff report suggests the proposed action was covered by the prior FEIR, including the Council finding that “all environmental impacts” have been addressed within the prior EIR and that “no new or additional mitigation measures or alternatives are required.” (Proposed Resolution, p. 3.) However, the prior EIR contemplated only a 100-room hotel, including assessing VMTs and GHGs associated with the hotel use.<sup>13</sup> By more than doubling that size, the anticipated Project would possibly significantly increase the amount of VMTs and GHGs (including those deriving from mobile emissions) associated with the hotel use (i.e., new or exacerbated impacts). These are impacts going above and beyond those previously found significant and unavoidable.<sup>14</sup> As it relates to hotel-related development within PAs 2 and 3, the EIR largely relies on mitigation measures GHG-4 (i.e., point system under City’s Community Climate Action Plan (“CCAP”)) and TRAF-1a (development of Transportation Demand Management (“TDM”)).<sup>15</sup> (See excerpts below.)

*GHG-4 The City of Ontario shall require applicants to design and construct buildings in Planning Areas 2, 3, and 4 to achieve a 100-point score with the 2022 Community Climate Action Plan (CCAP), Table 6, “Screening Table for Implementing GHG Performance Standards for Commercial, Office, Medical, Hotel, Industrial, and Retail Development, 2030.” Alternatively, the analysis of development projects can be done through emissions calculations to demonstrate equivalent reductions using CalEEMod or a similar tool. Projects that do not use the CCAP Screening Tables to demonstrate consistency with the 2022 CCAP must demonstrate that they will generate annual GHG emissions that do not exceed the following emission screening thresholds from the CCAP:*

- 1. For residential development completed between 2020 and 2030, the project shall not produce GHG emissions greater than 5.85 MTCO 2e/dwelling unit.*
- 2. For residential development completed after 2030, the project shall not produce GHG emissions greater than 1.53 MTCO 2e/dwelling unit.*
- 3. For nonresidential developments of all types completed between 2020 and 2030, the project shall not produce GHG emissions greater than 8.84 MTCO2e/2,500 square feet of conditioned space.*
- 4. For nonresidential developments of all types completed after 2030, the project shall not produce GHG emissions greater than 3.61 MTCO 2e/2,500 square feet of conditioned space.*

*For projects that include both residential and nonresidential space, the residential and nonresidential components must be assessed separately against their respective applicable thresholds*

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<sup>13</sup> DEIR, [Appendix D1](#) (Air Quality GHG Modeling), PDF pp. 4, 31, 683; DEIR, [Appendix L1](#) (VMT Memorandum), PDF pp. 9, 34; FEIR, PDF p. 171.

<sup>14</sup> See e.g., [CEQA Findings of Fact and Statement of Overriding Considerations](#), pp. 105-109, 115-119, 137, 141-142.

<sup>15</sup> *Ibid.*, see also MMRP, pp. 23, 30,

*TRAF-1a Commercial/Hospitality TDM Measures. Applicants for commercial and hotel development in Planning Areas 2, 3, and 4 shall prepare Transportation Demand Management (TDM) measures analyzed under a VMT-reduction methodology consistent with the California Air Pollution Control Officers Association's (CAPCOA) Final Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (2021) and approved by the City of Ontario. Measures shall include but are not limited to:*

- *Implement a voluntary commute trip reduction program for employees.*
- *Implement an employee parking cash-out program for employees.*
- *Collaborate with the City to support transit service expansion.*
- *Comply with requirements detailed in the Parking Management Plan, including providing parking validation for retail and hospitality visitors.*

(See ORSC EIR, MMRP, pp. 23, 30.)

While the ORSC EIR stated there were no other feasible mitigation measures,<sup>16</sup> additionally feasible mitigation measures do seem available to reduce the impacts *exacerbated* by the larger hotel Project<sup>17</sup>—especially measures that can minimize VMTs and associated GHG mobile emissions recommended by the California Air Pollution Control Officers Association (“CAPCOA”) and other public agencies (e.g., Governor’s Office of Planning and Research (“OPR”), the Southern California Association of Governments (“SCAG”), South Coast Air Quality Management District (“SCAQMD”), and the California Air Resources Board (“CARB”)).<sup>18</sup> For example, the City could require a mandatory rather than merely voluntary commute trip reduction program (“CTRP”), provide subsidized transit passes, include bike/scooter-share facilities, and other strategies.<sup>19</sup> CAPCOA estimates that a mandatory CTRP is more than six times more effective at reducing GHG impacts (i.e., up to 26%) as compared to a voluntary CTRP (i.e., up to 4%).<sup>20</sup> Furthermore, it is unclear why some of the 227 rooms could not accommodate some form of on-site housing, such as affordable or

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<sup>16</sup> Ibid., 109, 119

<sup>17</sup> To the extent impacts are part of the existing baseline conditions, it is nevertheless proper to evaluate a development’s *exacerbating effects* on existing impacts. (See *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 194 [quoting *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 377, 388].)

<sup>18</sup> See CAPCOA (Dec. 2021) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity, pp. 31-32, 73, 76, 80-96, [https://www.airquality.org/ClimateChange/Documents/Final%20Handbook\\_AB434.pdf](https://www.airquality.org/ClimateChange/Documents/Final%20Handbook_AB434.pdf); CAPCOA (Aug. 2010) Quantifying GHGs and Mitigation, pp. 64-74, <https://www.contracosta.ca.gov/DocumentCenter/View/34123/CAPCOA-2010-GHG-Quantification-PDF>; OPR (Dec. 2018) Technical Advisory, pp. 27, [https://opr.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf); SCAG (Dec. 2019) Final Program EIR, pp. 2.0-18 – 2.0-71 (see project-level mitigation measures for air quality, GHG, and transportation impacts), [https://scag.ca.gov/sites/main/files/file-attachments/fpeir\\_connectsocial\\_complete.pdf?1607981618](https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocial_complete.pdf?1607981618); SCAG (Apr. 2024), Program EIR, pp. A-7 – A-48, [https://scag.ca.gov/sites/main/files/file-attachments/exhibit\\_a\\_mmrp\\_508\\_final.pdf?1712003625](https://scag.ca.gov/sites/main/files/file-attachments/exhibit_a_mmrp_508_final.pdf?1712003625); CARB 2022 Scoping Plan, 4, 7, 24, 29 & Appendix D, pp. 23, <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents>; CARB’s 2017 Scoping Plan, Appendix B-Local Action, pp. 1-8, 7-9 & Appendix D, p. 2, [https://www.arb.ca.gov/cc/scopingplan/app\\_b\\_local\\_action\\_final.pdf](https://www.arb.ca.gov/cc/scopingplan/app_b_local_action_final.pdf).

<sup>19</sup> See e.g., CAPCOA (Dec. 2021), supra fn. 16, pp. 83; CAPCOA (Aug. 2010), supra fn. 16, p. 66.

<sup>20</sup> CAPCOA (Dec. 2021), supra fn. 16, at pp. 83, 86.

work-force housing. Therefore, we urge the City to consider a more robust, hotel-specific mandatory commuter reduction program that could include:

- Specific performance level to be reached (e.g., specific VMT or average daily trip reduction or both);
- Specified participation level (e.g., 100% of employees);
- Participation in guaranteed ride programs for employees who need to respond to emergencies arising when normal public transit is infeasible;
- Incentivize employee carpool/vanpool access to preferential parking spaces or hotel valet service or both;
- Subsidized transit passes for hotel workers and patrons;
- Provide end-of-trip facilities; and
- Dedicated shuttle service for hotel patrons toward nearby destinations.<sup>21</sup>

#### 4. MISSING INFORMATION AND PROJECT PIECEMEALING

The staff report also fails to explain and/or provide other key information. For example, the staff report cites a Thompson & Thompson Real Estate Valuation and Consulting, Inc. appraisal, which is not included. (See Summary Report, p. 3.) This is significant because the staff report does not explain to the public numerous key issues with the DDA, for example: (1) how was the fair market value of the City-owned property determined to be “\$14.00 per square foot”; (2) what is the difference between the City’s purchase price (i.e., \$1.4 million) and the estimated reuse value of the Property to the Developer, which is admittedly valued “significantly higher”; and (3) how much increased “revenue” is the City expecting from the new hotel (e.g., property tax, TOT, etc.). (Id.) Furthermore, as part of the City’s action in July 2024, the Property was rezoned CCS,<sup>22</sup> which requires a hotel CUP under section 5.03.250 of the City’s Development Code, which requires (among other things) a market feasibility study<sup>23</sup>—also not mentioned or provided in the staff report.

Additionally, the increased hotel component and failure to consider the CUP here raises the concern of whether the City is improperly piecemealing the Project and project approvals. Under CEQA, the City must assess “the whole of an action” and not improperly piecemeal a project’s analysis whereby the full impacts of a development are masked by chopping up the overall project into smaller development projects. (CEQA Guidelines §§ 15003(h), 15378(a).<sup>24</sup>) This analysis must include all phases of the project and all reasonably foreseeable consequences of the project. (Id., § 15126.<sup>25</sup>) This analysis should be prepared as early as feasible in the planning process and before the City commits to any action. (Id., § 15004(b).) Here, the prior EIR looked at only a 100-room hotel—not a 227-room hotel—and the City seems to be considering committing to the larger hotel Project without conducting a subsequent CEQA analysis and evaluating a CUP.

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<sup>21</sup> See e.g., Santa Monica Municipal Code § 9.5.130(B)(2)(b); <https://www.octa.net/getting-around/rideshare/oc-rideshare/employers/guaranteed-ride-home-program/>; <https://www.ci.healdsburg.ca.us/AgendaCenter/ViewFile/Item/3098?fileID=21731>.

<sup>22</sup> see July Resolution, PDF pp. 1-2.

<sup>23</sup> Dev. Code, PDF p. 17, 44, 54, 130-132.

<sup>24</sup> See also *Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454; *San Joaquin Raptor/Wildlife Rescue Center v. Cnty. of Stanislaus* (1994) 27 Cal.App.4th 713, 730.

<sup>25</sup> See also *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396-398; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454.

### III. CONCLUSION

In sum, Local 11 is concerned that the City may not be following normal SLA rules that would make the City Parcels available to housing developers. Local 11 is also concerned about the City's reliance on an inadequate CEQA review and mitigation that seems to have never contemplated the DDA or a 227-room hotel at the Property (among other concerns). Local 11 respectfully urges the City to stay action on the DDA until the issues mentioned above are adequately addressed.

Local 11 reserves the right to supplement these comments at future hearings and proceedings for this Project. (See *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120 [CEQA litigation not limited only to claims made during EIR comment period].) This office requests, to the extent not already on the notice list, all notices of CEQA actions and any approvals, Project CEQA determinations, or public hearings to be held on the Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them. (See Pub. Res. Code §§, 21092.2, 21167(f) and Gov. Code § 65092.) Please send notice by electronic and regular mail to the address identified on page one of this letter.

Thank you for consideration of these comments. We ask that this letter is placed in the administrative record for the Project.

Sir -----

  
\_\_\_\_\_  
Jordan R. Sisson, Esq.  
Attorney for UNITE HERE Local 11

**From:** [Kitty Moore](#)  
**To:** [City Clerk](#); [Lauren Sapudar](#)  
**Subject:** Written Communications Agenda Items 8 and 9 Mary Ave. Villas  
**Date:** Monday, March 2, 2026 6:05:41 PM  
**Attachments:** [Pages from NR 26-47 Response 1 Redacted.pdf](#)  
[Re Your Vote on Mary.pdf](#)

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Dear City Clerk,

Please include the attached documents and this email in the official administrative record for the Mary Avenue Villas project (Agenda Items 8 and 9) for tomorrow's meeting.

These materials—one discovered through a Public Records Act search and the other sent directly to me—are being submitted specifically to protect the integrity of the quasi-judicial process. Formal inclusion ensures full transparency and upholds the procedural due process required for this project.

Contextual Note: These records involve communications with Joshua Safran, the legal counsel for the project opposition, and John Anzur (who appears to be attorney John Andrew Anzur), regarding legal coordination against the project apparently with Councilmember Wang as intermediary.

Thank you,

Kitty Moore

	<b>Kitty Moore</b>
	Mayor City Council KMoore@cupertino.gov (408) 777-1389
	

**From:** R "Ray" Wang <ray@ray4cupertino.org>  
**Sent:** Monday, February 09, 2026 10:24 PM EST  
**To:** Lina <[REDACTED]>; Brian Avery <[REDACTED]>; Theresa Horng <[REDACTED]>;  
Shaun Fong <[REDACTED]>; Joshua Saitan <jsaitan@strategylaw.com>; Roberta Murai  
<[REDACTED]>; Walter Li <[REDACTED]>; City Council <citycouncil@cupertino.gov>  
**Subject:** Re: Mary Avenue

**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.

Hello Mary Avenue team,

This person wants to help you. I'll let you assess if he's friend or foe but I can tell you he wrote a scathing letter to council and Kitty for her lack of support.

Warmest regards

R "Ray" Wang  
[REDACTED]

Member, Cupertino City Council  
[www.ray4cupertino.org](http://www.ray4cupertino.org)



On Feb 9, 2026, at 14:55, [REDACTED].net wrote:

Ray, writing u on this email. You can forward my email to the leaders of the save cupertino stop mary. We would be willing to donate something to the legal fight to stop it. The newspaper said some legal corners were cut by the city and maybe a court will stop it.

Tks, john

Monday, March 2, 2026 at 14:24:05 Pacific Standard Time

**Subject:** Re: Your Vote on Mary  
**Date:** Friday, February 20, 2026 at 7:30:01 AM Pacific Standard Time  
**From:** [REDACTED]  
**To:** Kitty Moore  
**CC:** R "Ray" Wang, John Andrew Anzur

**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.

Dear Ms Moore, Following up on this email which you did not respond to or even acknowledge. Referring back to the election, you and Ray Wang were elected specifically because of your ability to form an anti development majority on the Board.

Instead you cast a deciding vote to move forward a very locally unpopular development project on Mary. Why do this?

Simply asking for an explanation how u possibly could vote ,and be the deciding vote, to move this forward. It is a betrayal to those who voted u in .

I also understand from the press that not all the legalities were followed. Can y explain this please? Can you also forward my email to the citizens who led the opposition to this project, or send us their email.

Finally, why spar with your colleague. U two were voted in together. The press report some petty retribution. Focus on the important issues.

When these things get built they are permanent. Your decision has long lasting bad implications for this neighborhood.

Look forward to hearing from you .

On Feb 9, 2026 12:55 PM, [REDACTED] wrote:

Dear Ms Moore,

What happened on your vote on Mary Avenue? If you had voted with Wang the ridiculous locally unpopular project was dead (2-2-1). We elected u and Wang as a block to slow development and u ignored your voter block. Really? Would like an explanation why u didnt follow your promises to voters and voted contrary to Wang.

Thank you.

**From:** [Cupertino ForAll](#)  
**To:** [City Council](#)  
**Cc:** [Cupertino City Manager's Office](#); [City Clerk](#)  
**Subject:** Support for Mary Avenue Villas  
**Date:** Monday, March 2, 2026 6:07:13 PM  
**Attachments:** [image.png](#)

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March 02, 2026

Please include the following letter in the Written Communications for City Council Meeting on March 3, 2026.

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Dear Mayor Moore, Vice Mayor, and Councilmembers,

Subject: Agenda Items 8 & 9, City Council Meeting March 3, 2026, Mary Avenue Villas Project

Cupertino For All (CFA) strongly advocates in favor of, and **urges City Council to approve both Agenda Items 8 & 9, re-stated from Staff Reports below:**

Agenda Item 8: Consider Adopting a Resolution Vacating a Portion of Public Right-of-Way Located Along the Westerly boundary of Mary Avenue (APN 326-27-053)

Recommended Actions: Find project exempt from CEQA

1. Find the project exempt from the California Environmental Quality Act (CEQA)
2. Adopt Resolution No. 26-XXX approving the vacation of a portion of public right-of-way located along the westerly boundary of Mary Ave (APN 326-27-053)

Agenda Item 9: Consider Adopting a Resolution Declaring the Mary Avenue property (APN 326-27-053) Exempt Surplus Land under the California Surplus Land Act.

Recommended Actions:

1. Find project exempt from CEQA
2. Adopt Resolution No. 26-XXX declaring the Mary Avenue property (APN 326-37-

053) to be exempt surplus land pursuant to the provision of the Surplus Land Act codified at California Government Code subsection 54221(f)(1)(F)(i)

**Mary Avenue Villas fills a critical need.** With this housing, Cupertino joins the region in building homes for our most vulnerable residents. This, also, fulfills another goal of the city: preventing people from becoming unhoused.

We honor the dedicated advocates for Extremely Low Income (ELI) Housing for those who are Intellectually Developmentally Disabled (IDD). These advocates have dreamed and worked for this housing for two decades. Many organizations and families have borne witness to the need.

Thank you to several City Councils for their attention and support over many years as this project worked its way through regulatory meetings and decisions required. In 2019, Mayor Scharf put the project for ELI/ IDD housing on the City Priorities which provided City leadership from that time to this important day.

Thank you to Cupertino's knowledgeable, dedicated City Staff, and excellent Attorneys, who have worked diligently over the years to complete the long, detailed list of regulatory steps for this unique site and special-needs housing. As stated in the Staff Reports for both Agenda Items, many actions have been taken, meetings held, findings made, and affirmative decisions made, to move Mary Avenue Villas Project toward final approval.

Thank you to the Public who have spoken and written over the years in support of this critical housing for vulnerable residents. Your warmth and generosity have shone through your presence and words.

Cupertino For All strongly advocates in favor of, and **urges City Council to approve, both Agenda Items 8 & 9.**

**We are here to advocate that this City Council join the several prior Councils that have moved this project forward with the necessary approvals, funding, and with these actions, the land needed to build a place for our most vulnerable neighbors.** A place for them to become. A place for them to enjoy independent lives that allow them to continue to learn and grow, throughout their lives. A place for them to create a community. Those of us who enjoy the independence of our own homes can watch with joy as 40 new homes are added to Cupertino's housing stock to provide such independence to others.

**We urge you to vote "yes" without further delay.**

Sincerely,

Cupertino For All  
Board of Directors

**From:** [louise saadati](#)  
**To:** [City Council](#); [City Clerk](#)  
**Subject:** Agenda Items 8 & 9 of City Council Meeting March 3, 2026, Mary Avenue Villas Project  
**Date:** Monday, March 2, 2026 5:33:30 PM

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March 02, 2026

Please include the following letter in the Written Communications for City Council Meetings for March 3, 2026 \_\_\_\_\_.

Dear Mayor Moore, Vice Mayor Liang and Councilmembers:

Please vote yes for both Agenda Items 8 and 9 in the 3/3/26 council meetings.

This yes vote is needed to allow the Mary Avenue Villas to progress to final approval and development. It has been a slow arduous 20 year process starting with grassroots Cupertino community including advocates for Extremely Low Income (ELI) Housing for Intellectually and those who are Developmentally Disabled (IDD); then obtaining support from the Rotary for more than 10 years; and then Steve Scharf in 2019 to meet the need in Cupertino for some affordable housing for EDD and IDD.

This site is part of the required Housing Element that HCD approved.

**June 16, 2026 is the HCD deadline for Cupertino to meet the Housing Element requirement for below market housing. We need this Mary Avenue Villa to be approved before June 16, 2026 to **KEEP CUPERTINO FREE FROM BUILDERS' REMEDIES.****

Please approve Items 8 and 9 on 3/3/26 Council Meeting and expedite its progress to development and meeting Cupertino's Housing Element requirements.

Thank you to the City Councils, Commissions, City Staff, advocates and community who have worked hard over a 20 year period to make this project be possible and come close to final approval.

Thank you ,  
Louise Saadati

**From:** [Joshua Safran](#)  
**To:** [Lauren Sapudar](#); [City Clerk](#); [City Council](#)  
**Cc:** [Tina Kapoor](#); [Cupertino City Manager's Office](#); [Kirsten Squarcia](#); [Benjamin Fu](#); [City of Cupertino Planning Dept.](#); [Floy Andrews](#); [City Attorney's Office](#)  
**Subject:** Demand Letter to City Council of Cupertino re Mary Avenue Villas Project (March 3, 2026)  
**Date:** Tuesday, March 3, 2026 2:36:00 PM  
**Attachments:** [image001.png](#)  
[Demand Letter to City Council of Cupertino re Mary Avenue Villas Project \(March 3, 2026\).pdf](#)

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**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.

Dear Mayor Moore and Members of the City Council,

Please find attached our Request for Compliance with Law and Objections to Agenda Items 8 & 9 of City Council Agenda of March 3, 2026: Proposed Right-of-Way Vacation (Res. 26-024) and Exempt Surplus Land Declaration (Res. 26-025) for Mary Avenue Villas Project (File #: 26-14737) for due Council consideration and inclusion in the public record.

All the best,

Joshua

Best Regards,

**STRATEGYLAWLLP**

**Joshua Safran**

One Almaden Boulevard, Suite 700

San Jose, California 95113

Phone: 408.478.4100

Email: [jsafran@strategylaw.com](mailto:jsafran@strategylaw.com)

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# STRATEGY LAW, LLP

One Almaden Boulevard, Suite 700 San Jose, CA 95113  
P: (408) 478-4100 F: (408) 295-4100 www.strategylaw.com

March 3, 2026

JOSHUA SAFRAN, ESQ.  
jsafran@strategylaw.com

Cupertino City Council  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014

By Email (citycouncil@cupertino.gov)

**Request for Compliance with Law and Objections to Agenda Items 8 & 9 of  
City Council Agenda of March 3, 2026:  
Proposed Right-of-Way Vacation (Res. 26-024) and  
Exempt Surplus Land Declaration (Res. 26-025) for  
Mary Avenue Villas Project (File #: 26-14737)**

Dear Mayor Moore and Members of the City Council:

We represent the Garden Gate Coalition for Mary Avenue Safety (the “Coalition”), an unincorporated association of residents and community members directly and adversely affected by the proposed Mary Avenue Villas Project (File #: 26-14737) (the “Project”), and the City’s related approvals and commitments affecting the Mary Avenue right-of-way and public parking resources. The Coalition respectfully objects to the actions proposed for tonight under Agenda Items 8 and 9, including the City’s request that the Council (i) again find these actions CEQA-exempt, and (ii) adopt resolutions to vacate a portion of the Mary Avenue public right-of-way and to declare City-owned land “exempt surplus land” under the Surplus Land Act.

At a minimum, Items 8 and 9 should be continued. The record demonstrates that the City has been proceeding in a rushed, backward, and legally indefensible manner – approving and committing first, and attempting to supply required findings and lawful sequencing later – driven by an external financing timeline. Proceeding tonight would compound those defects and further prejudice affected residents.

**I. Tonight’s Actions Are Not “Mere Implementation” and Cannot Lawfully Proceed on a Categorical Exemption**

Item 8’s staff report asks the Council to “[f]ind the project exempt from...CEQA” and adopt the street vacation resolution. Item 9 likewise asks the Council to “[f]ind the project exempt from...CEQA” and adopt the exempt surplus land declaration. The draft exempt-surplus resolution goes further, asserting that “none of the exceptions” apply and that the action is “not...a separate project under CEQA” but “an implementation action within the scope” of the housing development.

The Coalition has already shown, supported by evidence in the record and supplemental expert analysis, that CEQA’s categorical exemption criteria and exceptions are not satisfied and that the City’s CEQA approach reflects improper segmentation of an integrated undertaking. As explained in the Coalition’s Petition for Reconsideration (the “Petition”) filed on February 27, 2026, the DDA approval, public land conveyance, and right-of-way vacation enabling development constitute a single integrated undertaking that must be evaluated as the “whole of the action.”

**II. The City Is Inappropriately Attempting to “Cure” Required Findings After Committing Itself through the DDA**

**A. The City’s Own Staff Report Confirms these Actions Are Conditions Precedent to Perfecting the Transfer under the DDA**

The staff report for Item 9 acknowledges that on February 3, 2026 the Council voted to enter into a contingent DDA, and that the City cannot transfer the City-owned property unless contingencies are satisfied, including (1) declaring the property “exempt surplus land,” and (2) vacating 0.79 acres of public right-of-way. It further states that only after those contingencies are satisfied “may a transfer of property be perfected.”

In other words, tonight’s items are not ministerial follow-through; they are the City’s effort to fulfill legal prerequisites that should have been lawfully analyzed and sequenced *before* the City committed itself through the DDA and related approvals.

**B. The Record Demonstrates “Cart Before the Horse” Sequencing Driven by Applicant Financing Deadlines**

As the Coalition already documented in the Petition, the City’s process for this Project has proceeded as a deadline-driven rush where the City approves and commits first, and attempts to supply legally required findings and sequencing later.

That is precisely what is happening again tonight: staff explicitly links the exempt surplus declaration to “the Project’s financing timeline and regulatory commitments.” Deadline pressure is not a lawful substitute for sequencing required by CEQA, the Surplus Land Act, and right-of-way vacation law.

**C. Belated Planning Commission Actions Cannot Retroactively Legitimize an Invalid Process**

In the Petition, the Coalition has already explained that a belated Planning Commission consistency determination cannot retroactively legitimize an invalid CEQA process or cure improper project segmentation, and that the appropriate course is to reset the process and comply with the sequencing and findings requirements imposed by state law.

Separately, the Coalition has shown that the Planning Commission was inappropriately asked to bless the abandonment of public right-of-way before the City had established what public functions will be eliminated, modified, or displaced, and that this sequencing deprived the Commission and public of a meaningful ability to evaluate General Plan consistency.

**D. The DDA Reflects Impermissible Predetermination of Approvals.**

As set forth in the Coalition's prior submissions, the DDA is not "implementation"; it independently commits the City to convey public land and vacate public rights-of-way and constitutes unlawful predetermination whereby commitments are made before lawful completion of CEQA compliance, surplus land determinations, and right-of-way vacation findings.

**III. The City Cannot Declare "Exempt Surplus Land" on Conclusory Findings that Ignore the Property's Functional Public Use and Rely on Bootstrapping.**

The Item 9 staff report confirms the "Property" includes 0.79 acres of right-of-way and "some on-street parking." The Coalition has already demonstrated that the Surplus Land Act requires a good-faith determination that property is not necessary for present or foreseeable public use, grounded in the property's *actual functional use*, and that the City's approach improperly bootstraps surplus status to the redevelopment decision.

This is not a technicality. Staff expressly states that adoption of the exempt surplus declaration "authorizes the City to proceed toward disposition...in accordance with the Project's financing timeline." The City should not dispose of public assets on conclusory "not necessary" recitals where the record contains substantial evidence of ongoing public use and displaced impacts.

**IV. The Right-Of-Way Vacation Is Not Supported by Substantial Evidence and Cannot Be Treated as "Without Adverse Effect."**

Item 8's staff report repeatedly asserts that the City "must vacate" the right-of-way "[t]o facilitate the project's construction," and that if the Council does not adopt the vacation "the approved development project would not be able to move forward." That is not the legal standard. A right-of-way vacation is a permanent abandonment of a public asset, requiring findings supported by evidence that the area is unnecessary for present or prospective public use.

The Coalition's Petition and supporting submissions also explain that the record contains substantial evidence of adverse traffic/parking/circulation and safety impacts, which further undermines any finding that the vacation (and related actions) can proceed under a categorical exemption.

**V. Councilmembers With Demonstrated Prejudgment/Bias (and Other Disqualifying Relationships) Must Recuse Themselves for Disqualifying Conflicts of Interest**

The Coalition has separately requested that the Council proceed only after compliance with disqualifications due to conflicts of interest. This issue is not abstract; it goes to the validity of any action taken tonight if the voting body is not impartial.

**A. The Petition Documents Record Evidence of Prejudgment and Lack of the Requisite “Open Mind.”**

The Petition explains that a fair quasi-judicial hearing requires decisionmakers to maintain an “open mind,” decide based on law and evidence, and not proceed based on animus, moral condemnation, or prejudgment; it identifies extensive remarks by Councilmember J.R. Fruen that the Coalition contends demonstrate prejudgment and partiality. The Petition further notes that Councilmember Fruen was the “deciding majority vote,” that he seconded the principal motion, and that if he had recused himself “the Decision would not have been made.”

The Petition therefore requests that any rehearing be conducted only after “recusal of any Councilmember who has demonstrated prejudgment or bias inconsistent with an ‘open mind.’” Those same principles apply to tonight’s continued, consequential actions that further implement and entrench the challenged approvals.

**B. Participation Tied to Organizations Promoting the Project Raises Additional Conflict Concerns**

The record also includes a specific request, out of an abundance of caution and to avoid the appearance of impropriety and self-dealing, that Councilmembers who are part of the Rotary Association (associated with and/or promoting the Project) should recuse themselves, and that any city council member who has a conflict of interest must recuse themselves from voting on this Project.

**VI. Requested Relief for Tonight’s Meeting**

For the reasons above, the Coalition respectfully requests that the City Council:

1. Continue Agenda Items 8 and 9 (Res. 26-024 and 26-025).
2. Direct staff to proceed only after full compliance with applicable law, including lawful CEQA review of the whole action, antecedent Government Code § 65402 determinations, right-of-way vacation findings/procedures, and Surplus Land Act compliance.
3. Ensure a lawful and impartial decisionmaking body by requiring recusal of any Councilmember with a disqualifying conflicts of interest, including prejudgment/bias

inconsistent with an “open mind,” and addressing the additional conflict concerns described above.

4. Decline to make or reaffirm categorical exemption findings for these actions where the record shows substantial evidence of impacts and legally defective segmentation/sequencing.

This letter is submitted without prejudice to, and shall not be deemed to waive, any claims, objections, arguments, or remedies available to the Coalition under CEQA, state law, local ordinance, or common law. All such rights and remedies are expressly reserved.

Thank you for your attention to this important matter.

Very truly yours,

STRATEGY LAW, LLP



Joshua Safran, Esq.

cc: Tina Kapoor, City Manager (Tinak@cupertino.gov; citymanager@cupertino.gov)  
Kirsten Squarcia, Interim Deputy City Manager (kirstens@cupertino.gov; )  
Lauren Sapudar, Acting City Clerk (LaurenS@cupertino.gov; cityclerk@cupertino.gov)  
Benjamin Fu, Director of Community Development (BenjaminF@cupertino.gov;  
planning@cupertino.gov)  
Floy Andrews, Interim City Attorney (fandrews@awattorneys.com;  
cityattorney@cupertino.gov)