

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE VACATING THE 20- TO 25-FOOT, 15-FOOT, AND 12.5-FOOT LIGHT AND AIR EASEMENTS LOCATED WITHIN TRACT 470

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 28, 2018, the City Council adopted Resolution No. 78758 ("Resolution of Intention") declaring its intention to vacate the twenty foot (20') to twenty-five foot (25') public service easements for light and air, the fifteen foot (15') public service easements for light and air, and the twelve and a half foot (12.5') public service easements for light and air within Tract 470 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:

THE SUBJECT PROPERTY PROPOSED TO BE VACATED IS DESCRIBED AS FOLLOWS:

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. 470 GLEN BROOK SUBDIVISION, RECORDED ON FEBRUARY 11, 1948 IN BOOK 15, AT PAGES 40-41, RECORDS OF SANTA CLARA COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THOSE CERTAIN AREAS DEDICATED AS PUBLIC USE EASEMENTS FOR LIGHT AND AIR UNDER, OVER, AND ON ALL THOSE CERTAIN STRIPS OF LAND LYING BETWEEN THE LINES OF ROADS AND AVENUES AND THE LINES DESIGNATED AS "BUILDING LINES" AS SHOWN UPON SAID MAP WITHIN TRACT NO. 470.

WHEREAS, the Resolution of Intention gave notice that on September 18, 2018 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 July 31, 2018, the Director of Public Works approved the plat map, including exhibits thereto, entitled "Plat Map to Accompany the Legal Description for Vacation of Setback Easements within the Entire Tract No. 470" ("Plat Map"), attached hereto as "Exhibit A" and incorporated herein, which shows the Subject Property; and

WHEREAS, prior to the public hearing, the Plat 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 Plat Map and a report from the Director of Public Works to the City Council dated September 6, 2018 ("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 Jose Fernandez of Direct Home Remodeling, on behalf of Eugene P. Ravizza, for the vacation of the 25' setback easement on Lot 29 of Tract No. 470; and

B. The applicable setbacks for Lot 29 and all other lots within Tract No. 470 shall be regulated through the City of San José's Municipal Code; and

C. Government Code Section 65402 does not apply to this 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.

SECTION 3. Based on the above stated findings and conclusions, the City Council hereby vacates the public service easement located on 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 a public service easement.

ADOPTED this ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:


TONI J. TABER, CMC
City Clerk

PLAT MAP

TO ACCOMPANY THE LEGAL DESCRIPTION FOR VACATION
OF SETBACK EASEMENTS WITHIN THE ENTIRE TRACT NO. 470

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
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE

APPROVED THIS 31 DAY OF July 2018

THE SUBJECT PROPERTY PROPOSED TO BE VACATED IS DESCRIBED AS FOLLOWS:

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. 470 GLEN BROOK SUBDIVISION, RECORDED ON FEBRUARY 11, 1948 IN BOOK 15, AT PAGES 40-41, RECORDS OF SANTA CLARA COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

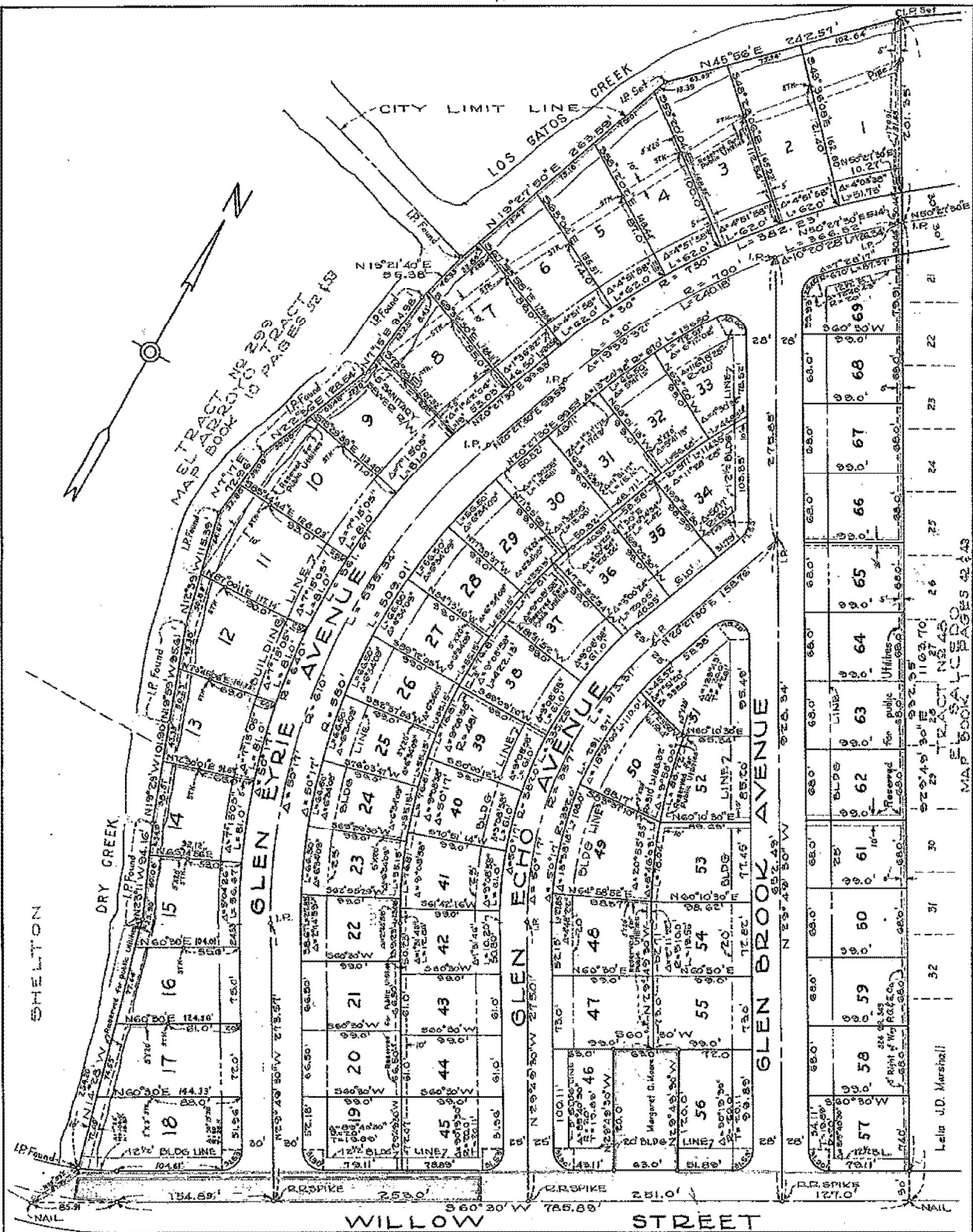
THOSE CERTAIN AREAS DEDICATED AS PUBLIC USE EASEMENTS FOR LIGHT AND AIR UNDER, OVER, AND ON ALL THOSE CERTAIN STRIPS OF LAND LYING BETWEEN THE LINES OF ROADS AND AVENUES AND THE LINES DESIGNATED AS "BUILDING LINES" AS SHOWN UPON SAID MAP WITHIN TRACT NO. 470.

EXHIBIT A-1: TRACT MAP NO. 470

EXHIBIT B-1: ASSESSOR PARCEL NUMBERS FOR TRACT NO. 470

EXHIBIT A-1: TRACT MAP NO. 470

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Note.

The bearing of Willow Street as shown on the map of Tract No. 46, El Surcedo Unit, No. 1 recorded in Book 1 of Maps, Pages 42 & 43 Records of Santa Clara County was used as the basis of bearings shown on this map.

All distances and dimensions are shown in feet and decimals thereof.

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

2" X 3" Stakes set at all lot corners and curve extremities unless otherwise shown.

STK = Stake IR = Iron Pipe

TRACT NO. 470 GLEN BROOK SUBDIVISION

Being part of Lot 3A of the
Narvaez Rancho
CITY OF SAN JOSE
JANUARY 1948 SCALE: 1"=60'
RAYMOND W. FISHER, REG. C.E.

502942

SHEET 1 of 2 SHEETS

EXHIBIT A-1: TRACT MAP NO. 470

OWNERS CERTIFICATE

This is to 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 within the blue border, and that we are the only persons whose consent is necessary to pass a clear title to said real property, and we consent to the making and recordation of said map and subdivision; and hereby dedicate to the public use all the avenues and roads shown on said map within said subdivision. We also hereby dedicate for public use easements for light and air under, over, and on all those certain strips of land lying between the lines of roads and avenues and the lines designated as "BUILDING LINES" as shown upon said map within said subdivision; such strips of land to be kept open and free from buildings and structures of any kind, excepting irrigation and sprinkling systems, and appurtenances thereto. They also hereby dedicate for the use of public utilities an easement over those certain strips of land designated on said map as "RESERVED FOR PUBLIC UTILITIES".

Ralph E. Weaver
Signature
Arthur R. Weaver
Signature

SAN JOSE ABSTRACT & TITLE INSURANCE CO., a corporation as trustee under that certain Deed of Trust dated January 13, 1948 and Recorded January 14, 1948 Records File No. 438321.

Edwanda C. Clark
Secretary

State of California }
County of Santa Clara } S.S.

On this 14 day of FEBRUARY, 1948 before me Edwanda C. Clark, a Notary Public in and for the County of Santa Clara, State of California, residing therein duly commissioned and sworn, personally appeared Ralph E. Weaver and Arthur R. Weaver, known to me to be the persons that executed the within instrument and 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 in this certificate first above written.

State of California }
County of Santa Clara } S.S.

On this 14 day of FEBRUARY, 1948, before me Edwanda C. Clark, a Notary Public in and for the County of Santa Clara, State of California, residing therein, duly commissioned and sworn, personally appeared L.P. EDWARDS known to me to be President, and C.J. CLARK known to me to be Secretary of the San Jose Abstract & Title Insurance Company, a corporation, the corporation that executed the within instrument as trustee, and known to me to be the persons who executed the same on behalf of the corporation named therein and acknowledged to me that such corporation executed the same as trustee.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

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

CERTIFICATE OF APPROVAL BY THE COUNCIL OF THE CITY OF

It is ordered that the map of Tract No. 470, Glen Brook Subdivision be and the same is hereby approved, that all streets and avenues and drives shown upon said map and therein offered for dedication be and the same are hereby accepted for the purposes for which they are offered for dedication. I hereby certify that the foregoing order was adopted by the Common Council of the City of San Jose at a meeting held February 9, 1948.

Edwanda C. Clark
City Clerk
By: Arthur R. Weaver
Deputy

CERTIFICATE OF CITY ENGINEER

I hereby certify that I have examined the final map of Tract No. 470, Glen Brook Subdivision, that the subdivision as shown thereon is substantially the same as it appeared on the tentative map thereof and any approved alterations; that all the provisions of the 1937 map act and local ordinances, applicable at the time of approval of the tentative map have been complied with and that I am satisfied that the said map is technically correct. Dated FEBRUARY 5, 1948

Edwanda C. Clark
City Engineer of the City of San Jose, California

CERTIFICATE OF APPROVAL BY CITY OF SAN JOSE PLANNING COMMISSION

Approved by the City of San Jose Planning Commission in accordance with the requirements of law in duly authorized meeting held FEBRUARY 3, 1948

Edwanda C. Clark
Secretary

CERTIFICATE OF SPECIAL ASSESSMENTS

This is to certify that the tract of land known as Tract No. 470, Glen Brook Subdivision or any part thereof is not subject to any special assessments which have not been paid in full.

Dated FEBRUARY 3, 1948
Edwanda C. Clark
Supt. of Streets of the City of San Jose

CERTIFICATE OF ENGINEER

I hereby certify that I am a Registered Civil Engineer, that this map, consisting of two sheets, correctly represents a survey made by me in JANUARY, 1948 that the survey is true and complete as shown; that all stakes and monuments are of the character and occupy the positions indicated, and are sufficient to enable the survey to be retraced.

Edwanda C. Clark
Registered Civil Engineer No. 483

502942

FILED FOR RECORD AT REQUEST OF Owners
AT 3 MINUTES PAST 11 O'CLOCK A.M. ON FEB 11 1948
AND RECORDED IN BOOK 75 OF MAPS, PAGE 20341
SANTA CLARA COUNTY RECORDS
CHAS. A. PAYNE, COUNTY RECORDER
OF SANTA CLARA COUNTY
CALIFORNIA
5- BY Edwanda C. Clark
DEPUTY RECORDER

TRACT NO 470 GLEN BROOK SUBDIVISION

Being part of Lot 3A of the
Nervaez Rancho
CITY OF SAN JOSE
RAYMOND W. FISHER, REG. CE
JANUARY 1948

EXHIBIT B-1: ASSESSOR PARCEL NUMBERS FOR TRACT NO. 470

APN	Site Address	Mailing Address	Mailing City State	Mailing Zip
26461015	1309 Willow Street, San Jose CA 95125	1309 WILLOW ST	SAN JOSE CA	95125-4343
26461016	1086 Glen Brook Avenue, San Jose CA 95125	1086 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461017	1078 Glen Brook Avenue, San Jose CA 95125	1078 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461018	1070 Glen Brook Avenue, San Jose CA 95125	1070 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461019	1062 Glen Brook Avenue, San Jose CA 95125	1062 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461020	1054 Glen Brook Avenue, San Jose CA 95125	1054 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461021	1046 Glen Brook Avenue, San Jose CA 95125	1046 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461022	1038 Glen Brook Avenue, San Jose CA 95125	1038 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461023	1030 Glen Brook Avenue, San Jose CA 95125	411 WHISKEY HILL RD	WOODSIDE CA	94062
26461024	1020 Glen Brook Avenue, San Jose CA 95125	1020 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461025	1018 Glen Brook Avenue, San Jose CA 95125	1018 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461026	1010 Glen Brook Avenue, San Jose CA 95125	1010 GLEN BROOK AVE	SAN JOSE CA	95125-4313
26461027	1051 Glen Brook Avenue, San Jose CA 95125	1051 GLEN BROOK AVE	SAN JOSE CA	95125-4345
26461028	1061 Glen Brook Avenue, San Jose CA 95125	1061 GLEN BROOK AVE	SAN JOSE CA	95125-4345
26461029	1071 Glen Brook Avenue, San Jose CA 95125	1071 GLEN BROOK AVE	SAN JOSE CA	95125-4345
26461030	1081 Glen Brook Avenue, San Jose CA 95125	1081 GLEN BROOK AVE	SAN JOSE CA	95125-4345
26461031	1091 Glen Brook Avenue, San Jose CA 95125	1091 GLEN BROOK AVE	SAN JOSE CA	95125-4345
26461033	1331 Willow Street, San Jose CA 95125	1331 WILLOW ST	SAN JOSE CA	95125-4344
26461034	1082 Glen Echo Avenue, San Jose CA 95125	1082 GLEN ECHO AVE	SAN JOSE CA	95125-4315
26461035	1074 Glen Echo Avenue, San Jose CA 95125	1074 GLEN ECHO AVE	SAN JOSE CA	95125-4315
26461036	1064 Glen Echo Avenue, San Jose CA 95125	1064 GLEN ECHO AVE	SAN JOSE CA	95125-4315
26461037	1040 Glen Echo Avenue, San Jose CA 95125	1040 GLEN ECHO AVE	SAN JOSE CA	95125-4315
26461038	1025 Glen Echo Avenue, San Jose CA 95125	1025 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461039	1031 Glen Echo Avenue, San Jose CA 95125	1031 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461040	1037 Glen Echo Avenue, San Jose CA 95125	1037 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461041	1043 Glen Echo Avenue, San Jose CA 95125	1043 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461042	1049 Glen Echo Avenue, San Jose CA 95125	1049 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461043	1057 Glen Echo Avenue, San Jose CA 95125	1057 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461044	1063 Glen Echo Avenue, San Jose CA 95125	1063 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461045	1069 Glen Echo Avenue, San Jose CA 95125	1069 GLEN ECHO	SAN JOSE CA	95125
26461046	1075 Glen Echo Avenue, San Jose CA 95125	1075 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461047	1083 Glen Echo Avenue, San Jose CA 95125	1083 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461048	1091 Glen Echo Avenue, San Jose CA 95125	41863 VIA SAN MIGUEL	FREMONT CA	94539-4743
26461049	1099 Glen Echo Avenue, San Jose CA 95125	1099 GLEN ECHO AVE	SAN JOSE CA	95125-4316
26461050	1335 Willow Street, San Jose CA 95125	1335 WILLOW ST	SAN JOSE CA	95125-4333
26461051	1340 Glen Eyrie Avenue, San Jose CA 95125	1340 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461052	1338 Glen Eyrie Avenue, San Jose CA 95125	1338 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461053	1336 Glen Eyrie Avenue, San Jose CA 95125	1336 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461054	1334 Glen Eyrie Avenue, San Jose CA 95125	1334 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461055	1332 Glen Eyrie Avenue, San Jose CA 95125	1332 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461056	1330 Glen Eyrie Avenue, San Jose CA 95125	1330 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461057	1328 Glen Eyrie Avenue, San Jose CA 95125	1328 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461058	1326 Glen Eyrie Avenue, San Jose CA 95125	1326 GLEN EYRIE AVE	SAN JOSE CA	95125
26461059	1322 Glen Eyrie Avenue, San Jose CA 95125	1322 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461060	1320 Glen Eyrie Avenue, San Jose CA 95125	1320 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461061	1318 Glen Eyrie Avenue, San Jose CA 95125	1318 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461062	1316 Glen Eyrie Avenue, San Jose CA 95125	1316 GLEN EYRIE AVE	SAN JOSE CA	95125-4319
26461063	1015 Glen Brook Avenue, San Jose CA 95125	1015 GLEN BROOK AVE	SAN JOSE CA	95125-4314
26461066	1307 Glen Eyrie Avenue, San Jose CA 95125	1307 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461067	1309 Glen Eyrie Avenue, San Jose CA 95125	1309 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461068	1311 Glen Eyrie Avenue, San Jose CA 95125	1311 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461069	1313 Glen Eyrie Avenue, San Jose CA 95125	1313 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461070	1315 Glen Eyrie Avenue, San Jose CA 95125	13375 TIERRA HEIGHTS RD	REDDING CA	96003
26461071	1317 Glen Eyrie Avenue, San Jose CA 95125	1317 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461072	1319 Glen Eyrie Avenue, San Jose CA 95125	1319 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461073	1321 Glen Eyrie Avenue, San Jose CA 95125	1321 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461076	1327 Glen Eyrie Avenue, San Jose CA 95125	1327 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461077	1329 Glen Eyrie Avenue, San Jose CA 95125	1329 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461078	1331 Glen Eyrie Avenue, San Jose CA 95125	1331 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461079	1333 Glen Eyrie Avenue, San Jose CA 95125	1333 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461080	1335 Glen Eyrie Avenue, San Jose CA 95125	1335 GLEN EYRIE AVE	SAN JOSE CA	95125-4320

EXHIBIT B-1: ASSESSOR PARCEL NUMBERS FOR TRACT NO. 470

26461081	1337 Glen Eyrie Avenue, San Jose CA 95125	1337 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461082	1339 Glen Eyrie Avenue, San Jose CA 95125	1339 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461083	1343 Willow Street, San Jose CA 95125	1343 WILLOW ST	SAN JOSE CA	95125-4349
26461084	1323 Glen Eyrie Avenue, San Jose CA 95125	1323 GLEN EYRIE AVE	SAN JOSE CA	95125-4320
26461085	1325 Glen Eyrie Avenue, San Jose CA 95125	1325 GLEN EYRIE AVE	SAN JOSE CA	95125



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: September 6, 2018

Approved

Date

9/6/18

COUNCIL DISTRICT: 6

**SUBJECT: VACATION OF THE 20- TO 25-FOOT, 15-FOOT, AND 12.5-FOOT
SETBACK EASEMENTS WITHIN TRACT NO. 470**

RECOMMENDATION

Conduct a Public Hearing and adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the vacation of the 20- to 25-foot, 15-foot, and 12.5-foot light and air easements ("setback easements") located within Tract No. 470;
- (b) Vacating the 20- to 25-foot, 15-foot, and 12.5-foot setback easements located within Tract No. 470; 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 located within Tract No. 470 will be vacated. By vacating the setback easements, all properties within Tract No. 470 will conform to the current San Jose Municipal Code front and side setback requirements of 20-feet and 12.5-feet, respectively, for single family residences in zoning district R1-8 and the property owners within Tract No. 470 can construct building improvements up to the current setbacks.

BACKGROUND

Jose Fernandez of Direct Home Remodeling, has submitted an application on behalf of Eugene P. Ravizza, property owner of 1322 Glen Eyrie Avenue, for the vacation of the 25-foot front

setback easement on his property, which is Lot 29 of Tract No. 470. The setback easement was created by dedication on the map of Tract No. 470 Glen Brook Subdivision, recorded on February 11, 1948 in Book 15 of Maps, Pages 40-41, of Official Records, Office of the Recorder, County of Santa Clara, and applies to all properties created by the subdivision. The property owner has indicated his desire to construct future improvements to his property that would encroach into the setback easement. The setback easement prohibits a building from encroaching into this area.

On August 28, 2018, the City Council adopted a resolution which declared the Council's intention to vacate the setback easements within the tract. The resolution also approved a map showing the setback easements to be vacated, set a Public Hearing for September 18, 2018, at 1:30 p.m., directed the City Clerk to file the vacation map and advertise said public hearing, and directed the Director of Public Works to post the site with a Notice of Vacation.

ANALYSIS

Staff has reviewed the vacation application and determined that the 25-foot setback easement can be vacated as they are not necessary for current or prospective use. 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 district 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 by Planning staff, it was determined that the 25-foot setback easement on the subject property is no longer necessary for public purposes 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.

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 to vacate all setback easements for entire subdivisions as opposed to the prior practice of vacating setback easements for an individual property upon request. Therefore, staff recommends including the other setback easements in this vacation process. 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 district R1-8 applies to all of Tract No. 470, 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 residences in zoning area 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 tract, staff finds that the proposed vacation is consistent with and will

facilitate the Envision San Jose 2040 General Plan goal to allow additional density and parking with the zoning district R1-8. Therefore, staff is recommending all setback easements within Tract No. 470 be proposed for vacation and that setbacks for this subdivision be governed by the current San Jose Municipal Code.

The property owner who hold fee title within the setback easements have been identified through County records. In addition, there are existing public utility easements within the tract that will remain on the properties.

EVALUATION AND FOLLOW-UP

If Council approves the resolution vacating the setback easements within Tract No. 470, 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.

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 September 18, 2018, City Council meeting. 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.

HONORABLE MAYOR AND CITY COUNCIL

September 6, 2018

Subject: Vacation of the 20- to 25-Foot and 15-Foot, and 12.5-foot Setback Easements within Tract No. 470

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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 district R1-8.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees on July 6, 2018, during fiscal year 2018-2019, of \$5,264 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

CEQA

Categorically Exempt, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation, File No. PP18-063.

/s/

MATT CANO

Director of Public Works

For questions please contact Matt Loesch, Interim Deputy Director of Public Works, at (408) 975-7381.

Attachment: Location Map

LOCATION MAP

SHOWING THE 20-TO 25-FOOT, 15-FOOT AND 12.5-FOOT SETBACK
EASEMENTS WITHIN TRACT NO. 470 TO BE VACATED



AREA TO BE VACATED



BOUNDARY OF TRACT NO. 470

