

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:

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SAM LICCARDO  
Mayor

ATTEST:

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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

DIRECTOR OF PUBLIC WORKS,  
CITY OF SAN JOSE

APPROVED THIS 2<sup>ND</sup> DAY OF AUGUST 2019

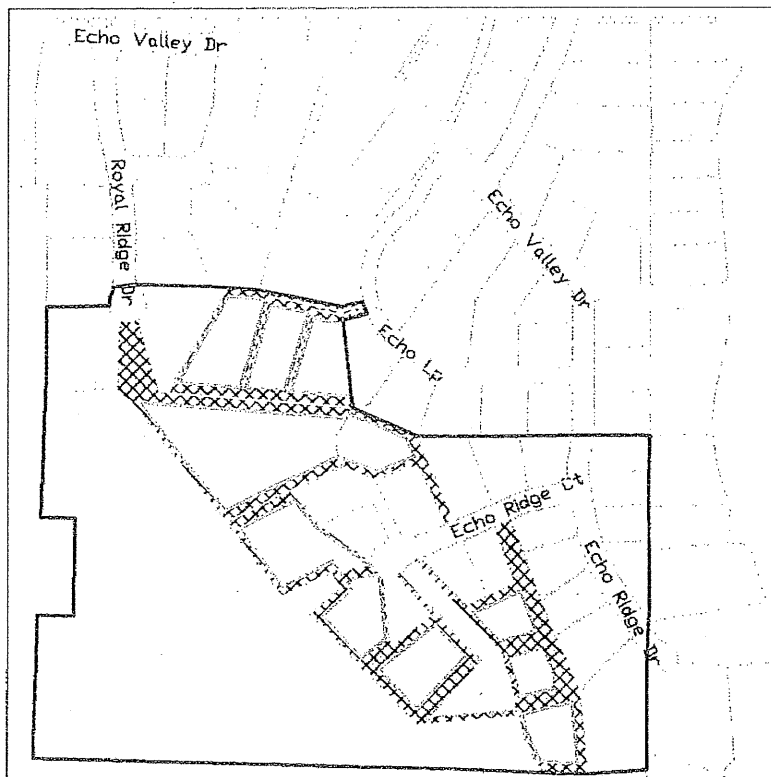


EXHIBIT A-1: TRACT MAP NO. 5027

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

# TRACT NO. 5027

## ALMADEN VILLA UNIT NO. 13

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 N. 0° 34' 01" W. 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 dimensions 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 26,312 sq. ft.
4. A soil report was prepared April, 1968 by Dickson, Krebs, Jones & Deane.

### 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 is 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, telephone, storm sewers, sanitary sewers, 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 air and air over those certain strips of land lying between the property lines and dashed lines each designated as "B.C.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 706 constitutes a private common open space for the collective use and benefit of lots 730 thru lot 761 incl.

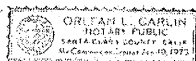
LAWYERS TITLE INSURANCE CORPORATION, a corporation as OWNER.

A. SIMONI, Vice President

*[Signature]* *[Signature]*  
VICE PRESIDENT ASSISTANT SECRETARY

STATE OF CALIFORNIA } ss.  
COUNTY OF SANTA CLARA }

On this 31<sup>st</sup> day of August, 1971, before me ORLAIN 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 being 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]*  
ORLAIN L. CARLIN  
NOTARY PUBLIC IN AND FOR THE COUNTY  
OF SANTA CLARA, STATE OF CALIFORNIA

### ENGINEER'S CERTIFICATE

I, LEO W. RUTH, 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 this survey to be retraced.  
Date Aug. 30<sup>th</sup>, 1971.

*[Signature]*  
Leo W. Ruth  
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. Turicci - 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 Page 5 and 6, in the office of the Recorder of Santa Clara County this 5<sup>th</sup> day of September, 1971 at 2:00 P.M.

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

By *[Signature]*  
Deputy

# 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,

CALIFORNIA

SCALE: 1" = 100'

JULY, 1971

RUTH AND GOING  
CIVIL ENGINEERS  
SAN JOSE, CALIFORNIA

## BASIS OF BEARINGS

The bearing is 0° 34' 00" N of the Meridian 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

1. All distances and dimensions shown herein are in feet and decimal fractions thereof.
2. The line border enclosing the boundary of this subdivision.
3. The area within the line border is 78,312 sq. ft.
4. A subdivision map prepared April, 1961 by Nicholas Rainovich, Surveyor & Assoc.

## LEGEND

- 1/4" Iron Pipe and
- 1/4" Iron Pipe Guard
- Standard City Improvement
- 4" x 4" Iron Joist
- P.S.L. Public Service Location
- B.S.L. Building Setback Line
- S.S.L. Sewing Sewer Location
- A.E. Access Easement

## CURVE DATA

ST	A	B	L	10°	A	B	L
1	20.00	90° 00' 00"	31.42	10	40.00	90° 36' 00"	21.36
2	20.00	85° 45' 00"	29.29	11	40.00	6° 57' 00"	4.86
3	25.00	90° 34' 30"	40.00	12	42.00	7° 59' 11"	5.61
4	100.00	90° 34' 30"	53.26	13	42.00	19° 18' 30"	14.40
5	100.00	80° 34' 30"	25.00	14	42.00	11° 19' 30"	8.38
6	75.00	20° 34' 30"	26.89	15	192.00	2° 39' 00"	10.00
7	300.00	15° 34' 00"	67.78	16	192.00	2° 59' 37"	10.08
8	275.00	15° 34' 00"	62.08	17	192.00	3° 00' 30"	10.09
9	40.00	37° 59' 47"	20.22				

SHEET 2 OF 2 SHEETS

Oct. 5, 1971 \* 4107701, Book 291, Pages 5 & 6

10/3/71  
291/6

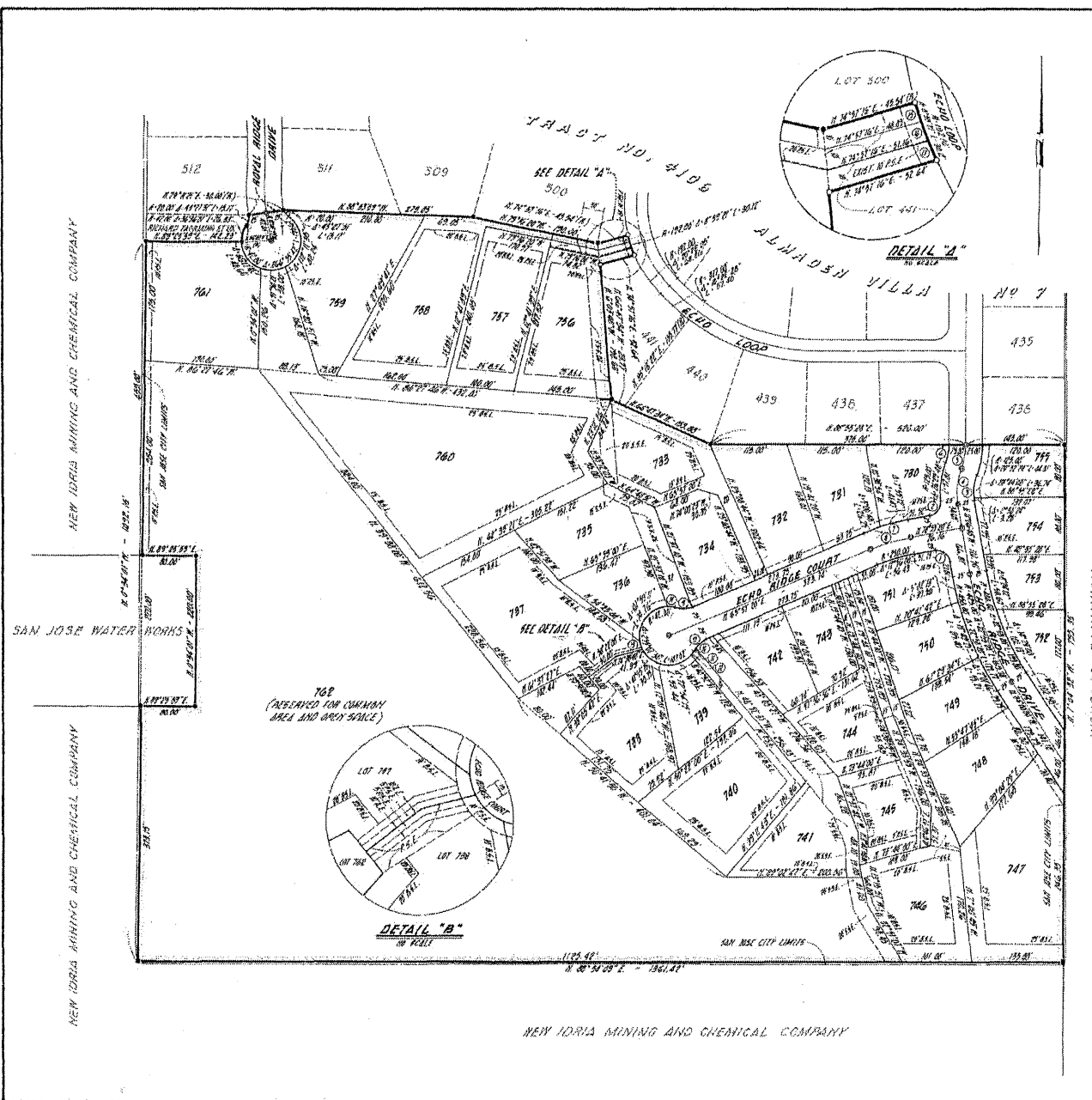


EXHIBIT B-1: ASSESSOR PARCEL NUMBERS FOR TRACT NO. 5027

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