



PUBLIC WORKS DEPARTMENT

CITY HALL
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CITY COUNCIL STAFF REPORT

Meeting: November 15, 2022

Subject

Consider the summary vacation of a portion of a Public Utility Easement on the property located at 10826 Brookwell Drive.

Recommended Action

Adopt Resolution No. 22-____, summarily vacating a portion of Public Utility Easement on the property located at 10826 Brookwell Drive.

Background

The owner of the subject property is proposing to construct an accessory dwelling unit (ADU) at the backyard of their property. During the design stage, the owner discovered an existing Public Utility Easement (PUE) across the southwesterly portion of the property where the ADU is proposed.

Discussion

“Vacation” of the easement means that the City of Cupertino would terminate the public utility company rights over this portion of the property. The property owner applied to vacate the unused portion of the PUE (Attachment A.)

This vacation ensures the parcel is not encumbered by the PUE within the footprint of the proposed ADU, as a PUE must be kept open and free from buildings and structures. Staff determined that the proposed area for vacation does not currently contain any public utilities. All concerned utility companies were contacted in writing and stated that they have no objections to the City vacating the easement and that the easement is not needed for public purposes. Two of the utility companies recommended that the City reserve a five-foot-wide PUE along the southerly and southwesterly property lines for future use and access. The new five-foot PUE has been granted to the City via separate instrument and will be recorded concurrently with the vacation.

An easement may be summarily vacated under the Streets and Highway Code section 8333, which states 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for five consecutive years immediately preceding the proposed vacation,” or alternatively, if “the easement has been superseded by relocation, or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.” Staff has determined that the PUE has not been used for five consecutive years preceding this action and that there are currently no public facilities within the easement.

Adoption of the proposed Resolution (Attachment B) allows the City to summarily vacate a portion of the PUE on the subject property. Upon recordation of this vacation, the PUE will be removed from the property, and no further action regarding the vacation will need to be taken by the City Council.

Sustainability Impact

This action is not a project under the requirements of the California Environmental Quality Act (CEQA) and is exempted per section 15061(b)(3).

Fiscal Impact

No fiscal impact.

Prepared by: Winnie Pagan, Senior Civil Engineer

Reviewed by: Chad Mosley, Assistant Director of Public Works

Reviewed by: Matt Morley, Director of Public Works

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Aerial Exhibit

B – Draft Resolution