

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO  
RECOMMENDING THAT THE CITY COUNCIL ADOPT A RESOLUTION  
AND ORDINANCE AMENDING THE GENERAL PLAN LAND USE  
AND ZONING MAPS AS SHOWN IN EXHIBIT A

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SECTION I: PROJECT DESCRIPTION

Application No: GPA-2017-01, Z-2017-01

Applicant: City of Cupertino

Location: Citywide

APN(s): 326 49 034, 326 49 035, 326 49 039, 357 07 029, 357 06 014, 357 06 019, 326 27 030, 357 09 053, 342 52 006, 342 48 999, and 326 41 115)

SECTION II: RECITALS

WHEREAS, each mandatory element of the City's General Plan may be amended no more than four times during any calendar year and, subject to that limitation, "an amendment may be made at any time, as determined by the legislative body " (Cal. Gov. Code 65358(b)); and

WHEREAS, California Government Code Section 65358(a) provides that: "If it deems it to be in the public interest, the legislative body may amend all or part of an adopted general plan. An amendment to the general plan shall be initiated in the manner specified by the legislative body. . . ."; and

WHEREAS, amendments to the General Plan are made by a resolution of the City Council; and

WHEREAS, amendments to the Zoning Code are made by ordinance of the City Council;

WHEREAS, Cupertino Municipal Code Chapter 19.152.020 provides the procedures, approval authority and findings for amendments to the zoning map and changes in district boundaries; and

WHEREAS, corrections are necessary because General Plan land use map and zoning map must be internally consistent; and

WHEREAS, the proposed amendments to the General Plan land use map and the proposed amendments to the zoning map will correct inaccuracies in these maps and will not add development capacity or result in a change of land use, development rights, or regulations for any of the affected parcels; and

WHEREAS, the proposed amendments to the General Plan land use map and the proposed amendments to the zoning map are exempt from the requirements of the California Environmental Quality Act (CEQA) because “it can be seen with a certainty that there is no possibility that the activity in question may have a significant effect on the environment,” and are, therefore, not subject to CEQA (CEQA Guidelines § 15061(b)(3)); and

WHEREAS, the necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, and the Planning Commission held a public hearing on August 8, 2017 to consider the proposed amendments.

### SECTION III: FINDINGS

In accordance with Cupertino Municipal Code Chapter 19.152.020 (Amendments to the Zoning Maps and Zoning Regulations), the Approval Body may approve of an application to change the district boundaries, if it finds all of the following:

1. That the proposed zoning is in accord with this title of the Municipal Code and the City's Comprehensive General Plan.

*Parcels #1-8 are public facilities or public parks and open spaces. The requested corrections align the general plan land use with the internally correct zoning of either BA (public buildings) or PR (parks and recreation).*

*Parcel #9 (~14,578 sq.ft. and ~54 feet wide) was originally offered and accepted as a public roadway easement to the City for future development in the area of the Diocese/Oak Valley. However, this easement was formally vacated in 1999, because during development of the Oak Valley neighborhood, Oak Valley Road was located approximately 500 feet to the south instead of in the area of the easement. Once vacated, the land use designation of the easement was changed to Quasi-public/Institutional and was zoned “Planned Development with Institutional uses” (P(Institutional)) to match the zoning of the Forum. However, during the last General Plan Update in 2014, as a result of inaccurate data from the County Assessor’s records, which*

*reflected this parcel to be owned by the City, the land use designation and zoning designations were incorrectly changed to Parks and Open Space and PR. The current change in the land use and zoning designations is proposed to correct the City's past erroneous action.*

*Parcel #10 is a portion of property offered for dedication to, and accepted by, the City for open space purposes. However, this was not reflected in the City's general plan land use or zoning maps.*

*Parcel #11 is a privately-owned, single-family residential parcel. The northeast corner of the subject parcel was once a surplus City-owned parcel that was eventually sold to the adjacent property owner of 10500 Castine Avenue. The transaction to merge the parcels into one single-family residential lot occurred in 2016. However, the land use designation needs to be updated to reflect this transaction.*

*The total effect of making these revisions does not add development capacity for any of the parcels.*

2. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).

*The proposed amendments to the General Plan land Use Map and the proposed amendments to the Zoning Maps will correct inaccuracies in these maps and will not add development capacity or result in a change of land use, development rights, or regulations for any of the affected parcels. Therefore, the proposed amendments are exempt from the requirements of the California Environmental Quality Act (CEQA) because "it can be seen with a certainty that there is no possibility that the activity in question may have a significant effect on the environment" and are, therefore, not subject to CEQA (CEQA Guidelines § 15061(b)(3).)*

3. The site is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation(s) and anticipated land use development(s).

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*(P(Institutional)) to match the zoning of the Forum. However, during the last General Plan Update in 2014, as a result of inaccurate data from the County Assessor's records, which reflected this parcel to be owned by the City, the land use and zoning designations, were incorrectly changed to Parks and Open Space and PR. The current change in the land use and zoning designations is proposed to correct the City's past erroneous action.*

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*The total effect of making these revisions does not add development capacity for any of the parcels.*

**4. The proposed zoning will promote orderly development of the City.**

*As a result of responding to public inquiries, along with city actions over the years, Planning staff have identified parcels for which the general plan land use designation and zoning is not internally consistent or correct or has not been updated to correlate with known city actions, such as resolutions, ordinances, recorded tract maps, purchases and agreements. Corrections assure internal consistency and provide for orderly development by assuring that maps are accurate and, in a timely manner, reflect city actions that have already occurred.*

**5. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.**

*There is no increase in development capacity and therefore is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.*

**NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission recommends City Council approval of the proposed amendments in substantially the form as shown in Exhibit "A," attached.

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PASSED AND ADOPTED this 8<sup>th</sup> day of August 2017, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:  
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

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Benjamin Fu  
Assist. Dir. of Community Development

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Don Sun  
Chair, Planning Commission

## EXHIBIT "A"

<insert table and maps>

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