

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Loesch

SUBJECT: SEE BELOW

DATE: May 28, 2024

Approved

Date

5/30/24

COUNCIL DISTRICT: 7

**SUBJECT: SUMMARY VACATION OF A PORTION OF HILLSDALE AVENUE
LOCATED APPROXIMATELY 630 FEET WEST AND 280 FEET EAST
FROM THE CHARTER PARK DRIVE AND HILLSDALE AVENUE
INTERSECTION**

RECOMMENDATION

Adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of 33,901 square feet of right-of-way along Hillsdale Avenue, approximately 630' west and 280' east from the Charter Park Drive and Hillsdale Avenue intersection (Subject Portion);
- (b) Summarily vacating the Subject Portion, which is excess right-of-way not required for street purposes; and
- (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Clerk-Recorder, County of Santa Clara.

SUMMARY AND OUTCOME

MTA Hillsdale LP proposes to vacate excess right-of-way along Hillsdale Avenue to satisfy conditions of approval of Planned Development Permit Amendment PDA14-035-01 for the Communications Hill 2 Project. Upon recordation of the resolution of vacation, the Subject Portion will be terminated and will no longer constitute part of Hillsdale Avenue. (**Attachment – Location Map**)

BACKGROUND

On October 21, 2014, City Council approved a Planned Development Zoning (PDC13-009) to allow development of up to 2,200 residential units, up to 67,500 square feet of retail/commercial space, and up to 1.44 million square feet of industrial park uses, trails, parks, and a school site on an approximately 331.6-acre site for the Communications Hill 2 Project.

On January 14, 2015, the Director of Planning, Building, and Code Enforcement approved a master Planned Development Permit (PD14-035) for a master street and lot layout for future development. On March 18, 2015, the Director of Planning, Building, and Code Enforcement also approved a Planned Development Permit Amendment (PDA14-035-01) to allow construction of up to 314 residential units as part of Phase 1 of the Communications Hill development. To achieve the land use plan as proposed, the project was conditioned to vacate a portion of Hillsdale Avenue.

On July 31, 2023, KB Home South Bay, Inc., as agent for MTA Hillsdale LP, the property owner of this Subject Portion of Hillsdale Avenue, submitted an application for the summary street easement vacation of excess right-of-way along Hillsdale Avenue. A portion of this vacated area will be conveyed back to the City for future public park purposes as part of the Communications Hill development.

Currently, this portion of Hillsdale Avenue serves as a four-lane City street and the area proposed for a vacation is excess right-of-way. Specifically, the current right-of-way along this portion of Hillsdale Avenue ranges from 106 feet to 182 feet wide. The applicant proposes to vacate excess right-of-way ranging from 27 feet to 53 feet of this right-of-way, which would result in a uniform right-of-way width of 106 feet.

ANALYSIS

Pursuant to the Streets and Highways Code Section 8334, excess right-of-way of a street may be summarily vacated if the City Council determines that it is excess and not required for street purposes, and there are no in-place public utility facilities in use that would be affected by the vacation.

City staff reviewed the subject vacation application and supports the applicants' proposal to vacate the Subject Portion. Staff determined that the Subject Portion is excess right-of-way not required for street purposes. In addition, staff believes vacating the Subject Portion complies with the City's General Plan which currently designates Hillsdale Avenue as a City connector street. Specifically, the General Plan characterizes a City connector street as an extension of local collector streets and designates them as streets having four traffic lanes, which would

accommodate low to moderate volumes of through traffic within the City with automobiles, bicycles, pedestrians, and trucks prioritized equally in the roadway. The City's current plan for this portion of Hillsdale Avenue necessitates 106-feet of right-of-way and will accommodate sidewalks, bike lanes, on-street parallel parking on both sides of the street, and four vehicular travel lanes. The vacation of this portion of Hillsdale Avenue will not reduce the number of traffic lanes or vehicle capacity on each lane and, therefore, conforms with the adopted San José Envision 2040 General Plan.

Furthermore, the vacation of the Subject Portion was submitted to the City's Planning Commission for its review of General Plan conformity at the May 22, 2024 Planning Commission hearing. At this hearing, the proposed vacation was found to be in conformance with a vote of 10-0-1 (Oliverio absent).

Through written correspondence with the various utility companies that may have an interest in the Subject Portion, staff was informed that all utility companies have no objections to the proposed vacation.

According to the title report issued by First American Title Company, the adjacent property owner, MTA Hillsdale LP, a California Limited Partnership, holds fee title to the portion of Hillsdale Avenue proposed for vacation. Upon recordation of this vacation, this portion of roadway will no longer be required for City maintenance and no further action by the City will be required.

EVALUATION AND FOLLOW-UP

If City Council adopts the resolution summarily vacating the subject right-of-way on Hillsdale Avenue, no further action by the City Council will be required.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees in the amount of \$5,353 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

COORDINATION

The vacation has been coordinated with the City Attorney's Office; City Manager's Budget Office; City Manager's Office of Economic Development and Cultural Affairs; Fire Department; Planning, Building, and Code Enforcement Department; Police Department; and Transportation Department.

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PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 11, 2024 City Council meeting.

The public was given the opportunity to comment on the proposed vacation at the Planning Commission hearing on May 22, 2024, to find conformance to the General Plan pursuant to the Streets and Highways Code Section 8313.

All concerned utility companies have been contacted in writing and have no objection to the proposed vacation.

COMMISSION RECOMMENDATION AND INPUT

The proposed vacation was heard by the Planning Commission on May 22, 2024. The commission found that the proposed vacation was in conformance with the General Plan with a vote of 10-0-1 (Oliverio absent).

CEQA

Determination of Consistency with the Communications Hill 2 Final Environmental Impact Report (EIR) (Resolution No. 77172), and Addenda thereto. The project does not involve new significant impacts beyond those analyzed in the above EIR.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
MATT LOESCH
Director of Public Works

For questions, please contact J. Guevara, Deputy Director Public Works, at j.guevara@sanjoseca.gov or (408) 535-8300.

HONORABLE MAYOR AND CITY COUNCIL

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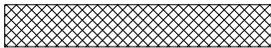
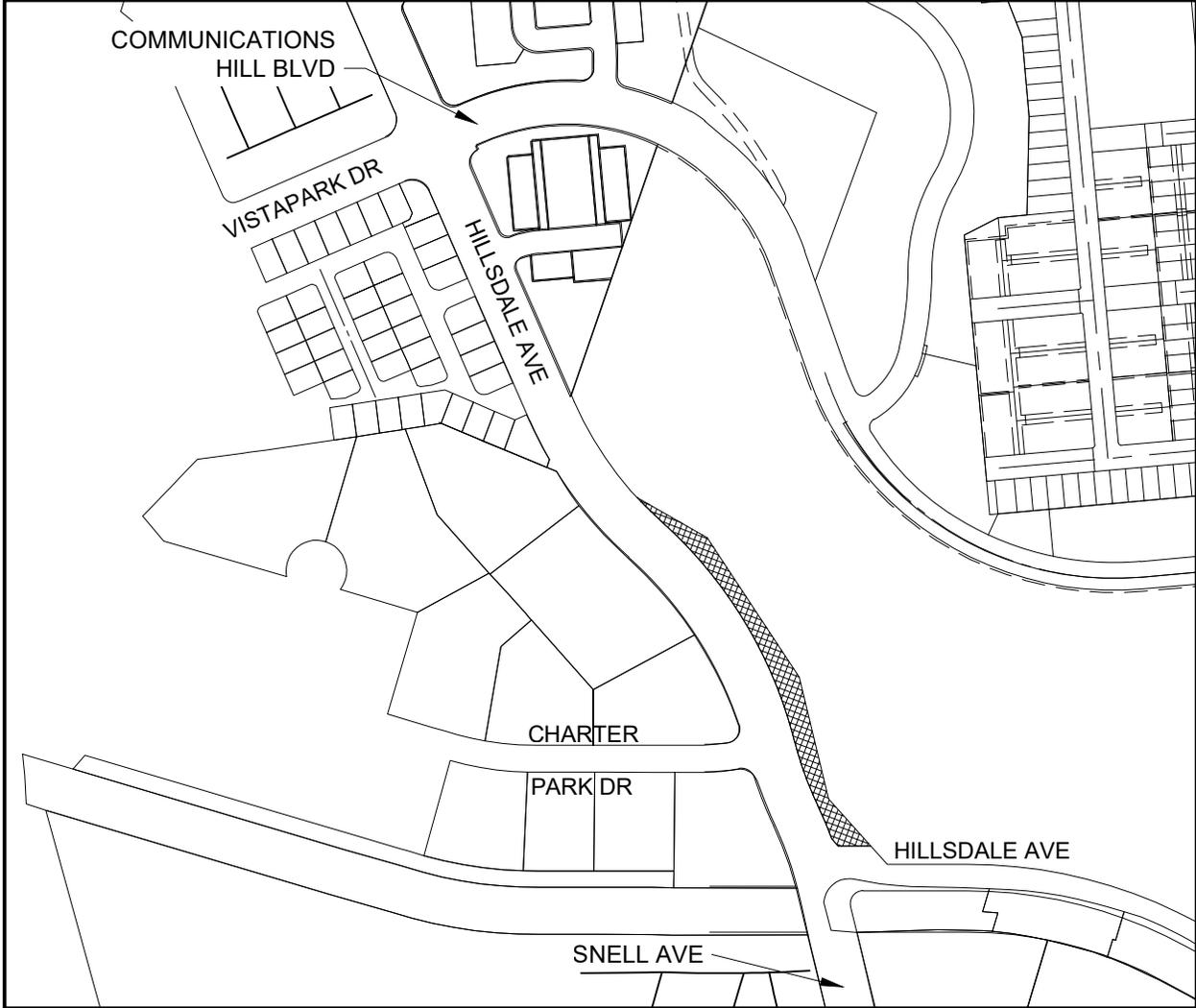
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ATTACHMENT: Location Map

LOCATION MAP

SHOWING THAT PORTION OF HILLSDALE AVENUE TO BE VACATED



STREET EASEMENT
TO BE VACATED

