

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE VACATING THE PUBLIC EASEMENTS FOR
LIGHT AND AIR LOCATED WITHIN TRACT 5027**

WHEREAS, Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California authorizes the City Council to vacate a public service easement if the City Council determines that it is unnecessary for present or prospective public use; and

WHEREAS, on August 20, 2019, the City Council adopted Resolution No. 79220 (“Resolution of Intention”) declaring its intention to vacate the public easements for light and air dedicated on that certain map entitled Tract No. 5027 constituting all that real property situated in the City of San José, County of Santa Clara, State of California (“Subject Property”), more particularly described as:

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. 5027, RECORDED ON OCTOBER 5, 1971, IN BOOK 291, AT PAGES 5 AND 6, 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 PROPERTY LINES AND THE DASHED LINES EACH DESIGNATED AS “B.S.L.” (BUILDING SETBACK LINE) AS SHOWN UPON SAID MAP WITHIN TRACT NO. 5027.

WHEREAS, the Resolution of Intention gave notice that on September 10, 2019 in the Council Chambers of the City Council, the Council would hear all persons interested in the proposed vacation; and

WHEREAS, the Resolution of Intention was published in the manner prescribed by law; and

WHEREAS, notices of the proposed vacation were posted conspicuously along the line of the Subject Property in the manner prescribed by law; and

WHEREAS, on August 2, 2019, the Director of Public Works approved the map, including exhibits thereto, entitled "Map to Accompany the Legal Description for Vacation of Setback Easements within the Entire Tract No. 5027" ("Map"), attached hereto as "Exhibit A" and incorporated herein, which shows the Subject Property; and

WHEREAS, prior to the public hearing, the Map was filed in the Office of the City Clerk and made available for examination by any persons desiring to do so; and

WHEREAS, at the public hearing, the City Council had before it the Map and a report from the Director of Public Works to the City Council dated _____, 2019 ("Report"), attached hereto as "Exhibit B" and incorporated herein; and

WHEREAS, at the public hearing, the City Council heard all persons interested in the proposed vacation and considered all evidence submitted;

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 Emilio deSousa for the vacation of the 25-foot and 20-foot light and air easements on his property, which is Lot 740 of Tract No. 5027; and

- B. The applicable setbacks for Lot 740 and all other lots within Tract No. 5027 shall be regulated through the City of San José's Municipal Code; and
- C. Government Code Section 65402 does not apply to this vacation.
- D. There are other public service easements located within Tract No. 5027 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 unnecessary for present or prospective public use; 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. 5027 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.

RD:EEH
8-29-19

ADOPTED this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MAP

TO ACCOMPANY THE LEGAL DESCRIPTION FOR VACATION OF
SETBACK EASEMENTS WITHIN THE ENTIRE TRACT NO. 5027



AREA TO BE VACATED



BOUNDARY OF TRACT NO. 5027

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

Matt Cano
for MATT CANO APPROVED THIS 2ND DAY OF AUGUST 2019
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE

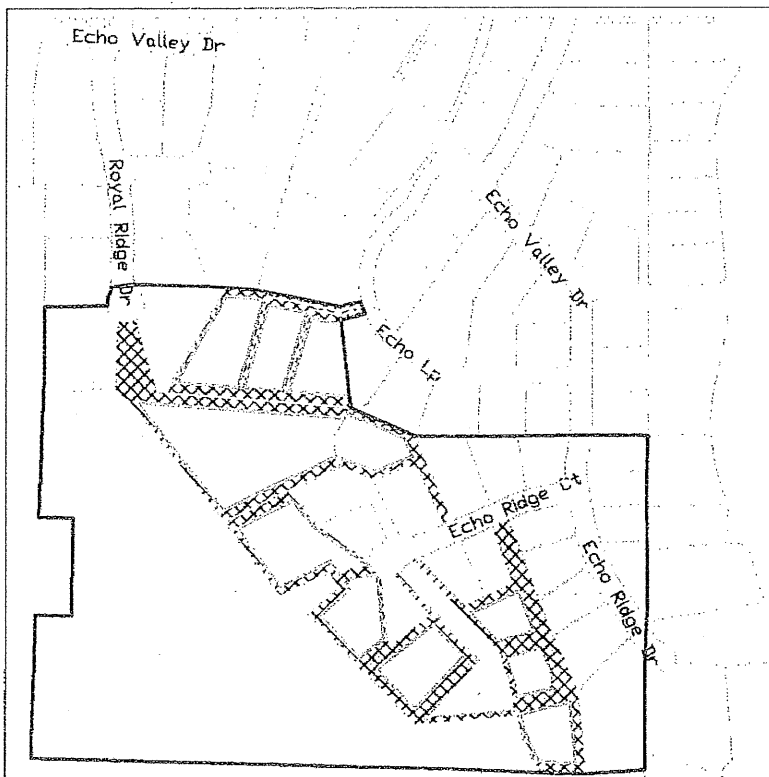


EXHIBIT A-1: TRACT MAP NO. 5027

EXHIBIT B-1: ASSESSOR PARCEL NUMBERS FOR TRACT NO. 5027

TRACT NO. 5027

ALMADEN VILLA UNIT NO. 13

OWNER'S CERTIFICATE

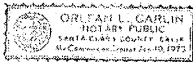
We hereby certify that we are the owners of or have some right, title or interest in and to the real property included in the subdivision shown within the blue border as shown on this map, that we are the only persons whose consent are necessary to pass a clear title to said property and we hereby consent to the making of said map and said subdivision. We also hereby dedicate to public use all streets and portions of 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 and portions thereof. We also hereby dedicate to public use easements for all public service facilities including water, sewer, gas, electric, storm sewers, sanitary sewer, gas, water and heat mains and all public utilities and any and all appurtenances to the above, under, upon or over those certain strips of land each designated as "Public Service Easement" or "P.S.E.", easements for storm drainage purposes designated as "Storm Drainage Easement" or "S.D.E.", easements for sanitary sewer purposes designated as "Sanitary Sewer Easement" or "S.S.E.", Public Service, Storm Drainage and Sanitary Sewer Easements to be kept clear of buildings and structures of any kind except utility company structures and lawful fences. We also dedicate to public use easements for both and all on or over those certain strips of land lying between the property lines and dashed lines each designated as "B.B.L." (Building Setback Line) as shown on said map in said subdivision, such strips to be kept open and free from buildings or structures of any kind except lawful fences, irrigation and sprinkler systems thereon. It is understood that lot 766 constitutes a private common open space for the collective use and benefit of lots 750 thru lot 761 incl.

LAWYERS TITLE INSURANCE CORPORATION, a corporation as OWNER.

A. SIMONI, Vice President

[Signature] *[Signature]*
 Vice President Assistant Secretary

STATE OF CALIFORNIA } ss.
 COUNTY OF SANTA CLARA }
 on this 31st day of August, 1971, before me, ORLEAN L. CARLIN
 a Notary Public in and for said state and county, residing therein, duly sworn and commissioned, personally appeared A. SIMONI
 and Bert L. Brown known to me to be the Vice President
 and Assistant Secretary respectively of LAWYERS TITLE INSURANCE
 CORPORATION, the corporation that executed the within instrument as
 OWNER and known to me to be the persons who executed the same
 as detail of the corporation named herein and they acknowledged to me that said corporation executed the within instrument pur-
 suant to its by-laws or a resolution of its board of directors as OWNER
 IN WITNESS WHEREOF I have hereunto set my hand and affixed my
 official seal the day and year in this certificate first above written.



[Signature]
 ORLEAN L. CARLIN
 NOTARY PUBLIC IN AND FOR THE COUNTY
 OF SANTA CLARA, STATE OF CALIFORNIA

CONSISTING OF TWO (2) SHEETS

BEING A PORTION OF PUEBLO TRACT NO. 2, SAN JOSE CITY LANDS
 AND A RESUBDIVISION OF LOT 441, TRACT NO. 4106, ALMADEN VILLA
 UNIT NO. 7; AS RECORDED IN BOOK 208 OF MAPS, PAGES 23, 24 & 25,
 SANTA CLARA COUNTY RECORDS.

LYING IN THE CITY OF
 SAN JOSE, CALIFORNIA

JULY, 1971

RUTH AND GOING
 CIVIL ENGINEERS
 SAN JOSE, CALIFORNIA

BASIS OF BEARINGS

The bearing of 0°34'01" N. of the West line of Parcel 1 as shown on that certain Parcel Map recorded in Book 208 of Maps at Page 41, Santa Clara County Records, was taken as the basis of all bearings shown on this map.

NOTES

1. All distances and directions shown herein are in feet and decimals thereof.
2. The blue border denotes the boundary of this subdivision.
3. The area within the blue border is 268,372 sq. ft.
4. A soils report was prepared April, 1968 by Geomatrix, Inc., James J. Deacon.

ENGINEER'S CERTIFICATE

I, LEO W. RUTK, 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 direction in July, 1971, that the survey is true and complete as shown; that all monuments of the kind shown hereon actually exist or will be set by August 1, 1973; that their positions are correctly shown and that such monuments are sufficient to enable the survey to be retraced.
 Date Aug. 30th, 1971.

[Signature]
 Registered Civil Engineer Certificate No. 7147

CITY ENGINEER'S CERTIFICATE

I hereby certify that I have examined the within final map of TRACT NO. 5027 - ALMADEN VILLA UNIT NO. 13; that the subdivision shown hereon is substantially the same as it appeared on the tentative map thereof and any approved alterations; that the provisions of the California State Subdivision Map Act and any local ordinances applicable of the time of approval of the tentative map have been complied with and I am satisfied that said map is technically correct.
 Date Sept. 3, 1971.

A.R. Turinici - City Engineer
 City of San Jose, California

By *[Signature]*
 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 2nd day of JUNE, 1971.

[Signature]
 Secretary
 By *[Signature]*
 Deputy

CITY CLERK'S CERTIFICATE

It is ordered that the map of TRACT NO. 5027 - ALMADEN VILLA UNIT NO. 13 be and the same is hereby approved; that all streets and easements as shown on said map and herein 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, Calif. at a meeting held on Sept. 7, 1971.

Francis L. Greiner - City Clerk
 City of San Jose, California

By *[Signature]*
 Deputy

COUNTY RECORDER'S CERTIFICATE

File No. 4107701 Fee \$ 7.00 paid
 Accepted for record and recorded in Book 221 of Maps at pages 5 and 6 in the office of the Recorder of Santa Clara County this 5th day of SEPTEMBER 1971 at 2:02 P.M.

George E. Fowler - County Recorder
 Santa Clara County, California

By *[Signature]*
 Deputy

291
 586

[Handwritten notes]
 5
 9/26/71

TRACT NO. 5027 ALMADEN VILLA UNIT NO. 13

CONSISTING OF TWO (2) SHEETS

BEING A PORTION OF PUEBLO TRACT NO. 2, SAN JOSE CITY LANDS AND A RESUBDIVISION OF LOT 441, TRACT NO. 4106, ALMADEN VILLA UNIT NO. 7, AS RECORDED IN BOOK 208 OF MAPS, PAGES 23, 24 & 25, SANTA CLARA COUNTY RECORDS.

LYING IN THE CITY OF

SAN JOSE,
SCALE: 1" = 100'

CALIFORNIA
JULY, 1971

RUTH AND GOING
CIVIL ENGINEERS
SAN JOSE, CALIFORNIA

BASIS OF BEARINGS

The bearing N 0° 32' 00" W of the West line of Parcel 1 as shown on that certain Parcel Map recorded in Book 204 of Maps of Page 41, Santa Clara County Records, was taken as the basis of all bearings shown on this map.

NOTES

- All distances and dimensions shown herein are in feet and decimals thereof.
- The line number denoting the boundary of this subdivision.
- The area within the blue border is 76,312 sq. ft.
- A title report was prepared April, 1968 by Gilhelle, Jacobs, Moore & Assoc.

LEGEND

- 1/4" Iron Pipe well
- 1/4" Iron Pipe found
- Standard City easement
- 4'-4" Iron fence
- PSL Public Service easement
- BSL Building Setback Line
- SSL Sewing Sewer easement
- AL Access Easement

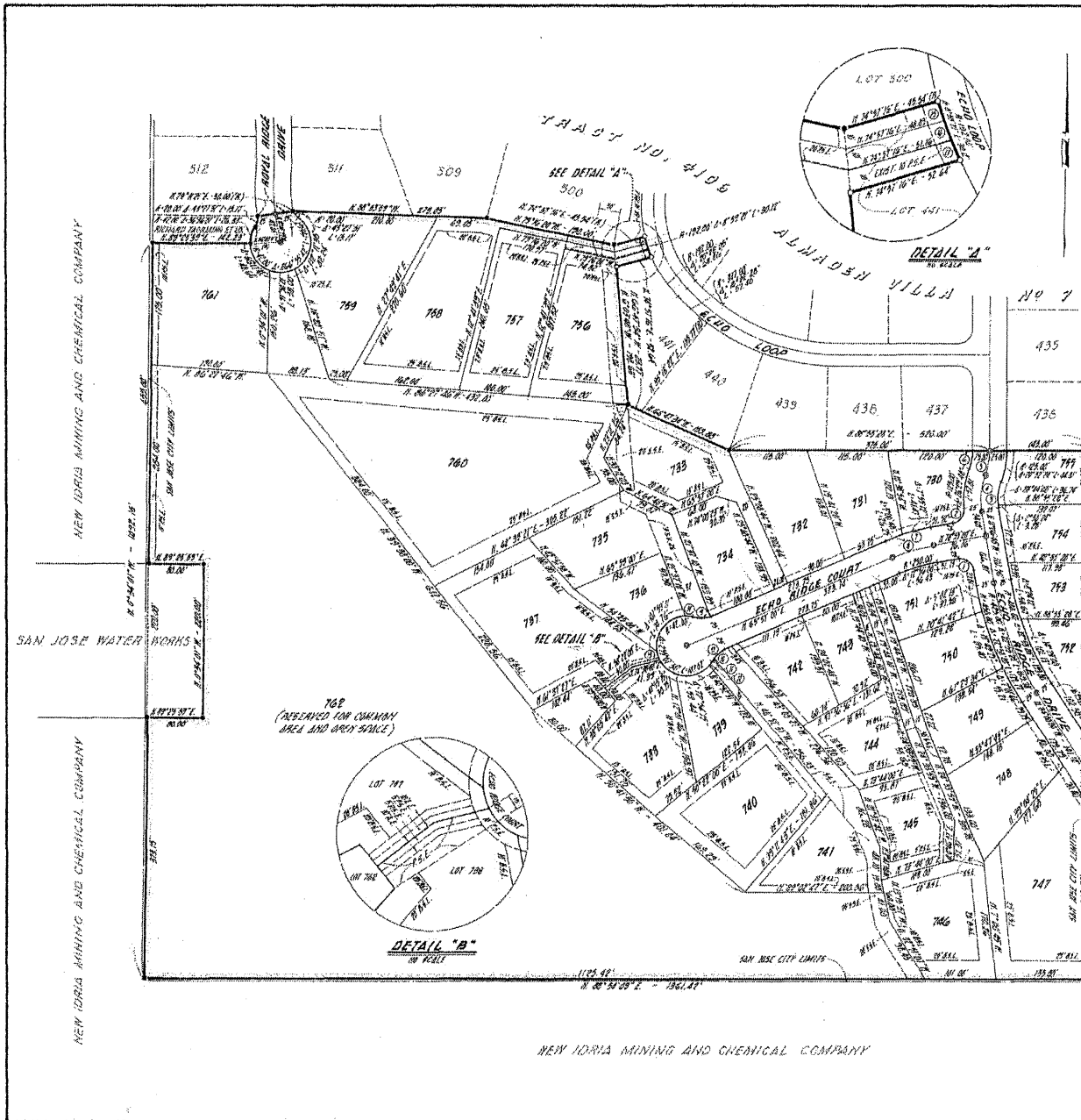
CURVE DATA

| PC | A | B | L | PT | A | B | L |
|----|--------|-----------|-------|----|--------|-----------|--------|
| 1 | 20.00 | 80°00'00" | 51.42 | 10 | 40.00 | 80°36'00" | 21.36' |
| 2 | 20.00 | 85°55'00" | 29.29 | 11 | 40.00 | 6°57'00" | 4.86' |
| 3 | 75.00 | 80°34'30" | 40.00 | 12 | 42.00 | 7°39'11" | 5.61' |
| 4 | 100.00 | 80°34'30" | 53.26 | 13 | 42.00 | 19°18'30" | 14.40' |
| 5 | 100.00 | 80°34'30" | 25.05 | 14 | 42.00 | 11°25'38" | 8.30' |
| 6 | 75.00 | 20°32'24" | 26.09 | 15 | 192.00 | 2°39'08" | 10.00' |
| 7 | 300.00 | 12°52'00" | 67.72 | 16 | 192.00 | 2°59'37" | 10.00' |
| 8 | 275.00 | 12°52'00" | 62.08 | 17 | 192.00 | 5°00'36" | 10.00' |
| 9 | 40.00 | 37°35'47" | 20.22 | | | | |

SHEET 2 OF 2 SHEETS

Oct. 5, 1971 # 4107701, Book 291, Pages 5 & 6

10/2/71
291/6



6

EXHIBIT B-1: ASSESSOR PARCEL NUMBERS FOR TRACT NO. 5027

| APN | Mailing Address | Mailing City State | Mailing Zip |
|----------|------------------------|--------------------|-------------|
| 58125044 | 7099 ROYAL RIDGE DRIVE | SAN JOSE CA | 95120-4714 |
| 58125045 | 7098 ROYAL RIDGE DRIVE | SAN JOSE CA | 95120-4747 |
| 58125046 | 7131 ECHO LOOP | SAN JOSE CA | 95120-4716 |
| 58125047 | 7129 ECHO LOOP | SAN JOSE CA | 95120-4716 |
| 58125048 | 7127 ECHO LOOP | SAN JOSE CA | 95120-4716 |
| 58126005 | 7166 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4718 |
| 58126006 | 7160 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4718 |
| 58126007 | 7156 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4718 |
| 58126008 | 7152 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4718 |
| 58126009 | 7151 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4720 |
| 58126010 | 1255 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126011 | 1259 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126012 | 1265 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126013 | 1269 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126014 | 1277 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126015 | 1281 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126016 | 1287 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126017 | 7100 ROYAL RIDGE DRIVE | SAN JOSE CA | 95120-4747 |
| 58126019 | 1288 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126020 | 1280 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126021 | 1274 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126022 | 1270 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126023 | 1264 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126024 | 1260 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126025 | 1258 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126026 | 1256 ECHO RIDGE COURT | SAN JOSE CA | 95120-4717 |
| 58126027 | 1254 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4717 |
| 58126028 | 7159 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4721 |
| 58126029 | 7163 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4721 |
| 58126030 | 7167 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4721 |
| 58126031 | 7171 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4721 |
| 58126032 | 7175 ECHO RIDGE DRIVE | SAN JOSE CA | 95120-4721 |

RD:EEH
8-29-19

Exhibit B
To Be Attached