

**RESOLUTION NO. 26-\_\_\_\_\_**

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL  
APPROVING A USE PERMIT FOR A NEW RESIDENTIAL DEVELOPMENT  
PROJECT CONSISTING OF 56-TOWNHOME-CONDOMINIUM UNITS AND  
66 SMALL LOT SINGLE FAMILY HOMES, ON FOUR CONTIGUOUS  
PARCELS TOTALING 6.93-ACRES, INCLUDING TREE REMOVAL AND  
REPLACEMENTS LOCATED AT 20807, 20813, 20823 & 20883 STEVENS CREEK  
BLVD; APNs: 326-32-050, -051, -052, & -053**

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**SECTION I: PROJECT DESCRIPTION**

Application No.: U-2024-008  
Applicant: Kevin Choy (Harvest Properties)  
Property Owner: Blair Volckmann  
Location: 20807, 20813, 20823 & 20883 Stevens Creek Blvd; APNs: 326-32-050, -051, -052, and -053

**SECTION II: FINDINGS FOR A USE PERMIT:**

WHEREAS, the City of Cupertino received an application for a Use Permit as described in Section I of this resolution; and

WHEREAS, the project is determined to be categorically 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 March 24, 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 March 24, 2026 the Planning Commission recommended on a 5-0 vote that the City Council approve the Use Permit (U-2024-008) in substantially similar form to the Resolution presented (Resolution No. 2026-11), approve the Architectural and Site Approval Permit (ASA-2024-011) in substantially similar form to the Resolution presented (Resolution No. 2026-12), approve the Vesting Tentative Map (TM-2024-006) in substantially similar form to the Resolution presented (Resolution No. 2026-13), and approve the Tree Removal Permit (TR-2024-033), in substantially similar form to the Resolution presented (Resolution No. 2026-14); and

WHEREAS, the Planning Commission motion included a recommendation to City Council to explore additional benefits or assistance options for retail tenants that will be displaced due to this housing development and similar projects. The Planning Commission requested that the City Council, as a matter of establishing policy, consider items such as expedited permitting processes, consideration of reduced fees, and other opportunities for assistance for businesses impacted by seeking relocation; and

WHEREAS, all necessary public notices having been given as required by the City of Cupertino Municipal Code and the Government Code, and the Planning Commission 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 Use Permit; and

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

1. The proposed development, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

*The project is consistent with the land use designations in the General Plan, Zoning Ordinance, and the Heart of the City Specific Plan. It has been designed to locate townhome development closer to Stevens Creek Blvd. and transitioning to small-lot detached single-family development to the north along Alves Dr. similar to the surrounding single-family residential uses located north-west of the site. The proposed landscaping will be compatible with the existing streetscape and Heart of the City standards. The project is conditioned to comply with the Environmental Protection Standards of Cupertino Municipal Code. Chapter 17.04. The project has access to all utilities including sewer, water etc. The project must meet all Fire and Building Code requirements, which will be further reviewed prior to issuance of building permits. Therefore, the project will not be detrimental or injurious to properties or improvements in the vicinity, and will not be detrimental to public health, safety, general welfare, or convenience.*

2. The proposed development and/or use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan, underlying zoning regulations, and the purpose of this title and complies with the California Environmental Quality Act (CEQA).

*The SB330 Preliminary Application was submitted for this project in April 2024, locking in the development standards in effect at that time. The General Plan land use designation for the property was Commercial/Office/Residential with a maximum residential density*

*of 25 dwelling units per acre. The residential use at the proposed 17.84 dwelling units per acre is consistent with the General Plan in terms of density pursuant to state law, even though one of the parcels currently has a residential land use density that is higher at the date of approval of this project. The applicant is requesting waivers for the development of this site to allow residential uses, with reduced setbacks, increased building height, increased building forms (massing), increased lot coverage, and reduced minimum lot width, as required by the Heart of the City Specific Plan's and the City's Municipal Code standards. The proposed development has met all other applicable development standards of the Heart of the City Specific Plan. The project is further conditioned to comply with the Environmental Protection Standards of Cupertino Municipal Code Chapter 17.04. In addition, under the CEQA Guidelines Section 15061(b)(1) (Statutory Exemption), the project has been found to be Statutorily Exempt from CEQA because the proposed project would meet the requirements of the Public Resources Code (PRC) Section 21080.66(a), as further documented in the memorandum prepared by the City's environmental consultant, PlaceWorks. Therefore, the proposed development will be located and conducted in accordance with the General Plan and underlying zoning regulations and complies with the California Environmental Quality Act (CEQA).*

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 Use Permit, Application No. U-2024-008, is hereby approved, and that the conclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application no. U-2024-008 as set forth in the Minutes of the City Council Meeting of April 7, 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 "20807 – 20883 Stevens Creek Blvd. Cupertino" consisting of 196 sheets labeled as, A0.01– A4.00, C1 – C26, L1.0 – L10.1, JT-1 to JT-4, PM, and SL-1 to SL-4, drawn by ktgy Architects, Gates + Associates landscape, cbg Civil Engineers Surveyors, and Radius Joint Trench, 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. TM-2024-006, ASA-2024-011, and TR-2024-033 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. USE APPROVAL AND PROJECT AMENDMENTS

Approval is hereby granted to allow a residential use in a Planned Development zone that was not allocated units as a Priority Housing Site at the time of Preliminary Application submission under the Housing Crisis Act. The Planning Commission shall review amendments to the project considered major by the Director of Community Development.

6. DENSITY BONUS WAIVERS AND CONCESSIONS

As allowed through the state's Density Bonus law, the project is eligible for one concession and unlimited waivers, as approved via this permit. The project is granted one concession and 12 waivers as requested and indicated on the approved project plans follows:

- a. Concession to address different unit type for BMR units; and
- b. Waiver to deviate from the 45-foot height limitation in the Heart of the City (HOC) Specific Plan; and
- c. Waiver to deviate from the front setback identified in the HOC Specific Plan; and
- d. Waiver to deviate from the side setback identified in the HOC Specific Plan; and
- e. Waiver to deviate from the rear setback identified in the HOC Specific Plan; and
- f. Waiver to deviate from the building forms requirement in the HOC Specific Plan; and
- g. Waiver to deviate from the building eave encroachment standard in the HOC Specific Plan; and

- h. Waiver to deviate from the maximum lot coverage percentage identified in the Cupertino Municipal Code; and
- i. Waiver to deviate from the minimum lot width development standard identified in the Cupertino Municipal Code; and
- j. Waiver to deviate from the minimum parking space size and use of tandem garages development standards identified in the Cupertino Municipal Code; and
- k. Waiver to deviate from the parking setback identified in the Cupertino Municipal Code.

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.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 7th day of April, 2026, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p>  _____ Kitty Moore, Mayor City of Cupertino	  _____ Date
<p>ATTEST:</p>  _____ Lauren Sapudar, City Clerk	  _____ Date