RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SUMMARILY VACATING THE PUBLIC EASEMENTS FOR LIGHT AND AIR LOCATED WITHIN TRACT 2026

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 service easement if the City Council determines that it is excess and there are no other public facilities located within the easement, 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 all of the public easements for light and air dedicated on that certain map entitled Tract No. 2026 ("Subject Property") constituting:

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF THAT CERTAIN MAP ENTITLED TRACT NO. 2026, RECORDED ON MAY 16, 1958, IN BOOK 93 OF MAPS AT PAGES 38 AND 39, RECORDS OF SANTA CLARA COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THOSE CERTAIN AREAS DEDICATED AS PUBLIC USE EASEMENTS FOR LIGHT AND AIR ON OR OVER THOSE CERTAIN STRIPS OF LAND LYING BETWEEN THE LINES OF STREETS AND THE LINES EACH DESIGNATED AS "B.S.B.L." (BUILDING SET BACK LINE) AS SHOWN UPON SAID MAP WITHIN TRACT NO. 2026.

WHEREAS, attached to this Resolution as Exhibit "A" and incorporated herein is a map approved by the Director of the Department of Public Works on May 19, 2020 entitled "MAP TO ACCOMPANY THE LEGAL DESCRIPTION FOR VACATION OF SETBACK

EASEMENTS WITHIN THE ENTIRE TRACT NO. 2026" showing the Subject Property; and

WHEREAS, attached to this Resolution as Exhibit "B" and incorporated herein is a copy of the report, dated June 4, 2020, that the Director of the Department of Public Works submitted to the City Council setting forth the facts justifying the summary vacation of the Subject Property (hereinafter "Report");

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

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

A. The proposed vacation is in conjunction with the application of Daniel and Priscilla Amend to vacate the twenty-five foot (25') front setback easement on their property, which is Lot 7 of Tract No. 2026; and

B. The applicable setbacks for Lot 7 and all other lots within Tract No. 2026 shall be regulated through the City of San José's Municipal Code; and

C. Government Code Section 65402 does not apply to this vacation; and

D. There are other public service easements located within Tract No. 2026 that shall remain and are not proposed for vacation.

SECTION 2. The City Council makes the following conclusions based on the above findings:

A. The Subject Property is excess; and

B. The proposed vacation is consistent with the City's General Plan; and

C. All public easements other than those for light and air within Tract No. 2026 are not vacated pursuant to this action.

SECTION 3. Based on the above stated findings and conclusions, the City Council hereby vacates the public easements for light and air located within the Subject Property.

SECTION 4. 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 5. From and after the date this Resolution is recorded, the Subject Property will no longer constitute public service easements for light and air.

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DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

_____
SAM LICCARDO
Mayor

ATTEST:

_____
TONI J. TABER, CMC
City Clerk

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

EXHIBIT A

MAP

TO ACCOMPANY THE LEGAL DESCRIPTION FOR VACATION
OF SETBACK EASEMENTS WITHIN THE ENTIRE TRACT NO. 2026

AREA TO BE VACATED BOUNDARY OF TRACT NO. 2026

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

for _____ APPROVED THIS 19TH DAY OF MAY 2020
MATT CANO
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE

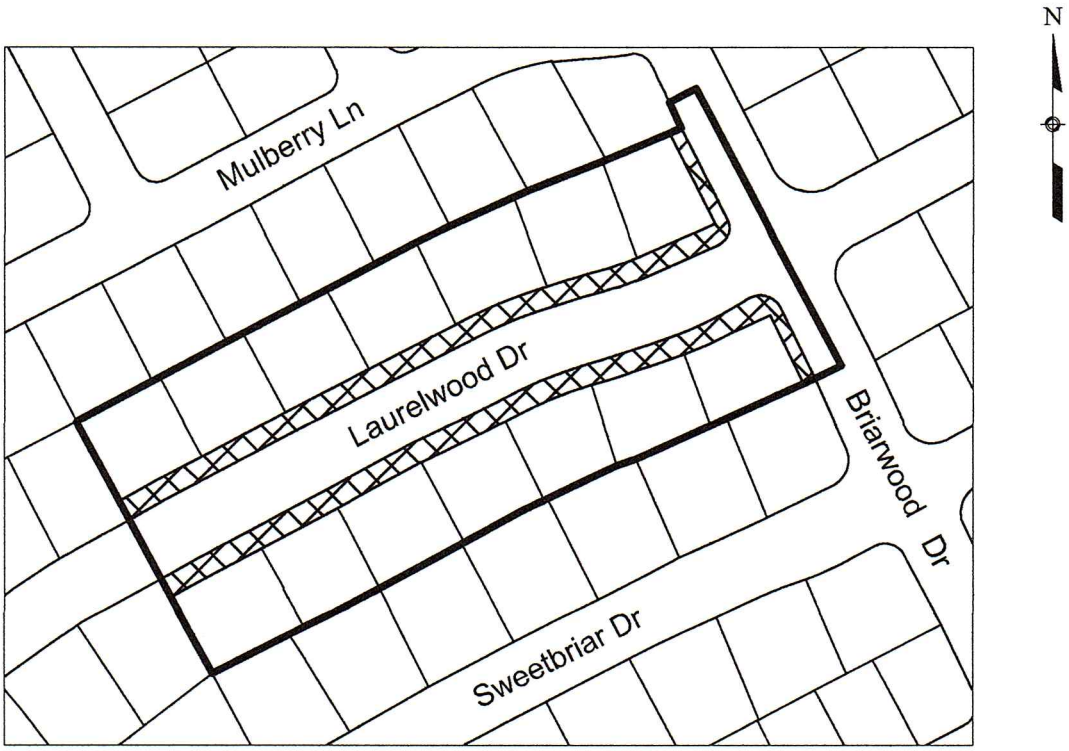

EXHIBIT A-1: TRACT MAP NO. 2026
EXHIBIT B-1: ASSESSOR PARCEL NUMBERS FOR TRACT NO. 2026

EXHIBIT A-1: TRACT MAP NO. 2026

TRACT NO. 2026

CONSISTING OF TWO (2) SHEETS

LYING WITHIN THE CITY OF SAN JOSE, CALIFORNIA

BEING A PORTION OF LOT 24 OF THE "Map of the SUBDIVISION of the property of KIRK BROS. being a portion of the NARVAEZ RANCHO"

SCALE : 1"=60' OCTOBER, 1957

LEO W. RUTH · CIVIL ENGINEER

WATERS, RUTH AND GOING

SAN JOSE · CALIFORNIA

OWNERS CERTIFICATE

We hereby certify that we are the owners of or have some right, title or interest in and to the real property included within the subdivision shown upon this map and that we are the only persons whose consents are necessary to pass a clear title to said real property and we consent to the making of said map and subdivision as shown within the blue border line and we hereby dedicate to public use all streets within said subdivision as shown on said map and also dedicate easements for any and all public uses under, upon or over said streets. We also hereby dedicate to public use easements for public utilities under, on or over those certain strips of land designated "P.U.E" (Public Utilities Easement) and "A.E." (Anchor Easement) as shown and dimensioned on said map in said subdivision. We also hereby dedicate to public use easements for light and air on or over those certain strips of land lying between the lines of streets and the lines each designated "B.S.B.L." (Building Set Back Line) as shown on said map in said subdivision, such strips of land as well as the public utilities easements hereinabove dedicated to be kept open and free from buildings and structures of any kind except lawful fences, irrigation and sprinkler systems and appurtenances thereto.

William Alexander · Catherine D. Alexander · Elise P. Alexander

(William Alexander) (Catherine D. Alexander) (Elise P. Alexander)

(OWNERS)

JAMES A. CLAYTON & CO., a California corporation – TRUSTEE

By: J. B. Clayton Jr. Pres. By Alyce B. Clayton Asst Secty.

STATE OF CALIFORNIA } S.S.
COUNTY OF SANTA CLARA

On this 22nd day of NOVEMBER 1957, before me F.W. HILTON a Notary Public in and for said county and state, residing therein, duly sworn and commissioned, personally appeared William Alexander, Catherine D. Alexander and Elise P Alexander, known to me to be the persons who executed the within instrument as owners and they acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

My commission expires APRIL 12, 1960

F.W. Hilton

Notary Public in and for the County of Santa Clara, State of California.

LEGEND

—●— Indicates Iron Pipe Found
—○— Indicates Iron Pipe Set
—◉— Indicates Concrete Monument Set
P.U.E. ----- Public Utilities Easement
B.S.B.L. ----- Building Set Back Line
A.E. ------ Anchor Easement.

All dimensions shown are in feet and decimals thereof
The blue border indicates the boundary of the land subdivided by this map.

BASIS OF BEARINGS:

The bearing N28°40'00"W of the centerline of Briarwood Drive as shown on the map of Tract 1294 as said map is recorded in Book 50 of Maps at page 31 in the office of the County Recorder of Santa Clara County, California was used as the basis for all bearings shown on this map.

STATE OF CALIFORNIA } S.S.
COUNTY OF SANTA CLARA

On this 25 day of Nov. 1957, before me Edward S. Gans a Notary Public in and for said county and state, residing therein, duly sworn and commissioned, personally appeared J. B. Clayton, Jr. and Alyce B. Clayton known to me to be the President and Ass't Secretary respectively of JAMES A. CLAYTON & CO., the corporation that executed the within instrument as trustee and known to me to be the persons who executed the same on behalf of said corporation and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

My commission expires 2/17/57

Edward S. Gans

Notary Public in and for the County of Santa Clara, State of California

ENGINEER'S CERTIFICATE

I, E. Jackson Going, Jr hereby certify that I am a Registered Civil Engineer of the State of California; that this map consisting of two (2) sheets, correctly represents a survey made under my supervision in October 1957; that the survey is true and complete as shown; that all monuments of the kinds shown thereon actually exist; that their positions are correctly shown and that such monuments are sufficient to enable the survey to be retraced.

Date Nov. 19th, 1957

E. Jackson Going Jr

Registered Civil Engineer Certificate No. 10402

CITY ENGINEER'S CERTIFICATE

I hereby certify that I have examined the within final map of TRACT NO. 2026; that the subdivision shown thereon is substantially the same as it appeared on the tentative map thereof and any approved alterations; that all provisions of the California State Subdivision Map Act and of any local ordinances applicable at the time of approval of the tentative map have been complied with and I am satisfied that said map is technically correct.

Date Nov. 25, 1957

H.J. Flannery - City Engineer
City of San Jose, California.

By H. J. Flannery

CITY CLERK'S CERTIFICATE

It is ordered that the map of TRACT NO. 2026 be and the same is hereby approved; all streets and easements as shown on said map and therein offered for dedication to public use are hereby accepted for the purposes intended. I hereby certify that the foregoing order was adopted by the City Council of the City of San Jose, California at a meeting held on November 25 1957.

Francis E. Spencer
City Clerk of the City of San Jose, California.

By Leg N. Holbert, Deputy

CERTIFICATE OF PLANNING COMMISSION

Approved by the Planning Commission of the City of San Jose, California, in accordance with the requirements of law in a duly authorized meeting held on the 19th day of November, 1957.

By Edward A. Williams
Acting Secretary

COUNTY RECORDER'S CERTIFICATE

File No. 1470462 Fee $7.00 Paid

Filed at the request of Leo W. Ruth and recorded in Book 93 of Maps at pages 38 and 39 in the office of the County Recorder of Santa Clara County this 16th day of MAY 1958 at 3:01 P.M.

Syl C. Tully, County Recorder of
Santa Clara County, California

By E. B. O'Brien
Deputy

752

Sheet 1 of 2 Sheets Job 11028

SUB 2026

38

38

EXHIBIT A-1: TRACT MAP NO. 2026

TRACT NO. 2026

CONSISTING OF TWO (2) SHEETS

LYING WITHIN THE CITY OF SAN JOSE, CALIFORNIA

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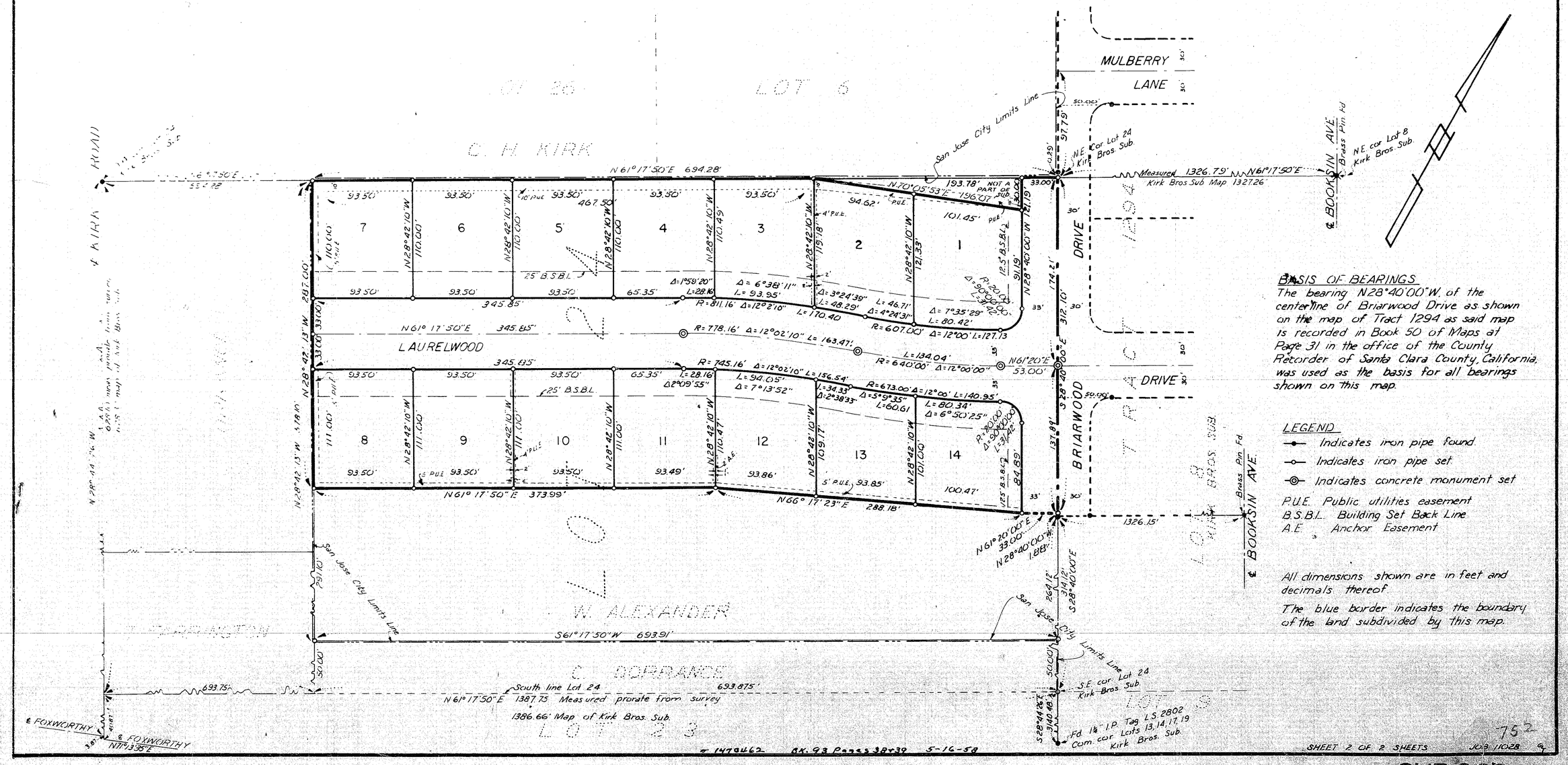
WATERS, RUTH AND GOING

SAN JOSE CALIFORNIA



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LEGEND

- Indicates iron pipe found.
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B.S.B.L. Building Set Back Line
A.E. Anchor Easement

All dimensions shown are in feet and decimals thereof.

The blue border indicates the boundary of the land subdivided by this map.

#1470462 BK. 93 Pages 38-39 5-16-58

752

SUB 2026

39

EXHIBIT B-1: ASSESSOR PARCEL NUMBERS FOR TRACT NO. 2026

APN	ADDRESS	CITY, STATE	ZIP CODE
44609012	1703 LAURELWOOD DR	SAN JOSE, CA	95125
44609013	1711 LAURELWOOD DR	SAN JOSE, CA	95125
44609014	1715 LAURELWOOD DR	SAN JOSE, CA	95125
44609015	1721 LAURELWOOD DR	SAN JOSE, CA	95125
44609016	1727 LAURELWOOD DR	SAN JOSE, CA	95125
44609017	1731 LAURELWOOD DR	SAN JOSE, CA	95125
44609018	1737 LAURELWOOD DR	SAN JOSE, CA	95125
44609031	1736 LAURELWOOD DR	SAN JOSE, CA	95125
44609032	1732 LAURELWOOD DR	SAN JOSE, CA	95125
44609033	1728 LAURELWOOD DR	SAN JOSE, CA	95125
44609034	1722 LAURELWOOD DR	SAN JOSE, CA	95125
44609035	1716 LAURELWOOD DR	SAN JOSE, CA	95125
44609036	1708 LAURELWOOD DR	SAN JOSE, CA	95125
44609037	1702 LAURELWOOD DR	SAN JOSE, CA	95125

EXHIBIT B

COUNCIL AGENDA: 6/9/20
FILE: 20-665
ITEM: 2.19

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: **SEE BELOW**

DATE: June 4, 2020

Approved

Date 6/4/2020

COUNCIL DISTRICT: 6

SUBJECT: SUMMARY VACATION OF THE 25-FOOT AND 12.5-FOOT SETBACK EASEMENTS WITHIN TRACT NO. 2026

REASON FOR ADDENDUM

In order to meet commitments to the property owners and maintain the schedule for their property improvements, staff requests Council approval at its June 9, 2020 meeting.

RECOMMENDATION

Adopt a resolution:

(a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of the 25-foot and 12.5-foot public easements for light and air ("Setback Easements") located within Tract No. 2026;

(b) Summarily vacating the Setback Easements, which are excess; and

(c) 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, the Setback Easements will be abandoned as public easements. By vacating the Setback Easements, all properties within Tract No. 2026 will conform to the current San José Municipal Code front and side setback requirements for single family residences in zoning districts R1-8; and the property owners within Tract No. 2026 can construct building improvements up to the current setbacks.

COUNCIL AGENDA: 6/9/20
FILE: 20-665
ITEM: 2.19

EXHIBIT B

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CAPITAL OF SILICON VALLEY

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BACKGROUND

Daniel and Priscilla Amend, property owners of 1737 Laurelwood Drive, have submitted an application for the vacation of the 25-foot front setback easement on their property, which is Lot 7 of Tract No. 2026. The Setback Easements were created by dedication on the map of Tract No. 2026, recorded on May 16, 1958 in Book 93 of Maps at pages 38-39, of Official Records, Office of the Recorder, County of Santa Clara, and apply to all properties within the tract. The property owners have indicated their desire to construct future improvements on their property that would encroach into the Setback Easements. The Setback Easements prohibit a building from encroaching into the area.

ANALYSIS

Under Section 8306(a) of the California Streets & Highways Code, the Setback Easements constitute public service easements. Pursuant to Streets & Highways Code Section 8333(c), a public service easement may be summarily vacated if the City Council determines that it is excess, there are no other public facilities located within the easement and no in-place public utility facilities that are in use and would be affected by the vacation.

Staff has reviewed the vacation application and determined that the Setback Easements are not needed for current or prospective use and therefore are excess. Ordinance No. 29821 "An Ordinance of the City of San Jose Amending Title 20 of the Municipal Code to Amend Various Sections of Chapter 20.30…", effective on December 30, 2016, amended the front setback requirement of a single family residence in zoning districts R1-8 from 25-feet to 20-feet. Section 20.30.200 of Title 20 of the Municipal Code also requires the side setback for a corner lot single family residence in zoning district R1-8 to be 12.5 feet. Consequently, upon review of the vacation application by Planning staff, it was determined that the Setback Easements are no longer necessary for public use in favor of the more appropriate current zoning setbacks. Staff also concluded that it is more appropriate to regulate setbacks through the enforcement of the City's zoning code instead of through setback easements. This reduction in the setback was found consistent with the goals of the Envision San Jose 2040 General Plan ("General Plan") to encourage additional density and parking in conventional Residential Zoning Districts.

Since the December 2016 adoption of Ordinance No. 29821, the volume of setback easement vacation requests has increased. As a result, staff coordinated with the City Attorney's Office and the Office of the County Recorder to establish a proactive process through vacating all setback easements for entire subdivisions as opposed to the prior practice of vacating setback easements for individual properties. Therefore, staff recommends vacating all of the Setback Easements within Tract No. 2026. Vacating setback easements by subdivision reduces the overall cost to property owners as multiple applications and corresponding costs would not be repeated.

Consequently, because zoning districts R1-8 apply to all of Tract No. 2026, staff has determined that the Setback Easements may be vacated for the entire tract, as all properties in the subdivision will be required to comply with the current setbacks for single family residence in zoning areas R1-8 (Municipal Code 20.30.200). Additionally, as this proposed vacation will remove setback easements that conflict with the 2016 Council-approved reduced setback requirements in the City's zoning code for this property, staff finds that the proposed vacation is consistent with and will facilitate a General Plan goal to allow additional density and parking with zoning districts R1-8.

Through County records, staff have identified the owners within Tract No. 2026 of the properties subject to the Setback Easements. There are existing public utility easements within Tract No. 2026 that will remain on the properties.

CONCLUSION

Staff has determined that the Setback Easements are excess. Staff recommends the City Council adopt a resolution summarily vacating the Setback Easements.

EVALUATION AND FOLLOW-UP

If Council approves the resolution vacating the Setback Easements, no further action by City Council will be required. The City Clerk will record the resolution of vacation at which time the vacation will be complete.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

Extensive outreach was conducted by staff prior to the 2016 approval of Ordinance No. 29821 including facilitating numerous community and stakeholder meetings.

This memorandum will be posted on the City's website for the June 9, 2020 City Council agenda. Additionally, staff will post the site with a Notice of Vacation, file the vacation maps and advertise said public hearing, which alerts the public to the hearing date, location and time.

COORDINATION

This vacation has been coordinated with the Department of Planning, Building and Code Enforcement and the City Manager's Budget Office. The vacation and resolution have been reviewed by the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

Vacating the Setback Easements is in alignment with the November 2016 Council approval of Ordinance No. 29821 which governs the setback requirements for single family residences in zoning districts R1-8.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees on April 29th, 2020 during fiscal year 2019-2020, of $4,472 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

CEQA

Categorically Exempt, File No. ER20-093, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations.

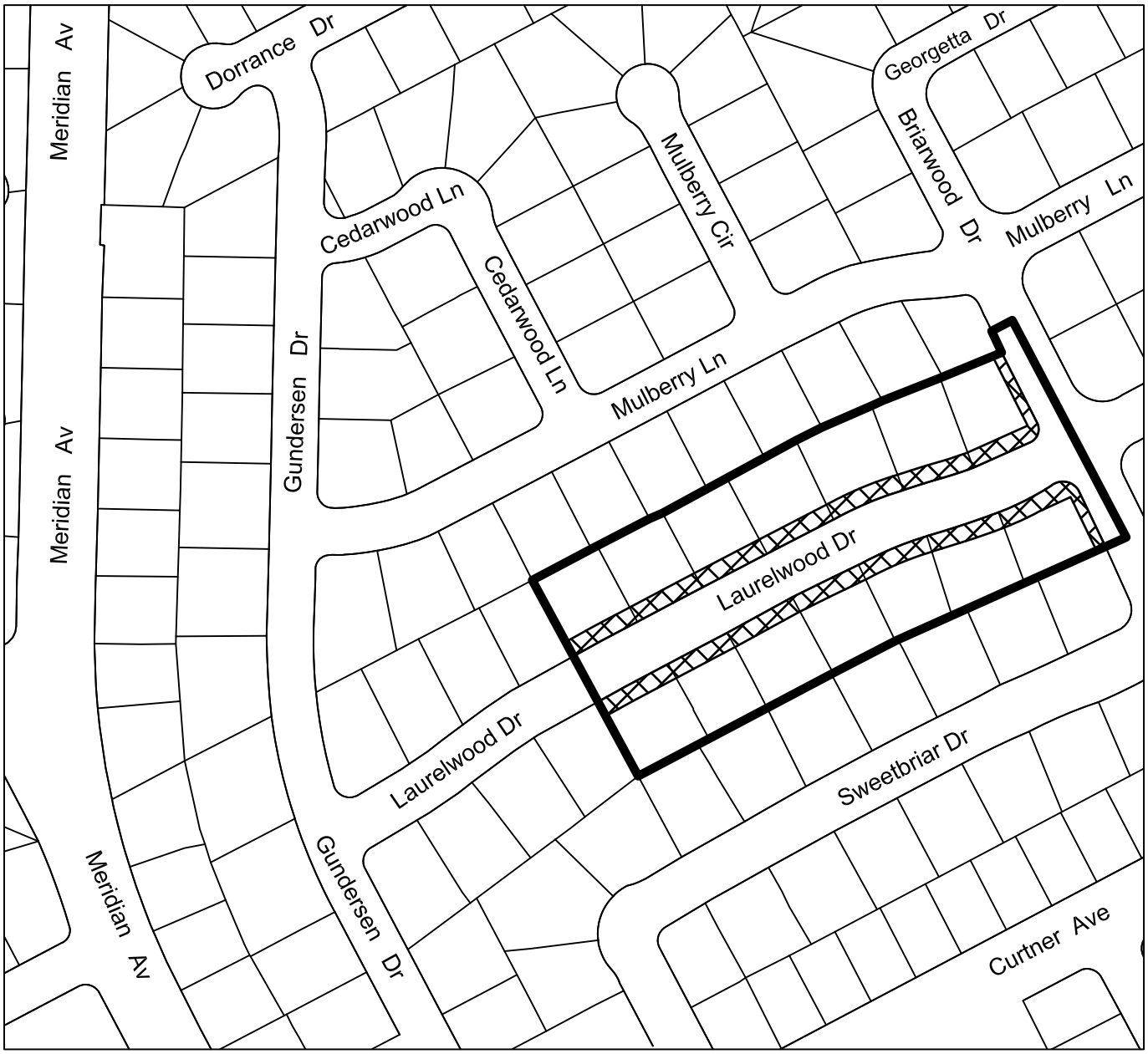
/s/
MATT CANO
Director of Public Works

For questions please contact Matthew Loesch, Assistant Director of Public Works, at (408) 535-8300.

Attachment: Location Map

LOCATION MAP

SHOWING THE 25-FOOT AND 12.5-FOOT SETBACK EASEMENTS
WITHIN TRACT NO. 2026 TO BE VACATED



AREA TO BE VACATED

BOUNDARY OF TRACT NO. 2026

N