

**2.24 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 feet west, and 280 feet east from the Charter Park Drive and Hillsdale Avenue intersection;

(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.

CEQA: Determination of Consistency with the Communications Hill 2 Final Environmental Impact Report (Resolution No. 77172), and Addenda thereto. Council District 7. (Public Works)



# 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.

HONORABLE MAYOR AND CITY COUNCIL

May 28, 2024

**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**

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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](mailto:j.guevara@sanjoseca.gov) or (408) 535-8300.

HONORABLE MAYOR AND CITY COUNCIL

May 28, 2024

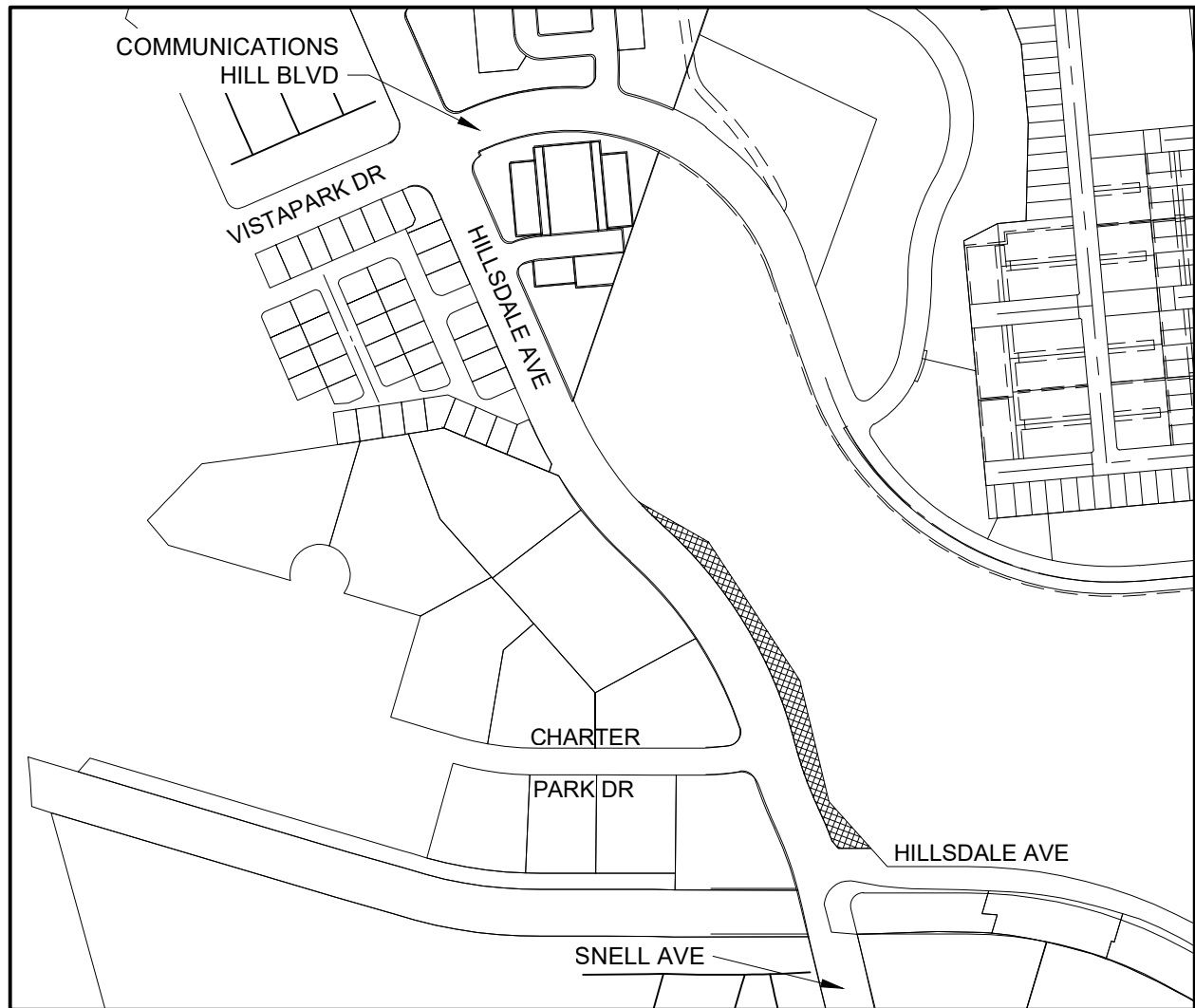
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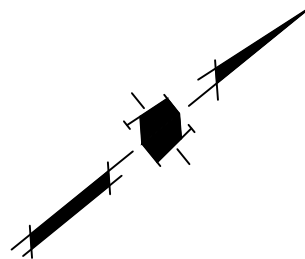
**ATTACHMENT:** Location Map

# LOCATION MAP

SHOWING THAT PORTION OF HILLSDALE  
AVENUE TO BE VACATED



STREET EASEMENT  
TO BE VACATED



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SUMMARILY VACATING A PUBLIC STREET ON AN APPROXIMATELY 33,901 SQUARE FOOT PORTION OF HILLSDALE AVENUE**

**WHEREAS**, Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a public street if the City Council determines that it is excess right-of-way of a street not required for street purposes, and there are no in-place public utility facilities that are in use and would be affected by the vacation; and

**WHEREAS**, the City Council intends to summarily vacate a 33,901 square foot portion of Hillsdale Avenue ("Property") constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as:

ALL THAT REAL PROPERTY IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF LOT 57 AS SHOWN ON THAT MAP OF TRACT 10295 FILED FOR RECORD ON MARCH 27, 2015, IN BOOK 881 OF MAPS, PAGE 34, SANTA CLARA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY CORNER OF SAID LOT 57;  
THENCE ALONG THE SOUTHWESTERLY LINE OF SAID LOT 57, NORTH 46°31'21" WEST, 166.10 FEET, TO THE NORTHERLY LINE OF THAT PARCEL OF LAND DESCRIBED IN THE DEED OF RIGHT OF WAY RECORDED OCTOBER 15, 1971, IN BOOK 9549 OF OFFICIAL RECORDS, PAGE 234, SANTA CLARA COUNTY RECORDS;

THENCE ALONG SAID NORTHERLY LINE THE FOLLOWING TWO COURSES:

1. THENCE SOUTH 89°07'18" EAST, 205.95 FEET;
2. THENCE NORTH 54°09'21" EAST, 69.38 FEET, TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTHERLY LINE, THE FOLLOWING FOUR COURSES:

1. THENCE NORTH 54°09'21" EAST, 176.94 FEET;
2. THENCE NORTH 81°06'30" EAST, 364.14 FEET;
3. THENCE SOUTH 79°03'13" EAST, 273.71 FEET;



4. THENCE NORTH 72°23'44" EAST, 137.66 FEET, TO A LINE PARALLEL WITH AND 88 FEET NORTHWESTERLY OF THE SOUTHEASTERLY LINE OF SAID LOT 57;

THENCE ALONG SAID PARALLEL LINE, ALSO BEING A LINE THAT IS PARALLEL WITH AND 40 FEET NORTHWESTERLY OF THE NORTHWESTERLY LINE OF HILLSDALE AVENUE (58 FEET WIDE), SOUTH 24°27'17" WEST, 71.38 FEET, TO THE SOUTHERLY LINE OF SAID LOT 57;

THENCE ALONG SAID SOUTHERLY LINE, SOUTH 72°23'44" WEST, 21.25 FEET, TO A LINE PARALLEL WITH AND 53 FEET NORTHERLY OF THE CENTERLINE OF HILLSDALE AVENUE (SHOWN AS HILLSDALE BOULEVARD ON SAID MAP);

THENCE ALONG SAID PARALLEL LINE, THE FOLLOWING FOUR COURSES:

1. THENCE WESTERLY, ALONG A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 853.00 FEET, WHOSE CENTER BEARS SOUTH 04°20'12" WEST, THROUGH A CENTRAL ANGLE OF 05°21'24" FOR AN ARC LENGTH OF 79.75 FEET;
2. THENCE ALONG A REVERSE CURVE TO THE RIGHT, HAVING A RADIUS OF 747.00 FEET, THROUGH A CENTRAL ANGLE OF 11°23'16" FOR AN ARC LENGTH OF 148.47 FEET;
3. THENCE ALONG A REVERSE CURVE TO THE LEFT, HAVING A RADIUS OF 953.00 FEET, THROUGH A CENTRAL ANGLE OF 34°16'41" FOR AN ARC LENGTH OF 570.15 FEET;
4. THENCE ALONG A REVERSE CURVE TO THE RIGHT, HAVING A RADIUS OF 747.00 FEET, THROUGH A CENTRAL ANGLE OF 05°36'15" FOR AN ARC LENGTH OF 73.07 FEET, TO THE TRUE POINT OF BEGINNING.

CONTAINING 33,901 SQUARE FEET OR 0.78 ACRE, MORE OR LESS.

END OF DESCRIPTION.

**WHEREAS**, attached to this Resolution as Exhibit "A" and incorporated herein are maps approved by the Director of the Department of Public Works on May 9, 2024, entitled "Map To Accompany the Legal Description for Vacation of a Portion of a Public Street Easement along Hillsdale Avenue" showing the Property that the City Council intends to summarily vacate; and

**WHEREAS**, attached to this Resolution as Exhibit "B" and incorporated herein is a copy of the report, dated May 28, 2024, that the Director of the Department of Public Works

submitted to the City Council setting forth the reasons justifying the summary vacation of the Property (hereinafter "Report").

**NOW, THEREFORE,** BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

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

- A. The Subject Property is excess right-of-way of a street not required for street purposes; and
- B. The vacation was submitted to the Planning Commission, and the project was determined to be consistent with the San José General Plan; and
- C. The proposed vacation is consistent with the City's General Plan; and
- D. The Subject Property is unnecessary for nonmotorized transportation as bordering rights-of-way are available and more suitable for such transportation.

**SECTION 2.** Based upon the findings made in Section 1 of this Resolution and the provisions of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California, the City Council does hereby summarily vacate the Subject Property.

**SECTION 3.** The City Clerk is hereby directed to record a certified copy of this Resolution, including the exhibits hereto, with the Office of the Recorder for the County of Santa Clara.

**SECTION 4.** From and after the date this Resolution is recorded, the Subject Property will no longer constitute a public street and a portion of it will constitute a public service easement as specified in this Resolution.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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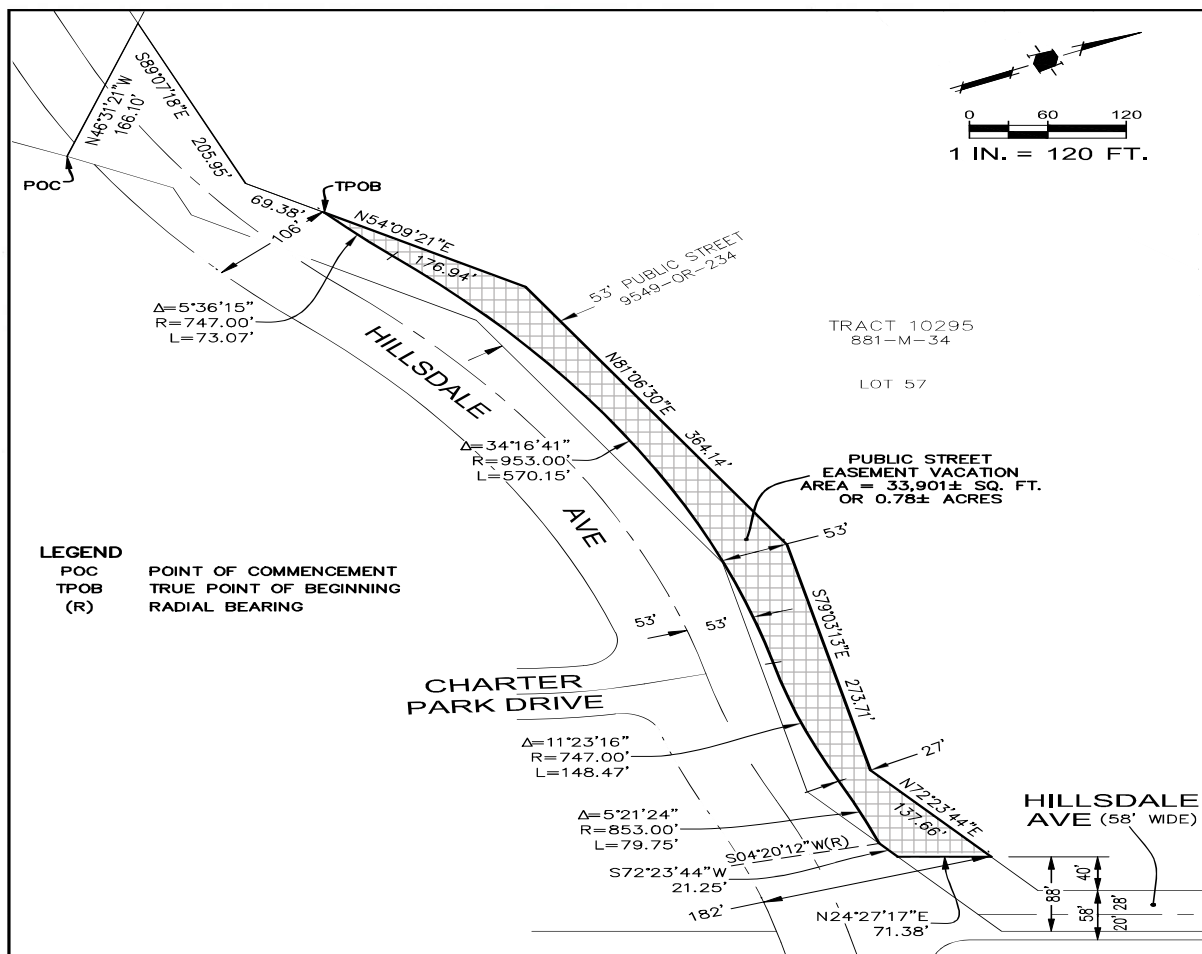
TONI TABER, CMC  
City Clerk

# MAP

FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS \_\_\_\_ DAY  
OF \_\_\_\_\_, AND APPROVED BY SAID CITY COUNCIL THIS \_\_\_\_ DAY OF  
\_\_\_\_\_ BY RESOLUTION \_\_\_\_\_

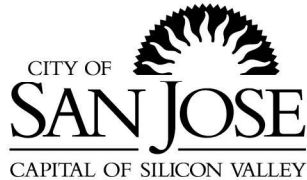
MATTHEW LOESCH  
DIRECTOR OF PUBLIC WORKS,  
CITY OF SAN JOSE

APPROVED THIS May 9 DAY OF 2024



AREA TO BE VACATED

TRACT BOUNDARY OF  
TRACT 10295



## EXHIBIT "B"

COUNCIL AGENDA: 06/11/24

FILE:

ITEM:

# Memorandum

**TO:** HONORABLE MAYOR  
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**FROM:** Matt Loesch

**SUBJECT:** SEE BELOW

**DATE:** May 28, 2024

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/s/  
MATT LOESCH  
Director of Public Works

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**ATTACHMENT:** Location Map