

RESOLUTION NO. 2026-XX

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
APPROVAL OF A VESTING TENTATIVE MAP FOR A CONDOMINIUM MAP
FOR A RESIDENTIAL PROJECT WITH 27 THREE STORY TOWNHOMES,
INCLUDING 5 AFFORDABLE UNITS TO REPLACE A COMMERCIAL OFFICE
BUILDING ON A 1.55-ACRE SITE LOCATED AT 10268 BANDLEY DRIVE;
APN: 326-33-097**

SECTION I: PROJECT DESCRIPTION

Application No.: TM-2025-008
Applicant: SummerHill Homes, LLC
Property Owner: Bandley Center Inc.
Location: 10268 Bandley Drive; APNs: 326-33-097

SECTION II: FINDINGS FOR A TENTATIVE MAP:

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

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

WHEREAS, on May 12, 2026, the Planning Commission held a duly noticed public hearing to receive staff's presentation and public testimony, and to consider the information contained in the Exemption Memorandum along with all staff reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing; and

WHEREAS, on May 12, 2026 the Planning Commission recommended on a 4-1 vote (NO: Rao) that the City Council approve the Architectural and Site Approval Permit (ASA-2025-016) in substantially similar form to the Resolution presented (Resolution No. 2026-18), approve the Vesting Tentative Map (TM-2025-008) in substantially similar form to the Resolution presented (Resolution No. 2026-16), and approve the Tree Removal Permit (TR-2025-033), in substantially similar form to the Resolution presented (Resolution No. 2026-17); and

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

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution; and

WHEREAS, the applicant has met the burden of proof required to support the application for a Tentative Map; and

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

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

The proposed subdivision map is consistent with the General Plan since density of the proposed project is less than the maximum allowable density of 25 dwelling units an acre.

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

The off-site improvements are consistent with the City's General Plan policies related to applicable pedestrian and bicycle safety, with improvements made in accordance with the right-of-way design and the urban canopy within the public right-of-way. While the development is required to have a 20-foot setback from the front property line, state density bonus law requires the City to waive local development standards to accommodate a project as designed, and still consider the design consistent with the General Plan.

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

The proposed tentative map is compatible with the adjoining land uses and no physical constraints are present that would conflict with the anticipated land use and development. Moreover, there are no topographical anomalies that differentiate this property from adjacent properties and the site is located on the valley floor and is not listed within any environmentally sensitive zone.

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

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

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

The design of the subdivision and proposed improvements will not injure fish and wildlife or their habitat because the property is a previously developed site, with no fish and wildlife habitat in the vicinity; the site is located in an urbanized area where residential land use is allowed.

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

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

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

No easement or right-of-way exists currently that would be impeded or conflict with the proposed subdivision. New public access easements will be required to address General Plan Mobility Element Policies M-2.5 and M-3.2, and Land Use Element Strategy LU-13.7.3, as identified on the approved map. These easements shall be maintained to allow for public access through the property.

NOW, THEREFORE, BE IT RESOLVED:

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

The application for a Vesting Tentative Map, Application No. TM-2025-008, is hereby approved, and that the sub-conclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application No. TM-2025-008 as set forth in the Minutes of the City Council Meeting of June 2, 2026 meeting, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set entitled “10268 Bandley Drive Cupertino” consisting of 75 sheets labeled as, A0.00– A8.1, C1.0 – C7.0, L1.1 – L9.1, INT1 to INT2, PRSL1 to PRSL2, PM, and TM-1, drawn by WHA Architects, Giacalone Design Services, CBG Civil Engineers Surveyors, and R3 Studios, except as may be amended by conditions in this resolution.

2. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

3. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. ASA-2025-016, and TR-2025-033 shall be applicable to this approval.

4. ANNOTATION OF THE CONDITIONS OF APPROVAL

The conditions of approval set forth shall be incorporated into and annotated on the first page of the building plans.

5. PUBLIC ACCESS REQUIREMENTS

In accordance with Mobility Element Policies M-2.5 and M-3.2 of the 2015-2040 Cupertino General Plan in effect in January 2024, the applicant shall maintain public access to the privately maintained streets and walkways where public access easements are shown on the Vesting Tentative Map.

6. INGRESS EGRESS EASEMENT

The property shall maintain a reciprocal ingress easement access easement for the property owner to the north and shall maintain shared driveway access as approved on the plans for the property owner to the south.

7. CONSULTATION WITH OTHER DEPARTMENTS

The applicant is responsible to consult with other departments and/or agencies with regard to the proposed project for additional conditions and requirements. Any misrepresentation of any submitted data may invalidate an approval by the Community Development Department.

8. INDEMNIFICATION

As part of the application, to the fullest extent permitted by law, the applicant shall agree to indemnify, defend with the attorneys of the City's choice, and hold harmless the City, its City Council, and its officers, employees, and agents (collectively, the "indemnified parties") from and against any liability, claim, action, cause of action, suit, damages, judgment, lien, levy, or proceeding (collectively referred to as "proceeding") brought by a third party against one or more of the indemnified parties or one or more of the indemnified parties and the applicant related to any Ordinance, Resolution, or action approving the project, the related entitlements, environmental review documents, finding or determinations, or any other permit or approval authorized for the project. The indemnification shall include but not be limited to damages, fees, and costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities, and expenses incurred in connection with such proceeding whether incurred by the Applicant, the City, or the parties initiating or bringing such proceeding.

The applicant shall agree to (without limitation) reimburse the City its actual attorneys' fees and costs incurred in defense of the litigation. Such attorneys' fees and costs shall include amounts paid to the City's outside counsel and shall include City Attorney time and overhead costs and other City staff overhead costs and any costs directly related to the litigation reasonably incurred by City. The applicant shall likewise agree to indemnify, defend, and hold harmless the indemnified parties from and against any damages, attorneys' fees, or costs awards, including attorneys' fees awarded under Code of Civil Procedure section 1021.5, assessed or awarded against the indemnified parties. The Applicant shall cooperate with the City to enter a Reimbursement Agreement to govern any such reimbursement.

The Applicant shall agree to (without limitation) reimburse the City for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an Environmental Impact Report, negative declaration, specific plan, or general plan amendment) if made necessary by proceedings challenging the project approvals and related environmental review, if the applicant desires to continue to pursue the project.

The Applicant shall agree that the City shall have no liability to the Applicant for business interruption, punitive, speculative, or consequential damages.

9. NOTICE OF FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

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

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

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

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 2nd day of June, 2026, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Kitty Moore, Mayor City of Cupertino	 _____ Date
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ATTEST: _____ Lauren Sapudar, City Clerk	_____ Date
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