RESOLUTION NO. ______

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SUMMARILY VACATING A 1,061 SQUARE FOOT PORTION OF A PUBLIC SERVICE EASEMENT AT 1520 SANTA MARIA AVENUE

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 public service easement if the City Council determines that it is excess and there are no other public facilities located within the easement; and

WHEREAS, the City Council intends to summarily vacate an approximately 1,061 square foot portion of a public service easement (hereinafter the “Easement”) constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as:

BEING A PORTION OF LOT 26, AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED “TRACT NO. 226, MAP OF THE De ANZA TRACT”, FILED FOR RECORD ON JUNE 11, 1945 IN BOOK 7 OF MAPS AT PAGES 56 AND 57, IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY, ALSO BEING A PORTION OF THE 10 FOOT WIDE PUBLIC UTILITY EASEMENT RUNNING THOUGH SAID LOT 26, AND

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 26; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT NORTH 79º 49' 06" WEST, A DISTANCE OF 10.46 FEET TO THE EASTERNLY LINE OF SAID PUBLIC UTILITY EASEMENT AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SOUTHERLY LINE NORTH 79º 49' 06" WEST, A DISTANCE OF 10.46 FEET TO THE WESTERNLY LINE OF SAID PUBLIC UTILITY EASEMENT; THENCE LEAVING SAID SOUTHERLY LINE OF LOT 26 AND ALONG THE WESTERNLY LINE OF SAID PUBLIC UTILITY EASEMENT NORTH 27º 08' 55" EAST, A DISTANCE OF 15.05 FEET TO THE SOUTHERLY LINE OF A 10 FOOT WIDE PUBLIC UTILITY
EASEMENT, SAID EASEMENT BEIGN CENTERED ON THE NORTHERLY LINE OF SAID LOT; THENCE ALONG SAID EASEMENT LINE AND PARALLEL WITH AND 5 FEET SOUTHERLY OF THE NORTHERLY LINE OF SAID LOT SOUTH 90° 00' 00" EAST, A DISTANCE OF 11.24 FEET TO THE EASTERNLY LINE OF SAID PUBLIC UTILITY EASEMENT; THENCE ALONG SAID LINE SOUTH 27° 08' 55" WEST, A DISTANCE OF 107.13 FEET TO THE TRUE POINT OF BEGINNING AND CONTAINING AND AREA OF 1,061 SQUARE FEET, MORE OR LESS.

WHEREAS, attached to this Resolution as Exhibit “A” is a map approved by the Director of the Department of Public Works on January 9, 2017 entitled “PLAT MAP SHOWING THE PUBLIC UTILITY EASEMENT TO BE VACATED AT 1520 SANTA MARIA AVENUE” showing the Easement that the City Council intends to summarily vacate; and

WHEREAS, attached to this Resolution as Exhibit “B” is a copy of the report, dated January 3, 2017 that the Director of the Department of Public Works submitted to the City Council setting forth the facts justifying the summary vacation of the Easement (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:

1. The Easement is excess; and

2. No public facilities are located within the Easement; and

3. The proposed vacation is consistent with the City’s General Plan; and
4. The public convenience and necessity does not require reservation of any portion of the Easement.

SECTION 2. Based upon the findings made in Section 1 of this Resolution and the provisions of Section 8333(c) of the Streets and Highways Code, the City Council does hereby summarily vacate the Easement.

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 of recordation of this Resolution, the Easement will no longer constitute a public service easement.
ADOPTED this _____ day of ____________, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

__________________________________________
SAM LICCARDO
Mayor

ATTEST:

__________________________________________
TONI J. TABER, CMC
City Clerk
PLAT MAP
SHOWING THE PUBLIC UTILITY EASEMENT
TO BE VACATED

[Diagram of area to be vacated]

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 NUMBER

CITY CLERK, CITY OF SAN JOSE

BARRY NO.
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE
TO: HONORABLE MAYOR  
AND CITY COUNCIL  

FROM: Barry Ng  

SUBJECT: SEE BELOW  

DATE: January 3, 2017  

COUNCIL DISTRICT: 6  

SUBJECT: SUMMARY VACATION OF A PORTION OF A PUBLIC UTILITY EASEMENT AT 1520 SANTA MARIA AVENUE  

RECOMMENDATION  

Adopt a resolution:  

1. Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a 1,061 square foot portion of a public utility easement (“PUE”) at 1520 Santa Maria Avenue;  

2. Summarily vacating a portion of the PUE which is excess and no longer necessary for public purposes; and  

3. Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.  

OUTCOME  

Upon recordation of the resolution of vacation, a portion of the PUE will be terminated and will no longer constitute a public easement.  

BACKGROUND  

The property owner, Denise Griffin, submitted an application to vacate a 1,061 square foot portion of a PUE on private property located at 1520 Santa Maria Avenue (see attached location map).  

The PUE was created for public use through the recordation of Tract No. 226, recorded in Book 7 of Maps, Pages 56-57 of Official Records, Office of the Recorder, County of Santa Clara on
June 11, 1945. As shown in the attached location map, the subject PUE bisects the property’s limited improvable backyard and is at the edge of an existing private drainage ditch. The property owner has plans to improve their backyard including; a new pool and spa and additional landscaping. As the property abuts a drainage ditch and has limited improvable space between the house and the edge of the ditch embankment, removal of the PUE will allow for additional space and options within the property.

No public facilities were installed within the area proposed for vacation and, in coordination with local utility companies, no future utility infrastructure is planned.

**ANALYSIS**

In accordance with Sections 8306(a) and 8333(c) of the California Streets & Highways Code, the PUE constitutes a public service easement and may be summarily vacated if the City Council determines that it is excess and there are no other public facilities located within the easement.

Staff has determined that the area proposed for vacation is not needed for existing or future public purposes, and therefore is excess, and all concerned utility companies have been contacted in writing and have no objections to the proposed vacation.

According to the title report issued by First American Title Company, Sean Darragh and Denise Griffin, as trustees of the Darragh Griffin Family Trust, are the underlying fee owners of the area proposed for vacation. Upon recordation of the resolution of vacation, the land within the proposed vacation area will no longer be encumbered by the PUE and no further action by the City will be required.

**EVALUATION AND FOLLOW-UP**

If Council adopts this resolution summarily vacating a portion of the PUE, no further action by the Council will be required.

**PUBLIC OUTREACH/INTEREST**

All concerned utility companies have been contacted in writing and have no objections to this proposed PUE vacation.

This memorandum will be posted to the City’s website for the January 24, 2017 Council agenda.
COORDINATION

The vacation has been coordinated with the Department of Planning, Building, and Code Enforcement, Department of Transportation, Fire Department, San Jose Police Department and the City Manager’s Budget Office. Additionally, the vacation and resolution have been reviewed by the City Attorney’s Office.

COMMISSION RECOMMENDATION

No Commission recommendation was associated with this action.

COST SUMMARY/IMPLICATIONS

The Department of Public Works collected cost-recovery fees in Fiscal Year 2015-2016 of $3,370 to process the subject vacation. These fees were deposited into the Public Works Department Services Fee Fund (Fund 001).

CEQA

Exempt, Section 15305 Minor Alternations in Land Use Limitations, File No. PP16-108.

/s/
BARRY NG
Director of Public Works

For questions, please contact Michael Liw, Deputy Director, at (408) 535-6835.

ML:jd:ek
Attachment