

RESOLUTION NO. _____

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

WHEREAS, the Mary Avenue property (APN 326-27-053) (“Property”) is situated along the westerly edge of Mary Avenue, between Stevens Creek Boulevard and Lubec Street, as further described in Attachment A; and

WHEREAS, the Property is listed as Site ID 10 of the Priority Housing Sites in Residential Zones, Appendix B to the Housing Element of the Cupertino General Plan. The Property has an active proposal for development of a 40-unit, two-story, affordable housing project to be developed by Charities Housing; and

WHEREAS, the Property is currently owned by the City of Cupertino, and a portion of the Property, to the extent such portion is within the public right-of-way within Parcel 1 on the Parcel Map filed for Record in the Office of the Recorder of the County of Santa Clara, State of California, on May 2, 2023, in Book 953 of Maps, Pages 53 and 54, attached hereto as Attachment B, is designated as public right-of-way, and is being utilized for on-street parking (the “Vacation Area”); and

WHEREAS, the City must vacate the Vacation Area within the Property 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 vacation of the Vacation Area 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 Property as priority housing Site 10; and

WHEREAS, the vacation of the Vacation Area will facilitate an affordable housing project that meets several goals, policies, strategies, and objectives set forth in the Housing Element included in the City of Cupertino General Plan: Community Vision 2015-2040; and

WHEREAS, on February 10, 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 and report 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 City has performed an environmental assessment for the Mary Avenue housing project, and the Planning Commission has determined that it falls within the Categorical Exemption set forth in Section 15332 which exempts Class 32 Infill Development Projects because (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) the project site has no value, as habitat for endangered, rare or threatened species; (d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) the site can be adequately served by all required utilities and public services. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project. The proposed vacation of the Vacation Area does not constitute a separate project under CEQA and is an implementation action within the scope of the affordable housing development project. Based on the whole of the administrative record, Planning Commission recommends that City Council adopts a Categorical Exemption per CEQA Guidelines section 15332 for this project.

Section 3: The Planning Commission finds and reports on, in accordance with state law based on the evidence in the public record that the vacation of the Vacation Area is in conformity with the City's General Plan (Community Vision 2015-2040) since it involves a priority housing site identified in the Housing Element and because it will assist the City in meeting the pertinent goals, policies, strategies, and objectives set forth in the Housing Element, including:

- a. Policy HE-1-2: Housing Densities (provide a full range of densities for ownership and rental housing) and corresponding Strategies:

(i) Strategy HE-1.3.1: Land Use Policy and Zoning Provisions (“Provide adequate capacity through the Land Use Element and Zoning Ordinance to accommodate the RHNA while maintaining a balanced land use plan that offers opportunities for, among other things, services, and amenities”). The Mary Avenue public right-of-way vacation will assist the City in implementing Strategy HE-1.3.1 by furthering high-density housing that will help the City meet the Objective of “4,588 units (596 extremely low-, 597 very low-, 687 low-, 755 moderate-, and 1,953 above moderate-income units) prioritized “in areas with high rates of housing cost burden, such as the City’s north side ... and the Garden Gate neighborhood”

(ii) Strategy HE-1-3.10: Innovative and Family-Friendly Housing Options (“Explore innovative and alternative housing options that provide greater flexibility and affordability in the housing stock that would address housing needs including special-needs groups, and lower-income households”) by furthering a housing project that provides 19 units for residents with intellectual or developmental disabilities. The provision of these 19 units will assist the City in meeting the Quantified Objective of “200 lower-income units to improve housing mobility and reduce displacement risk.”

b. Policy HE-2.3: Development of Affordable Housing and Housing for Persons with Special Needs and corresponding Strategies:

(i) Strategy HE-2.3.1: Support Affordable Housing Development (“Work with housing developers to expand opportunities for affordable lower-income housing for special-needs groups.”). The Mary Avenue project is a 100 percent affordable housing project which will provide 19 units for residents with intellectual or developmental disabilities, and will thus assist the City in meeting the Quantified Objective to “Create opportunity for 450 units for lower-income households that will be within close proximity to services and other resources in high-opportunity areas. Include development of 250 units affordable to special-needs, lower-income households to reduce displacement risk for these populations.”

(ii) Strategy HE-2.3.6: Surplus Properties for Housing and Faith-Based Housing (“Compile and maintain an inventory of vacant properties owned by the City or other public entities. The inventory will include land donated and accepted by the City for donation, and land otherwise acquired by the city. The City will then undertake steps leading to release of RFP to solicit developer interest, which may include declaration of land as ‘surplus’.”). The vacation of the Vacation Area is consistent with the overall policy strategy regarding disposition of surplus properties because it reflects a successful solicitation of developer

interest and because it will allow a non-profit developer an opportunity to build a 100 percent affordable project on the surplus land.

(iii) Strategy HE-2.3.11: Assistance for Persons with Developmental Disabilities (“Work with the nonprofit community to encourage the inclusion of units for persons with developmental disabilities in future affordable housing developments.”). The vacation of the Vacation Area will further a housing project that provides 19 units for residents with intellectual or developmental disabilities, which will assist the City in meeting the Objective of providing “housing units for persons with disabilities to reduce displacement risk.”

c. Appendix B: Housing Element Technical Report, Table B4-8 Priority Housing Sites in Residential Zones – Additional Site Details lists the Mary Avenue site as Site ID 10. It states that “Site 10 is located in the Garden Gate neighborhood and is located east of Highway 85. Presently, the site is a new parcel carved out from unused right-of-way, owned by the City of Cupertino, adjacent to Highway 85 that includes some on-street parking. Neighboring uses include multi-family residential uses, a dog park, condominiums and Highway 85.” The City’s General Plan explicitly anticipates the vacation of the right-of-way, including vacation of the on-street parking in its Housing Element for the purpose of developing a 40-unit, two-story affordable (100% Low and Very Low Income) housing project including 19 units for residents with intellectual or developmental disabilities.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Cupertino this 10th day of February, 2026, by the following vote:

Members of the Planning Commission

AYES:

NOES:

ABSENT:

ABSTAIN:

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

LEGAL DESCRIPTION OF PROPERTY

That certain real property in the City of Cupertino, County of Santa Clara, State of California legally described as follows:

All of Parcel 1, as shown on that certain Parcel Map, in the City of Cupertino, County of Santa Clara, State of California, filed for Record in the Office of the Recorder of the County of Santa Clara, State of California, on May 2, 2023, in Book 953 of Maps, Pages 53 and 54.

APN: 326-27-053

