

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
FINDING THE PROPOSED FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM, FISCAL
YEARS 2020-21 TO 2024-25 CONSISTENT WITH THE CITY OF CUPERTINO GENERAL PLAN

SECTION I: PROJECT DESCRIPTION

Project Name: Capital Improvement Program (CIP)
Applicant: City of Cupertino
Location: Citywide

SECTION II: FINDINGS

WHEREAS, the City of Cupertino Capital Improvement Program (CIP) guides the funding and scheduling of infrastructure improvement projects over the next five years. The current CIP has been updated for the [FY 2020-2021 to 2024-2025] time period for City Council review and consideration; and

WHEREAS, California Government Code Section 65401 requires that City's Planning Commission make a determination that the annual CIP is in conformance with the City's General Plan; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act of 1970 (Public Resources Code section 21000 et seq.) ("CEQA"), together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"), City staff has independently studied the proposed action and has determined that the finding of consistency with the General Plan is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) in that "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Furthermore, the finding of consistency with the General Plan is not a "project" in that it has no "potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment." CEQA Guidelines § 15378(a).

WHEREAS, on June 15, 2020, 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 hereby finds, determines and resolves as follows:

Section 1: The Planning Commission has duly considered the full record before it, including the staff report and presentation, maps, 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. The Planning Commission also hereby exercises its independent judgment and determines that the finding of consistency with the General Plan is not a “project.” Under CEQA, a project has the “potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment.” CEQA Guidelines § 15378(a). The action is a finding of consistency with the General Plan and therefore has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment.

Section 3: The Planning Commission finds in accordance with the Cupertino Municipal Code (CMC) section 2.32.070 (C) and state law based on the evidence in the public record that the City’s CIP (FY 2020-2021 to 2024-2025) conforms to the City’s General Plan (Community Vision 2015-2040).

PASSED AND ADOPTED this 15th day of June 2020, at a Special Meeting of the Planning Commission of the City of Cupertino by the following roll call vote:

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

ATTEST:

APPROVED:

Benjamin Fu
Director of Community Development

Kitty Moore
Chair, Planning Commission