

RESOLUTION NO. _____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
SUMMARILY VACATING A PORTION OF A PUBLIC UTILITY EASEMENT
ON A PROPERTY LOCATED AT 10778 MORENGO DRIVE
(APN 375-35-056)**

WHEREAS, a 10'-foot wide public utility easement dedicated to public use presently exists on a property located at 10778 Morengo Drive (APN 375-35-056) in the City of Cupertino, as described in Exhibit A and shown in Exhibit B; and

WHEREAS, subdivision (a) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a portion of a public service easement if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, subdivision (c) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a portion of a public service easement if the easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement; and

WHEREAS, the City Council intends to summarily vacate the public utility easement as presented in the staff report, dated September 20, 2022, submitted to the City Council setting forth the reasons justifying the summary vacation of the public utility easement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cupertino that:

SECTION 1. The City Council hereby adopts the Resolution based upon all other evidence submitted, and makes the following findings:

1. The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

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2. The easement is determined to be excess, and there are no other public facilities located within the easement.

SECTION 2. Based upon the findings made in Section 1 of this Resolution and the provisions of Section 8333(a) and 8333(c) of the Streets and Highways Code, the City Council does hereby order that the portion of public utility easement shall be and hereby is summarily vacated.

SECTION 3. The City Clerk is hereby directed to record at Santa Clara County Records this Resolution, including Exhibit A and Exhibit B attached hereto.

SECTION 4. The portion of public utility easement as described in Exhibit A and shown in Exhibit B will no longer constitute a Public Utility Easement from and after the date of recordation of the documents identified in Section 3 of this Resolution.

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where 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 activity is not subject to CEQA. In this circumstance, the proposed action to summarily vacate a public utility easement would have no or only a de minimis effect on the environment because no physical changes to the environment are proposed. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 20th day of September, 2022, by the following vote:

Members of the City Council

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AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> _____ Darcy Paul, Mayor City of Cupertino	 _____ Date
<p>ATTEST:</p> _____ Kirsten Squarcia, City Clerk	 _____ Date

EXHIBIT "A"
LEGAL DESCRIPTION
PORTION OF PUBLIC UTILITY
EASEMENT TO BE VACATED
CITY OF CUPERTINO, CALIFORNIA
(AFFECTING APN: 375-35-056)

The following describes a parcel of land situate within the City of Cupertino, County of Santa Clara, State of California, being a portion of Lot 132 as shown on TRACT 1287, filed for record on April 27, 1954, in Book 48 of Maps at pages 46-47, Santa Clara County Records, more particularly described as follows:

Commencing at the southwesterly comer of said Lot 132, said point being the TRUE POINT OF BEGINNING of this description; thence easterly along the southerly line of said Lot 132

- 1) South 87°37' 19" East 107.48 feet to the westerly line of a 5 feet wide Public Utility Easement as shown on said TRACT 1287; thence northeasterly along said westerly line
- 2) North 30°22'37" East 11.33 feet; thence leaving said westerly line along a parallel line situated 10 feet perpendicular to said southerly line of Lot 132
- 3) North 87°37'19" West 107.96 feet to the easterly line of Morengo Drive (60' R/W), said point also being the westerly line of said Lot 132; thence along said easterly line of Morengo Drive
- 4) South 28°10'10" West 11.11 feet to the TRUE POINT OF BEGINNING

Containing 1,077 square feet of land, more or less.

The bearings used are based on aforesaid TRACT 1287, filed for record on April 27, 1954, in Book 48 of Maps at pages 46-47, Santa Clara County Records.

EXHIBIT "B" is attached hereto and made a part hereof.

SURVEYOR'S CERTIFICATE

I hereby certify that this description was prepared by me or under my direct supervision and is accurate to the best of my knowledge and belief.



RYAN A. MIX, P.L.S. 8743

3-26-22
Date








EASEMENT AREA TO BE VACATED

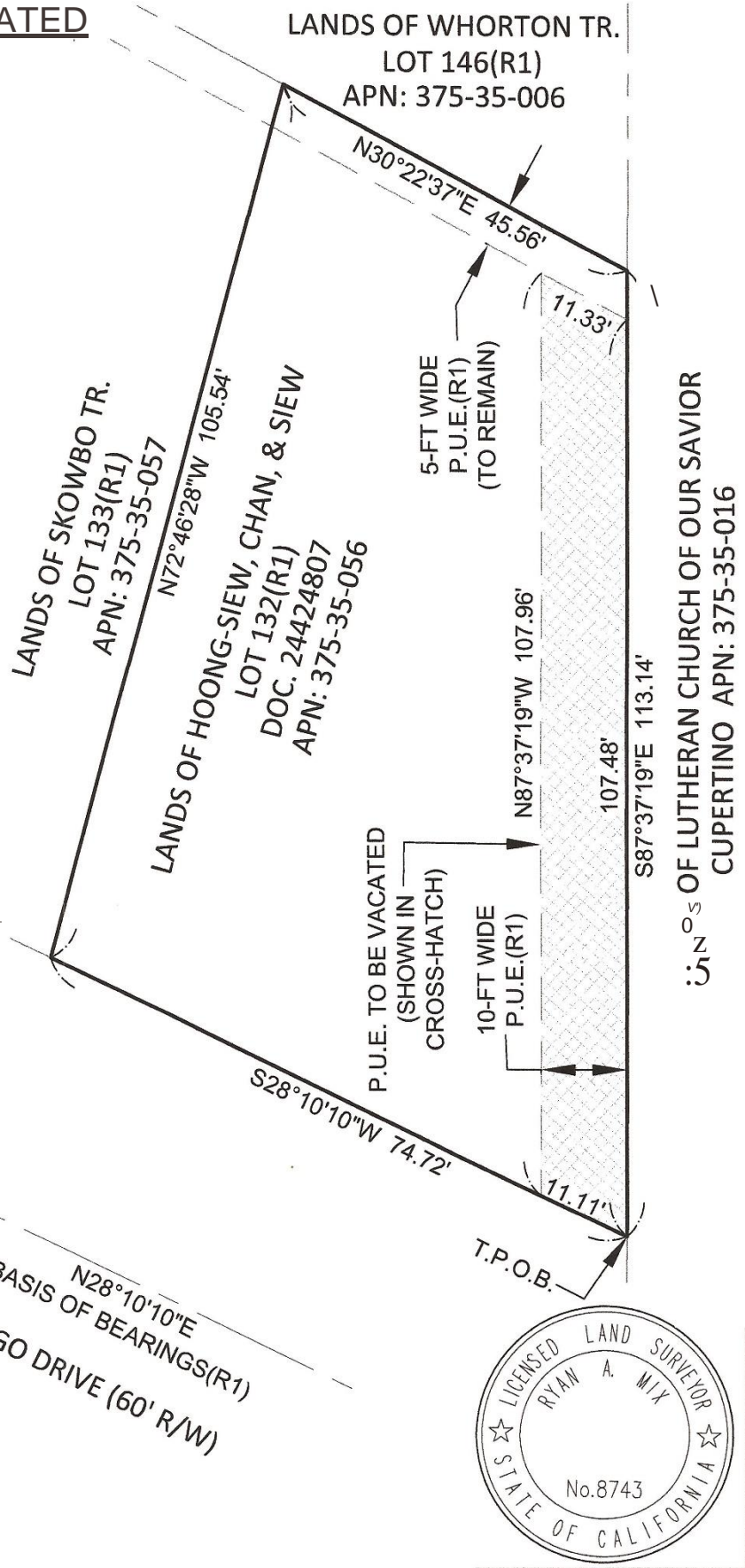
AREA= 1,077 SQ. FT. +/-

NOTES

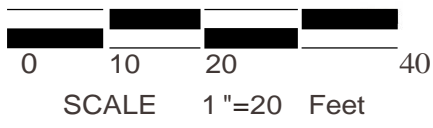
ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF

LEGEND

-  SUBJECT PROPERTY LINE
-  EXISTING EASEMENT PER R1 (SHOWN IN HATCH)
-  CENTERLINE
-  PROPERTY LINES
- RW RIGHT OF WAY
- APN ASSESSORS PARCEL NUMBER
- TPOB TRUE POINT OF BEGINNING
- R1 TRACT 1287 (48-MAPS-46 & 47)
- P.U.E. PUBLIC UTILITY EASEMENT
-  P.U.E. TO BE VACATED PER THIS DOCUMENT



E
S
U
1:5



SHEET 1 OF 1
DRAWN BY: RAM
DATE: 08-02-2022
SCALE: 1" = 20'
10/78 MORENGO DR.DW

EXHIBIT "B"
PLAT TO ACCOMPANY LEGAL
DESCRIPTION FOR P.U.E. VACATION
 SANTA CLARA COUNTY CALIFORNIA

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 PROFESSIONAL LAND SURVEYING SERVICES
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