

RESOLUTION NO. _____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
SUMMARILY VACATING A PORTION OF A PUBLIC UTILITY EASEMENT
ON A PROPERTY LOCATED AT 10826 BROOKWELL DRIVE
(APN 369-21-021)**

WHEREAS, a public utility easement dedicated to public use presently exists on a property located at 10826 Brookwell Drive (APN 369-21-021) 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authorizes the City Council to summarily vacate a portion of a public service easement if the easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement; and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 November 15, 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

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 15th day of November, 2022, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT "A"

LEGAL DESCRIPTION
FOR VACATION OF PUBLIC UTILITY
EASEMENT

A portion of Lot 44, as shown upon that certain Map entitled "Tract No. 1566 Alderbrook Estates Unit 2", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on August 16, 1955 in Book 62 of maps at page 18 and 19, more particularly described as follows:

Beginning at a point on the westerly most corner of Lot 44; thence along the southwesterly line of said Lot 44, South 26°48'38" East, 74.10 feet to the southwesterly corner of Lot 44; thence along the southerly line of Lot 44, North 85°19'00" East, 47.11 feet; thence North 52°13'47" West, 101.69 feet to the POINT OF BEGINNING.

Containing an area of 1,617.0 square feet, more or less.

The land described hereon is shown on the attached plat, Exhibit "B", and is by reference, made a part thereof.

End of description.



9/30/22
Date

Exhibit B

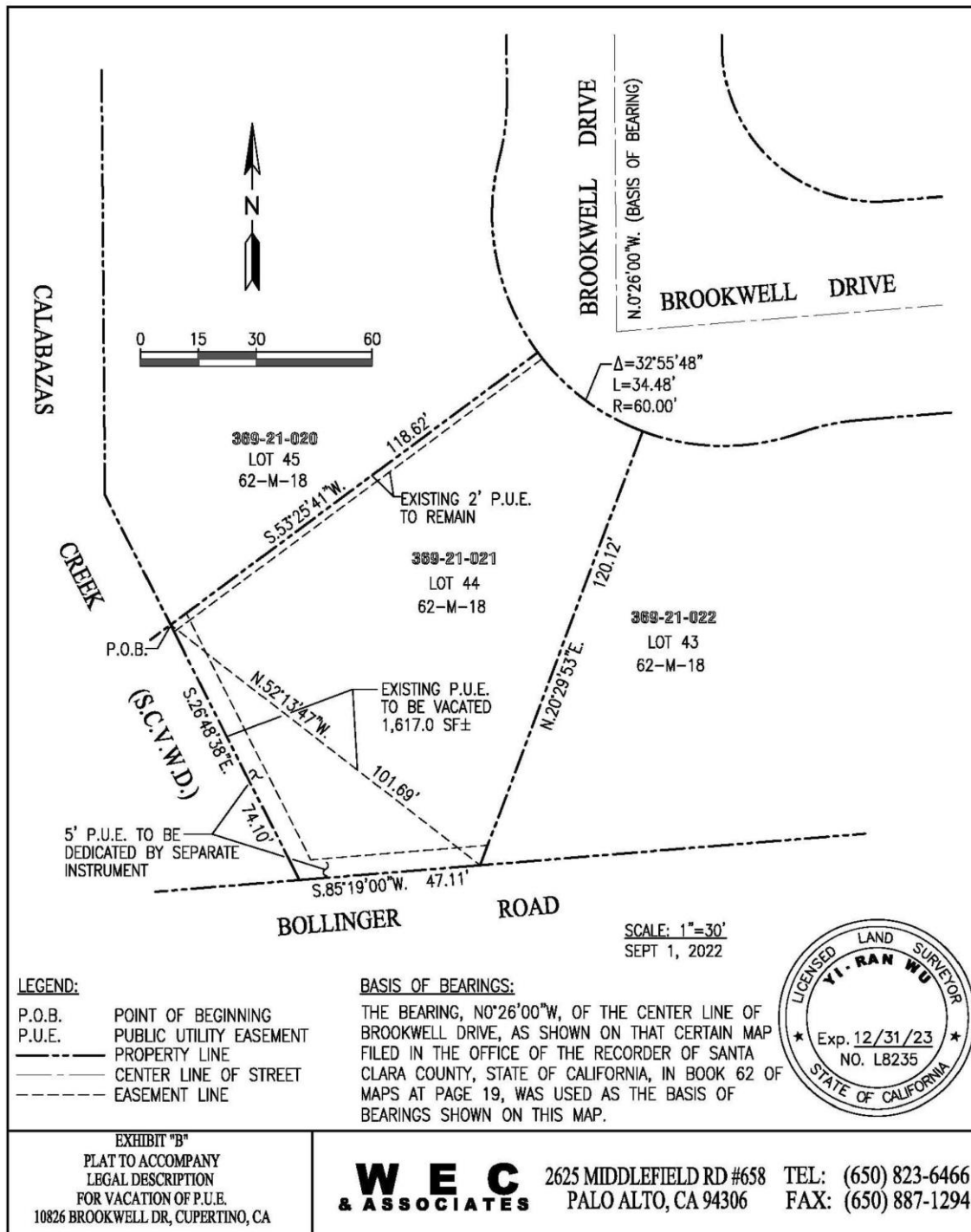


EXHIBIT "B"
PLAT TO ACCOMPANY
LEGAL DESCRIPTION
FOR VACATION OF P.U.E.
10826 BROOKWELL DR, CUPERTINO, CA

W E C
& ASSOCIATES

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