

RESOLUTION NO. _____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
CUPERTINO FINDING THAT PUBLIC RIGHT-OF-WAY VACATION
WITHIN THE LIMITS OF THE MARY AVENUE PROPERTY (APN 326-27-
053) IS CONSISTENT WITH THE CITY OF CUPERTINO GENERAL PLAN**

WHEREAS, the Mary Avenue project site is proposed for development of low-income residential housing within a parcel (APN 326-27-053) currently owned by the City of Cupertino and utilized as public right-of-way along Mary Avenue; and

WHEREAS, the City must vacate the public right-of-way interest within the Mary Avenue parcel in order to facilitate construction of the housing project; and

WHEREAS, California Government Code Section 65402(a) requires that City's Planning Commission make a determination that the Mary Avenue public right-of-way vacation (APN 326-27-053) is in conformance with the City's General Plan; and

WHEREAS, The City of Cupertino General Plan: Community Vision 2015-2040 includes the Housing Element that lists the Mary Avenue property (APN 326-27-053) as a priority housing site; and

WHEREAS, on January 27, 2026, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by the City, city staff, and other interested parties.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Cupertino does hereby find, determine, and resolve as follows:

Section 1: The Planning Commission has duly considered the full record before it, including the staff report and presentation, facts, exhibits, public testimony and other evidence and materials submitted or provided to the Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: The Planning Commission hereby exercises its independent judgment and determines that the action is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3). CEQA Guidelines section 15061(b)(3) states that a project is exempt from CEQA if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” The action is a determination of consistency with the General Plan and therefore it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment.

Section 3: The Planning Commission finds in accordance with state law based on the evidence in the public record that the Mary Avenue public right-of-way vacation (APN 326-27-053) conforms to the City’s General Plan (Community Vision 2015-2040.)

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, “CEQA”) because it has no potential for resulting in physical change in the environment. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action “Adopt a Resolution finding that the Fiscal Year 2025 - 2026 Capital Improvement Program proposal is consistent with the City's General Plan” would have no or only a de minimis effect on the environment because it is an administrative action. The foregoing determination is made by the City of Cupertino Planning Commission in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Cupertino this 27th day of January 2026, by the following vote:

Members of the Planning Commission

AYES:

NOES:

ABSENT:

Resolution No. _____

Page 2

ABSTAIN:

<p>APPROVED:</p> <p>_____</p> <p>Santosh Rao Chair, Planning Commission</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Piu Ghosh, Planning Manager</p>	<p>_____</p> <p>Date</p>