

RESOLUTION NO. 21-072

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
SUPPORTING THE ANNEXATION OF APN 375-21-001 AND APN 375-22-
001, LOCATED ALONG THE WESTERLY BOUNDARY OF LAWRENCE
EXPRESSWAY (LAWRENCE-MITTY PROPERTIES)**

WHEREAS, APN 375-21-001 and APN 375-22-001 ("Properties"), which together total about 7.83 gross acres, are located along the westerly edge of Lawrence Mitty Expressway near Mitty Avenue. The site is generally narrow and linear. The westerly side of the Properties are adjacent to properties located in the City of Cupertino, while the easterly side of the Properties fronts onto Lawrence Expressway. The Properties are reflected in the legal description and map attached hereto and incorporated herein; and

WHEREAS, Santa Clara County ("County") previously owned the Properties and used them for materials storage and construction staging. The Properties are undeveloped and uninhabited. The City of Cupertino acquired the Properties from the County on September 24, 2020; and

WHEREAS, the Properties are currently within the jurisdictional boundary, Sphere of Influence (SOI), and Urban Service Area (USA) of the City of San Jose. San Jose's boundary abuts Cupertino's in this area; and

WHEREAS, the City of Cupertino pre-zoned the Properties as Pre-PR (Public Park or Recreational) on March 20, 2007 by Ordinance No. 07-1998, and the City shows the Properties as Parks and Open Space on its land use map; and

WHEREAS, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act), Government Code section 56654, the City of Cupertino desires to detach the Properties from the City of San Jose and annex them to the City of Cupertino, including necessary amendments to the Sphere of Influence (SOI) and Urban Service Area (USA); and

WHEREAS, the annexation would clarify the boundary between the cities, and eliminate confusion and/or delays in public services which could be caused by multiple jurisdictional agencies having influence in the area; and

WHEREAS, the City of Cupertino finds and determines that the detachment of the Properties from the City of San Jose and annexation to the City of Cupertino (1) would not affect the delivery of necessary services to the Properties, (2) would not affect the delivery of necessary services to other properties in the City of Cupertino, and (3) would not enable development or land uses incompatible with other properties in the area; 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.*) ("CEQA Guidelines"), City staff has independently studied the proposed detachment of the Properties from the City of San Jose and annexation to the City Cupertino and has determined that the annexation is exempt from environmental review pursuant to the categorical exemption in CEQA Guidelines section 15316 and the "common sense" exemption in CEQA Guidelines section 15061(b)(3) for the reasons set forth in the staff report; and

WHEREAS, the City Council has independently reviewed and considered the proposed annexation of the Properties and the basis for the exemptions prior to taking any approval action on the proposed annexation, and exercising its independent judgment, based on the entire record before it, has determined that the annexation of the Properties is exempt from environmental review under CEQA pursuant to CEQA Guidelines sections 15316 and 15061(b)(3).

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby:

1. Exercise its independent judgment and determine that supporting the annexation of the Properties is exempt from CEQA pursuant to CEQA Guidelines sections 15316 and 15061(b)(3); and
2. Support the annexation of the Properties into the City of Cupertino; and
3. Authorize the City Manager to submit to the Local Agency Formation Commission of Santa Clara County (LAFCO) applications for Sphere of Influence (SOI) and Urban Service Area (USA) amendments, and detachment and annexation of the Properties, and execute all documentation necessary and take all steps necessary to complete the annexation of the Properties; and
4. Direct that, as generally contemplated by Cupertino Municipal Code section 19.152.040, upon LAFCO's recordation of a Certificate of Completion, which is the effective date of annexation of the Properties,

the City of Cupertino's pre-zoning classification shall become effective on the Properties and the City of Cupertino's zoning map shall be revised accordingly.

The authorization to submit the applications to LAFCO is subject to the following conditions:

1. Adoption by the City Council of the City of San Jose of a resolution in support of the proposed detachment of the Properties; and
2. Adequate demonstration that all necessary services can be provided to the Properties, including obtaining any necessary approvals for the provision of such services.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 17th day of August, 2021, by the following vote:

Vote Members of the City Council

AYES: Chao, Moore, Wei, Willey

NOES: None

ABSENT: Paul

ABSTAIN: None



| | |
|---|----------------------------------|
| <p>SIGNED:</p>  <hr/> <p>Darcy Paul, Mayor City of Cupertino</p> | <p><u>8/30/2021</u> Date</p> |
| <p>ATTEST:</p>  <hr/> <p>Kirsten Squarcia, City Clerk</p> | <p><u>8/3/21</u> Date</p> |

EXHIBIT "A-1"

**PARCEL 1
LAWRENCE-MITTY PARK
CUPERTINO, CALIFORNIA
LEGAL DESCRIPTION**

Commencing at the most northeasterly corner of Lands of Santa Clara Valley Water District (Book L033 OR Pg. 113) as shown on that certain Parcel Map, which was filed for record on January 4, 1990 in Book 609 of Maps at page 6, Santa Clara County Records,

Thence along the easterly line of said Lands of Santa Clara Valley Water District, South 20°09'45" East, 11.86 feet, and South 02°11' 00" West, 96.08 feet, to the **Point Of Beginning**;

Thence, continuing South 02°11'00" West, 186.30 feet and South 43°00'40" East, 192.89 feet to the westerly line of Lawrence Expressway, as said line is shown upon that unrecorded plans entitled "Lawrence Expressway Unit No. 6A" –layout details for stations 1+00.23 to 40+00;

Thence, North 00°44'33" West along said westerly line, 322.34 feet;

Thence leaving the westerly line of Lawrence Expressway, North 87°40'18" West, 120.40 feet to the **POINT OF BEGINNING**.

Containing an area of 32,126 square feet, (0.74 acres), more or less.

END OF DESCRIPTION



Mark A. Helton

EXHIBIT "A-1"

PARCEL 2
LAWRENCE-MITTY PARK
CUPERTINO, CALIFORNIA
LEGAL DESCRIPTION

Beginning at the southeast corner of Lot 278 as shown on the map of Tract 1183, which was filed for record on June 23, 1953 in Book 44 of Maps at Page 11 Santa Clara County Records,

Thence along the easterly line said Tract No. 1183 the following courses and distances:

North 14° 30' 00" East, 46.59 feet;
North 3° 22' 45" West, 191.71 feet;
North 19° 29' 45" West, 151.30 feet;
North 27° 45' 15" West, 189.35 feet;
North 3° 17' 15" West, 147.02 feet;
North 50° 51' 45" West, 121.65 feet;
North 12° 27' 45" West, 107.74 feet;
North 25° 06' 15" East, 61.00 feet;
North 66° 02' 15" East, 113.84 feet;
North 39° 42' 00" East, 194.78 feet;
North 15° 14' 00" East, 85.91 feet;
North 10° 16' 15" West, 138.43 feet;
North 1° 51' 30" East, 103.33 feet;
North 26° 18' 45" East, 126.23 feet to the westerly line of Lawrence Expressway, as said line is shown upon that unrecorded plans entitled "Lawrence Expressway Unit No. 6A"- layout details sheets for stations 1+00.23 to 40+00;

Thence, South 00° 44' 33" East along said westerly line 1055.78 feet to a tangent curve to the right, having a radius of 5433.00 feet, a central angle of 5° 01' 21", an arc length of 476.25 feet;

Thence, South 4° 16' 48" West, 29.03 feet;

Thence, leaving said westerly line of Lawrence Expressway South 87° 39' 53" West, 44.03 feet to the POINT OF BEGINNING.

Containing an area of 197,905 square feet (4.54 acres), more or less.

END OF DESCRIPTION.

Sheet 1 of 1



EXHIBIT "A-1"

**PARCEL 3
LAWRENCE-MITTY PARK
CUPERTINO, CALIFORNIA
LEGAL DESCRIPTION**

Beginning at the southeast corner of Parcel 5 as shown on that certain Parcel Map, which was filed for record on January 4, 1990 in Book 609 of Maps, at page 6, Santa Clara County Records, and being more particularly described as follows;

Thence, along the easterly line of said Parcel 5, North $20^{\circ}09'45''$ West, 45.40 feet;

Thence, continuing North $20^{\circ}09'45''$ West, along the easterly line of Lot 292, 291, and 290 as shown on the Map for Tract No. 1183 which was filed for record on June 23, 1953 in Book 44 of Maps, at Page 11, Santa Clara County Records, a distance of 165.91 feet;

Thence, continuing along the easterly line of Lot 290, 289, 288 and 287, as shown on said Tract Map No. 1183, North $04^{\circ}04'45''$ East, 125.69 feet;

Thence, continuing along the easterly line of Lot 287, 286, 285, 284, and 283, as shown on said Tract Map No 1183, North $29^{\circ}51'15''$ East, 214.50 feet;

Thence, continuing along the easterly line of Lot 282, and 281, as shown on said Tract Map No. 1183, North $06^{\circ}13'45''$ West, 116.81 feet;

Thence continuing along the easterly line of Lot 280, and 279, as shown on said Tract Map No. 1183, North $19^{\circ}26'45''$ East, 109.24 feet;

Thence, continuing along said easterly line of said Lot 279, North $14^{\circ}30'00''$ East, 53.73 feet to the southeasterly corner of the "Lands of San Jose Water Works";

Thence, continuing North $14^{\circ}30'00''$ East, 127.88 feet to the northeasterly corner of said "Lands of San Jose Water Works", also being the southeasterly corner of Lot 278 as shown on said Map of Tract 1183;

Thence North $87^{\circ}39'53''$ East, 44.03 feet to the westerly line of Lawrence Expressway, as said line is shown upon that unrecorded plans entitled "Lawrence Expressway Unit No. 6A"-layout details sheets for stations 1+00.23 to 40+00;

Thence, South $04^{\circ}16'48''$ West along said westerly line, 482.34 feet to a tangent curve to the left, having a radius of 5567.00 feet, a central angle of $5^{\circ}01'21''$, an arc length of 488.00 feet;

Thence, continuing along said westerly line, tangent to last said curve, South 00°44'33" East, 7.33 feet;

Thence, leaving the westerly line of Lawrence Expressway, North 87°40'18" West, 120.40 feet to the easterly line of the "Lands of Santa Clara Valley Water District", as shown on said Parcel Map (Book 609Maps page 6);

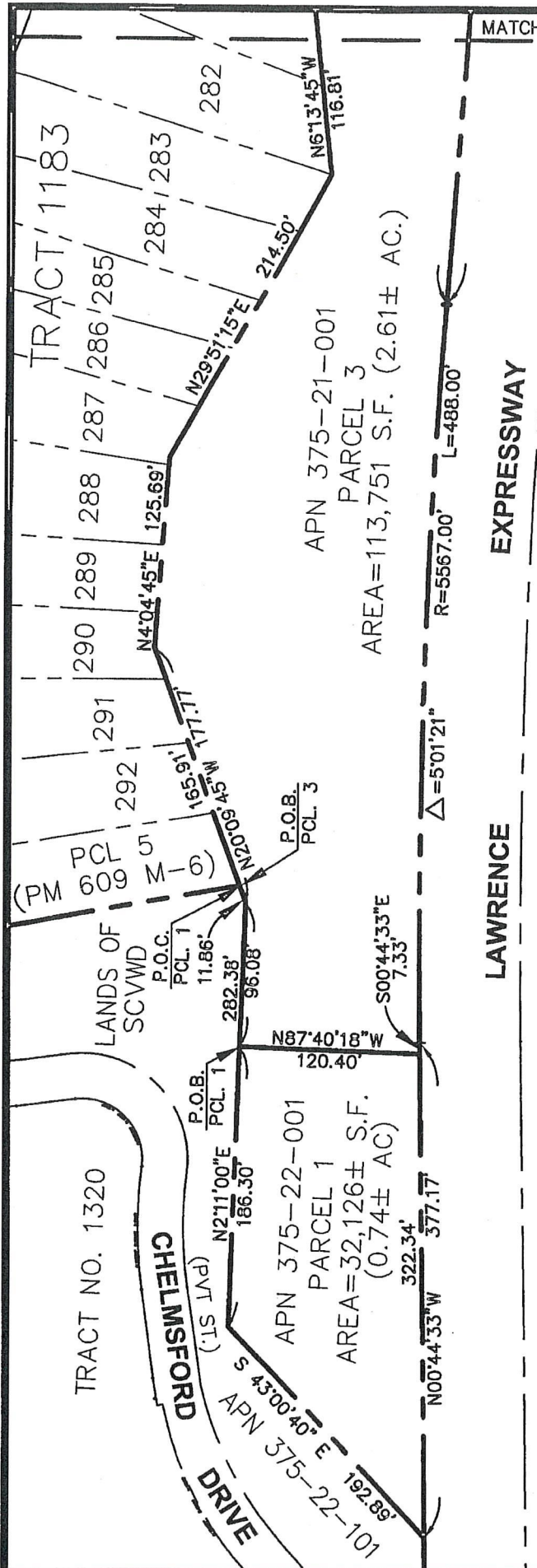
Thence North 02°11'00" East along said easterly line of said "Lands of Santa Clara Valley Water District", 96.08 feet and North 20°09'45" West, 11.86 feet to said southeast corner of Parcel 5 (PM 609 M6) and the **POINT OF BEGINNING**.

Containing an area of 113,751 square feet, (2.61 ± acres), more or less.

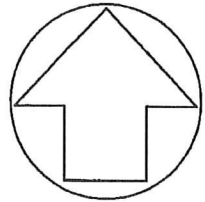
End of Description.



Mark A. Helton



MATCH LINE-SEE SHEET 2



SCALE: 1"=100'

LEGEND

- PARCEL LINE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- SCVWD SANTA CLARA VALLEY WATER DISTRICT

LAWRENCE EXPRESSWAY



Mark A. Helton

EXHIBIT "A-2"

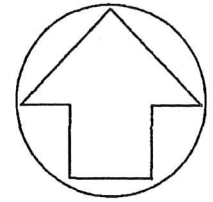
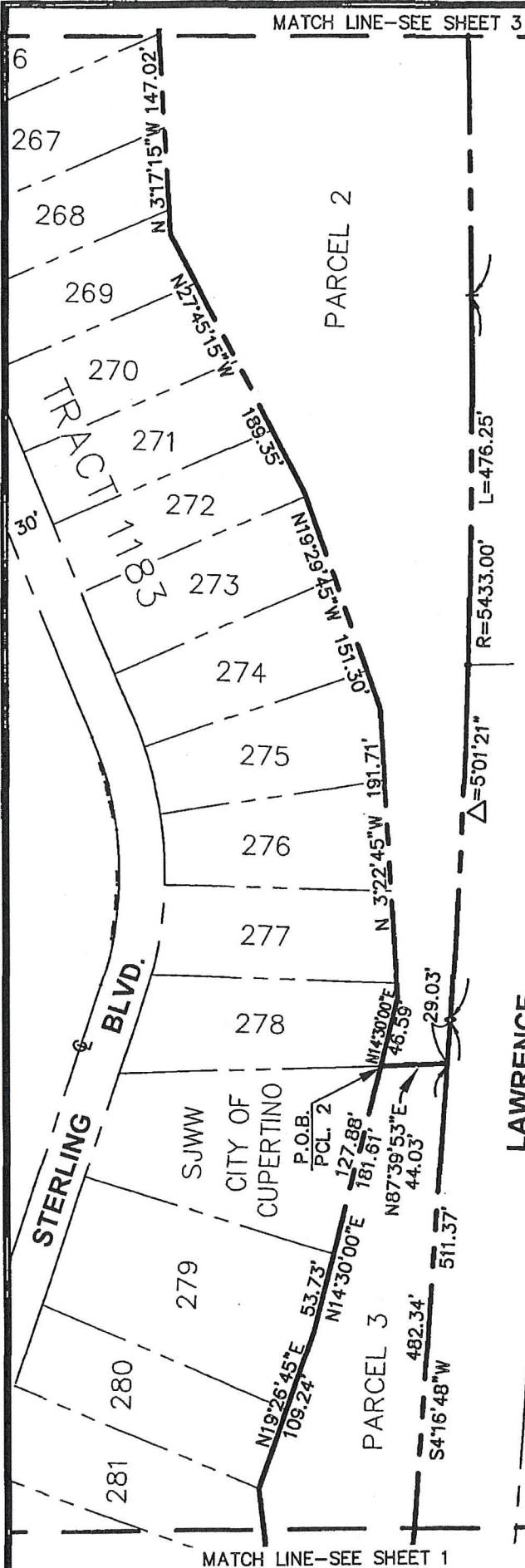
GK Giuliani & Kull -
San Jose, Inc.
Engineers • Planners • Surveyors

4880 Stevens Creek Blvd. Suite 100
San Jose, California 95129
(408) 615-4000

SCALE: 1"=100'
DATE: 6/30/20
DRAWN: E.T.
CHECKED: M.H.
JOB NO.: 19129
SHEET 1 OF 3

**PLAT TO ACCOMPANY
LEGAL DESCRIPTION**

PARCELS 1 & 3
LAWRENCE - MITTY PARK
CUPERTINO, CALIFORNIA



SCALE: 1"=100'



Mark A. Helton

EXHIBIT "A-2"

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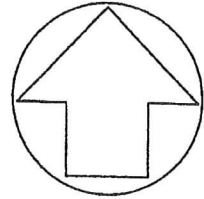
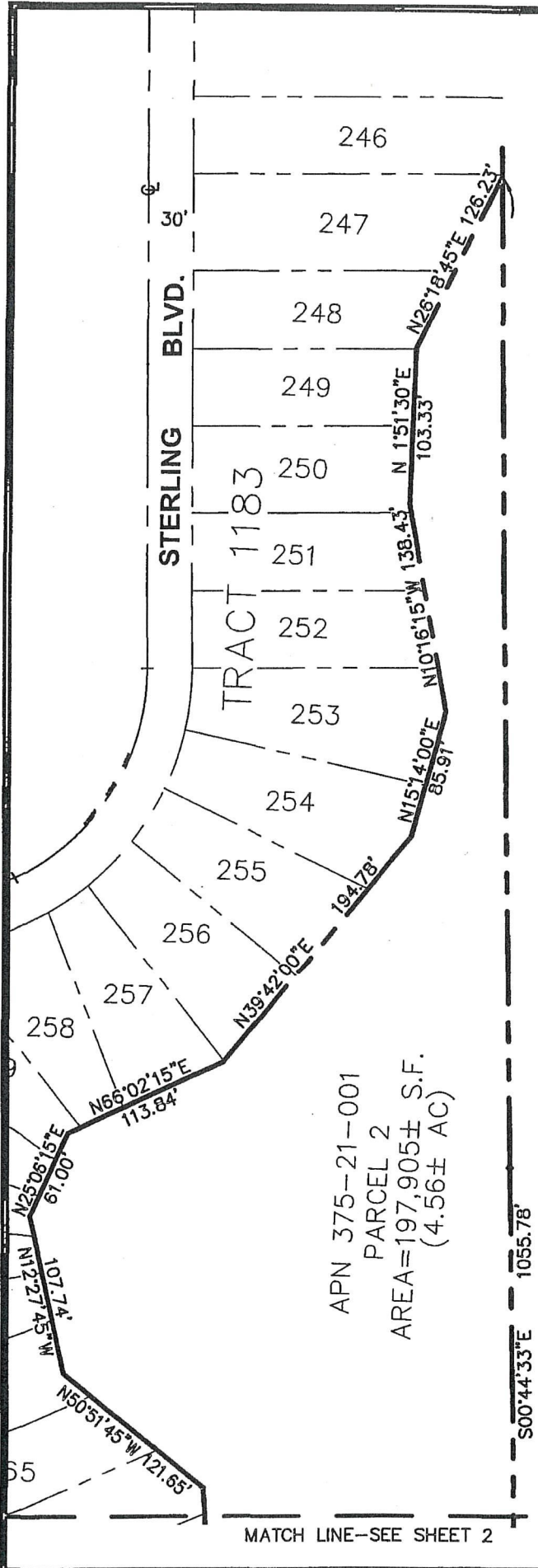
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| SCALE: | 1"=100' |
| DATE: | 6/30/20 |
| DRAWN: | E.T. |
| CHECKED: | M.H. |
| JOB NO.: | 19129 |
| SHEET 2 OF 3 | |

**PLAT TO ACCOMPANY
LEGAL DESCRIPTION**

PARCELS 2 & 3

LAWRENCE - MITTY PARK

CUPERTINO, CALIFORNIA



SCALE: 1"=100'

LAWRENCE EXPRESSWAY

LAWRENCE



EXHIBIT "A-2"

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 SHEET 3 OF 3

**PLAT TO ACCOMPANY
 LEGAL DESCRIPTION**

PARCEL 2

LAWRENCE - MITTY PARK

CUPERTINO, CALIFORNIA