



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Christopher Burton

SUBJECT: See Below

DATE: May 8, 2025

Approved

Date

5/9/25

COUNCIL DISTRICT: 6

**SUBJECT: Burbank 45, C21-034, GP23-001, H23-005, T23-003 & ER23 026 -
Annexation of Property Located at 1921-1927 W. San Carlos Street
and 30, 40, and 58 Cleveland Avenue**

RECOMMENDATION

Adopt a resolution ordering the annexation of territory designated as Burbank No. 45, which involves the annexation to the City of San José of approximately 0.912 gross acres of land, consisting of five contiguous parcels and a portion of Cleveland Avenue, generally located on the northeast corner of West San Carlos Street and Cleveland Avenue (APN: 274-17-018, -019, -020, -021, & -022), and the detachment of the same from the appropriate special districts.

SUMMARY AND OUTCOME

On September 27, 2021, the applicant, Henry Guan, on behalf of PATH Villas at Buena Vista, LLC., filed concurrent applications for the annexation and rezoning of the approximately 0.56-gross-acre site at 1921-1927 and 30, 40 and 58 Cleveland Avenue, consisting of unincorporated land in Santa Clara County, to the UV Urban Village Zoning District. In conformance with Santa Clara County Local Area Formation Commission (LAFCO) road annexation policies, the area to be annexed includes a portion of Cleveland Avenue and totals approximately 0.912 gross acres (as depicted in **Exhibit "A"**, Legal Description and **Exhibit "B"** Plat Map).

The site is within San José's Urban Growth Boundary and Urban Service Area, and the annexation is consistent with Envision San José 2040 General Plan vision, goals, and policies, and the Zoning Code. The annexation includes detachment from the Central Fire Protection District, Santa Clara County Lighting Service Area, and the Burbank

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Page 2

Sanitary District. Upon completion of the annexation proceedings, the territory designated as Burbank No. 45 will be annexed into the City of San José and eligible to receive City services. Until such time, the subject property will remain under the control and jurisdiction of the County of Santa Clara.

BACKGROUND

On May 6, 2025, the City Council adopted a resolution adopting the 1921 and 1927 West San Carlos Project Initial Study/Mitigated Negative Declaration and the associated Mitigated Monitoring and Reporting Plan; a rezoning (File No. C21-034) to the UV Urban Village Zoning District; adopted a resolution approving a privately-initiated General Plan Amendment to amend the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Mixed Use Commercial to Urban Village; adopted a resolution approving, subject to conditions, a Site Development Permit to allow demolition of five commercial buildings totaling approximately 12,500 square feet, and the construction of a seven-story mixed-use development consisting of 94 one hundred percent affordable units, including a manager's unit, and approximately 1,800 square feet of ground floor commercial space, and a Density Bonus request for four concessions and eight waivers, on a 0.56-gross-acre site; approved a resolution approving a Vesting Tentative Map to combine five lots to create one approximately 0.56-acre parcel to facilitate the mixed-use project; and scheduled the date of May 20, 2025, to consider a resolution ordering the annexation of Burbank No. 45. The rezoning designation is a required process prior to the approval of an annexation, and the zoning becomes effective upon the annexation of the property into the City.

The City Council voted (11-0-0) on May 6, 2025, to initiate the annexation. In accordance with Section 5.20.070 of the Santa Clara County Zoning Ordinance, properties are subject to annexation when they are (1) located within the Urban Service Area of a city, (2) contiguous to property within the city, and (3) the proposed development of said property requires a development permit. These criteria of the Santa Clara County Zoning Ordinance align with LAFCO goals to focus development in urban areas and ensure the logical and reasonable development of local agencies, pursuant to California Government Code Section 56301. Detachment from all current services is recommended to keep City services consistent and avoid any duplication of services.

Site and Surrounding Uses

The annexed area is located on the northwest corner of West San Carlos Street and Cleveland Avenue. The site is currently developed with five commercial buildings and associated surface parking, paved areas, and fencing and has two driveways accessed from Cleveland Avenue. The site is surrounded by single-family residences (north) and commercial buildings and surface parking lot (east).

ANALYSIS

The County of Santa Clara Roads and Airport Department requested the annexation boundary to include the entirety of the adjacent street, Cleveland Avenue; however, after discussion with City staff, it was determined that only a portion of the street was required in order to comply with LAFCO's street annexation policies. These policies require an annexation to be designed to include a continuous section of roadway sufficient in length to allow maintenance by a single jurisdiction.

Proceedings are being conducted under provisions of the California Government Code Section 56757, which grants the City conducting authority and allows the completion of reorganization in Santa Clara County without LAFCO review, provided the proposed annexation is located within the City's Urban Service area and the City Council adopts a resolution initiating the resolution. Pursuant to Section 56757, the City Council adopted a resolution on May 6, 2025, initiating the annexation.

Before approving the reorganization proposal pursuant to Section 56757, the City Council is required to make certain findings as listed below. Staff's analysis follows each finding in italics.

1. That the unincorporated territory is within the City's Urban Service Area as adopted by LAFCO and set forth in the City's General Plan.

*The territory is located within the City's Urban Service Area as shown on the Envision San José 2040 General Plan Land Use / Transportation Diagram (**Exhibit C**).*

2. That the County Surveyor has determined the boundaries of the proposal to be definite and certain and in compliance with LAFCO Annexation Policies.

*The County Surveyor certified the boundaries of the annexation as definite and certain on June 5, 2023 (**Exhibit E**).*

3. That the proposal does not split lines of assessment or ownership.

All affected parcels are being annexed in their entirety. No lines of assessment or ownership will be split.

4. That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

No such islands are being created as the subject territory is contiguous to the City of San José territory to the east. The annexation would not result in islands in which it would be difficult to provide municipal services. The annexation would expand the existing City boundary within the City of San José to the west in a contiguous manner and incrementally help reduce the size of a larger existing County territory island in which it is currently located.

May 8, 2025

Subject: Burbank 45, C21-034, GP23-001, H23-005, T23-003 & ER23 026 -

Annexation of Property Located at 1921-1927 W. San Carlos Street and 30, 40, and 58 Cleveland Avenue

Page 4

5. That the proposal is consistent with the City's General Plan 2040.

The annexation is consistent with the adopted Envision San José 2040 General Plan in that the annexation territory is within the City's Urban Service Area. In accordance with the City of San José Municipal Code Section 20.120.110, the UV Urban Village Zoning District is a conforming zoning district under the Urban Village General Plan designation.

6. That the territory to be annexed is contiguous to existing City limits.

*The area proposed for annexation is contiguous to the City limits, as shown on the attached annexation map as part of the County Surveyor's Report (**Exhibit E**).*

7. That the City has complied with all conditions imposed by the Commission, if any, for inclusion of the territory in the City's Urban Service Area.

On October 25, 2021, the City of San José informed LAFCO of its intent to annex the subject territory. Since then, the City has received no further conditions of approval from LAFCO with respect to the subject annexation. Furthermore, on October 27, 2021, the City advised the following applicable special districts of its intent to annex the subject property: Burbank Sanitary District, Central Fire Protection District, and Santa Clara County Lighting Service Area. No objections to the proposed annexation were received, except from the Burbank Sanitary District. The Burbank Sanitary District expressed concern regarding the detachment's impact to the collection system and how it would operate after annexation.

EVALUATION AND FOLLOW-UP

Upon obtainment of LAFCO's certification of the proposed annexation and recordation of the resolution ordering annexation with the Office of the County Clerk-Recorder for the County of Santa Clara, the approximately 0.912-gross-acre area of unincorporated Santa Clara County designated as Burbank No. 45 will be within the incorporated area of the City of San José and eligible to receive City services. The City of San José reserves the right to seek LAFCO's certification and record the resolution ordering annexation only after a development proposal has been submitted or permitted for the subject property or upon issuance of a building permit.

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Page 5

COST IMPLICATIONS

There are no associated City costs or service obligations until the subject property is annexed. The applicant has agreed to the specified conditions of approval regarding conditions assessments and associated public improvements prior to and upon issuance of a Building Permit.

COORDINATION

This project was coordinated with the City Attorney's Office, Department of Transportation, Environmental Services Department, and Public Works Department.

PUBLIC OUTREACH

This item is being conducted in accordance with Sections 56662 and 56757 of the California Government Code for annexations that have the consent of all landowners and for which no public hearing or notice is required. However, in accordance with City Council Public Outreach Policy 6-30, a notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the subject property, published in the San Jose Post Record, and posted on the City website. A sign was posted on the subject site. Staff has been available to respond to questions from the public.

This memorandum will be posted on the City's Council Agenda website for the May 20, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

The environmental impacts of this project were addressed by a Mitigated Negative Declaration (MND), adopted by City Council on May 6, 2025.

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Page 6

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

CHRISTOPHER BURTON

Director, Planning, Building and Code
Enforcement

For questions, please contact Ruth Cueto, Principal Planner, Planning, Building and Code Enforcement Department, ruth.cueto@sanjoseca.gov or 408-535-7886.

Attachments:

Exhibit A – Burbank 45 Legal Description

Exhibit B – Burbank 45 Plat Map

Exhibit C – General Plan Land Use/Transportation Diagram

Exhibit D – County Surveyor Report

**EXHIBIT A
ANNEXATION NO.
ANNEXATION TO CITY OF SAN JOSE**

THE LAND REFERRED TO IS SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEING A PORTION OF CLEVELAND AVENUE AND LOT 9 AND ALL OF LOTS 10, 11, 12, AND 13, BLOCK 13 OF THAT CERTAIN MAP ENTITLED "INTERURBAN PARK TRACT" DATED DECEMBER 5, 1904 AND RECORDED IN BOOK K OF MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEASTERN CORNER OF THE AFOREMENTIONED LOT 13, BLOCK 13 OF THAT CERTAIN MAP ENTITLED "INTERURBAN PARK TRACT" DATED DECEMBER 5, 1904 AND RECORDED IN BOOK K OF MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS, SAME BEING THE TRUE POINT OF BEGINNING OF THE BURBANK NO. 40 ANNEXATION TO THE CITY OF SAN JOSE AS DESCRIBED IN RESOLUTION NO. 74505 DATED MAY 20, 2008; FROM WHICH A 3/4" IRON PIPE FOUND BEARS NORTH 89°59'38" WEST, 103.28 FEET, BEING 5 FEET EAST OF THE CENTERLINE OF SAID CLEVELAND;

THENCE ALONG THE NORTHERLY LINE OF WEST SAN CARLOS STREET, (1) NORTH 89°59'38" WEST, 133.28 FEET TO THE WESTERLY RIGHT OF WAY LINE OF CLEVELAND AVENUE;

THENCE ALONG THE WEST LINE OF SAID CLEVELAND AVENUE, (2) NORTH 0°08'17" WEST, 260.03 FEET;

THENCE (3) NORTH 89°51'43" EAST, 50.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 9, SAME BEING THE EASTERLY RIGHT OF WAY LINE OF CLEVELAND AVENUE;

THENCE ALONG THE WEST LINE OF SAID LOT 9, (4) SOUTH 0°08'17" EAST, 22.49 FEET;

THENCE CROSSING SAID LOT 9, (5) SOUTH 89°59'38" EAST, 124.92 FEET TO A POINT ON THE EAST LINE OF SAID LOT 9, SAME BEING THE WEST LINE OF LOT 23;

THENCE ALONG SAID COMMON LINE, (6) SOUTH 0°08'17" EAST, 112.66 FEET TO THE SOUTHERLY LINE OF SAID LOT 11, BLOCK 13 OF SAID INTERURBAN PARK TRACT;

THENCE ALONG SAID SOUTHERLY LINE, (7) NORTH 89°59'38" WEST, 41.63 FEET TO THE EASTERLY LINE OF SAID LOT 13, ALSO BEING THE WESTERLY LINE OF PARCEL 1 OF THAT CERTAIN PARCEL MAP DATED DECEMBER 18, 2009 AND RECORDED IN BOOK 834 OF MAPS, PAGES 50-51, SANTA CLARA COUNTY RECORDS;

THENCE ALONG SAID COMMON LINE, (8) SOUTH 0°08'17" EAST, 125.00 FEET TO THE **POINT OF BEGINNING.**

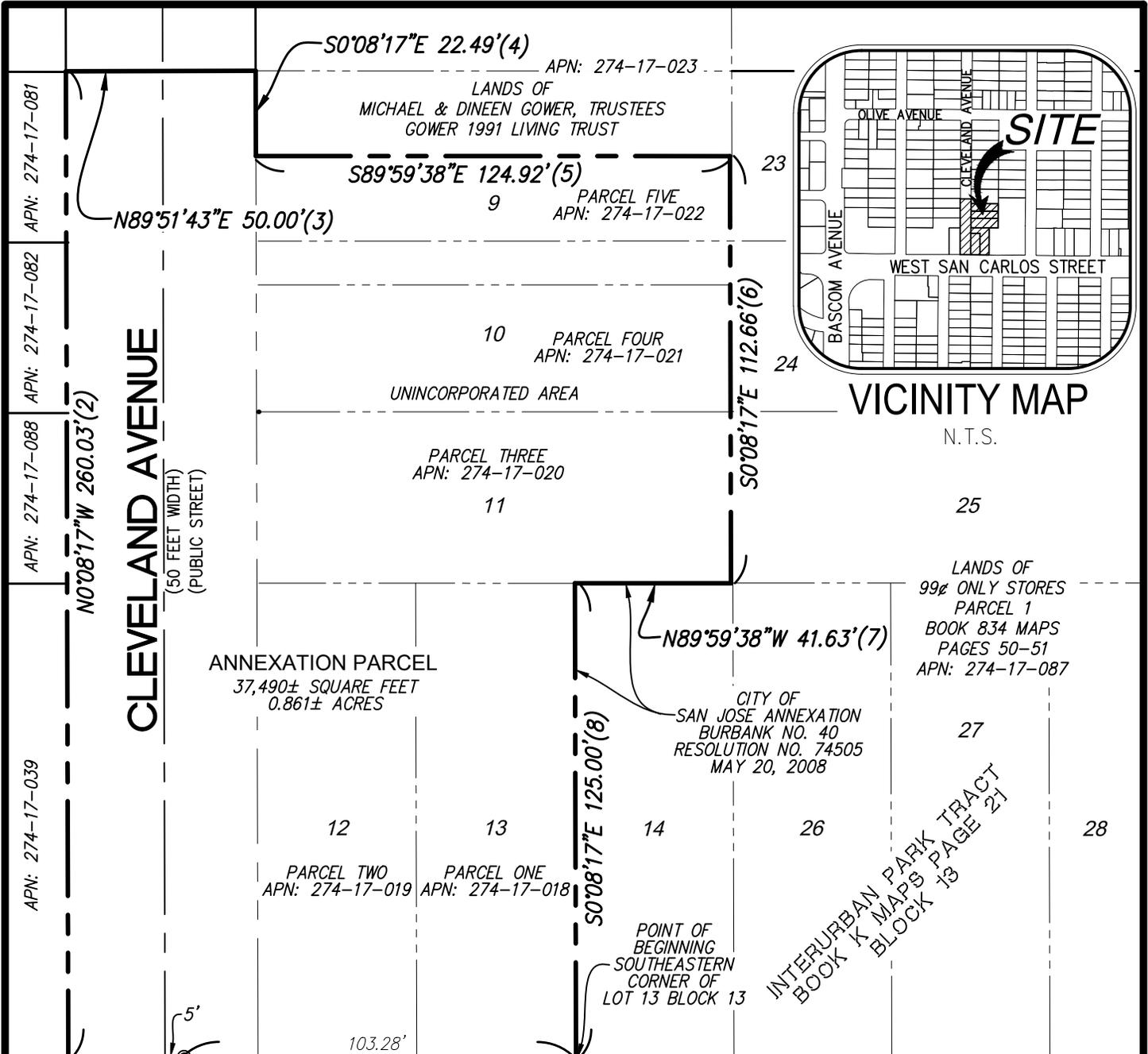
SAID PARCEL AREA CONTAINING 24,485 SQUARE FEET OR 0.562 ACRES, AS SHOWN ON ATTACHED EXHIBIT "B", WHICH BY THIS REFERENCE IS MADE A PART HEREOF.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE CALIFORNIA PROFESSIONAL LAND SURVEYORS ACT.



Kelly S. Johnson, PLS 9126
Date: March 17, 2023





ANNEXATION PARCEL
37,490± SQUARE FEET
0.861± ACRES

CITY OF
SAN JOSE ANNEXATION
BURBANK NO. 40
RESOLUTION NO. 74505
MAY 20, 2008

LANDS OF
99± ONLY STORES
PARCEL 1
BOOK 834 MAPS
PAGES 50-51
APN: 274-17-087

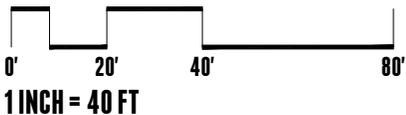
INTERURBAN PARK TRACT
BOOK K MAPS PAGE 21
BLOCK 13

WEST SAN CARLOS STREET
(WIDTH VARIES)
(PUBLIC STREET)



LEGEND

— — — — — PROPERTY LINE
— — — — — CENTERLINE



PLAT TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT B

S:\220561\3_SURVEY\1_MAPPING\0_EXHIBITS\2021-08-14_PLAT_LEGAL_DESCRIPTION\220561-WAHEX-PLAT.dwg



BUILD ON.
SANDIS.NET

DATE : 03/15/2023
SCALE : 1"=40'
DRAWN BY: WAH
APPROVED BY: NBB
DRAWING NO.: 220561

OVERALL PARCEL & RIGHT
OF WAY ANNEXATION
SAN JOSE CA

SHEET
1
OF 1 SHEETS

220561-MAPCHECK
ANNEXATION PARCEL

Survey Tech: Wayne Holland

Closure Summary

Precision, 1 part in: 74427.01'

Error distance: 0.01'

Error direction: N60°12'21"E

Area: 37489.79 Sq. Ft.

Square area: 37489.789

Perimeter: 870.01'

Point of Beginning

Easting: 5193.5461'

Northing: 1989.3279'

Side 1: Line

Direction: N89°59'38"W

Angle: [90°00'22"]

Deflection angle: [-89°59'38"]

Distance: 133.28'

Easting: 5060.2661'

Northing: 1989.3422'

Side 2: Line

Direction: N0°08'17"W

Angle: [-90°08'39"]

Deflection angle: [89°51'21"]

Distance: 260.03'

Easting: 5059.6396'

Northing: 2249.3714'

Side 3: Line

Direction: N89°51'43"E
Angle: [-90°00'00"]
Deflection angle: [90°00'00"]
Distance: 50.00'
Easting: 5109.6394'
Northing: 2249.4919'

Side 4: Line

Direction: S0°08'17"E
Angle: [-90°00'00"]
Deflection angle: [90°00'00"]
Distance: 22.49'
Easting: 5109.6936'
Northing: 2227.0019'

Side 5: Line

Direction: S89°59'38"E
Angle: [90°08'39"]
Deflection angle: [-89°51'21"]
Distance: 124.92'
Easting: 5234.6136'
Northing: 2226.9886'

Side 6: Line

Direction: S0°08'17"E
Angle: [-90°08'39"]
Deflection angle: [89°51'21"]
Distance: 112.66'
Easting: 5234.8851'
Northing: 2114.3290'

Side 7: Line

Direction: N89°59'38"W

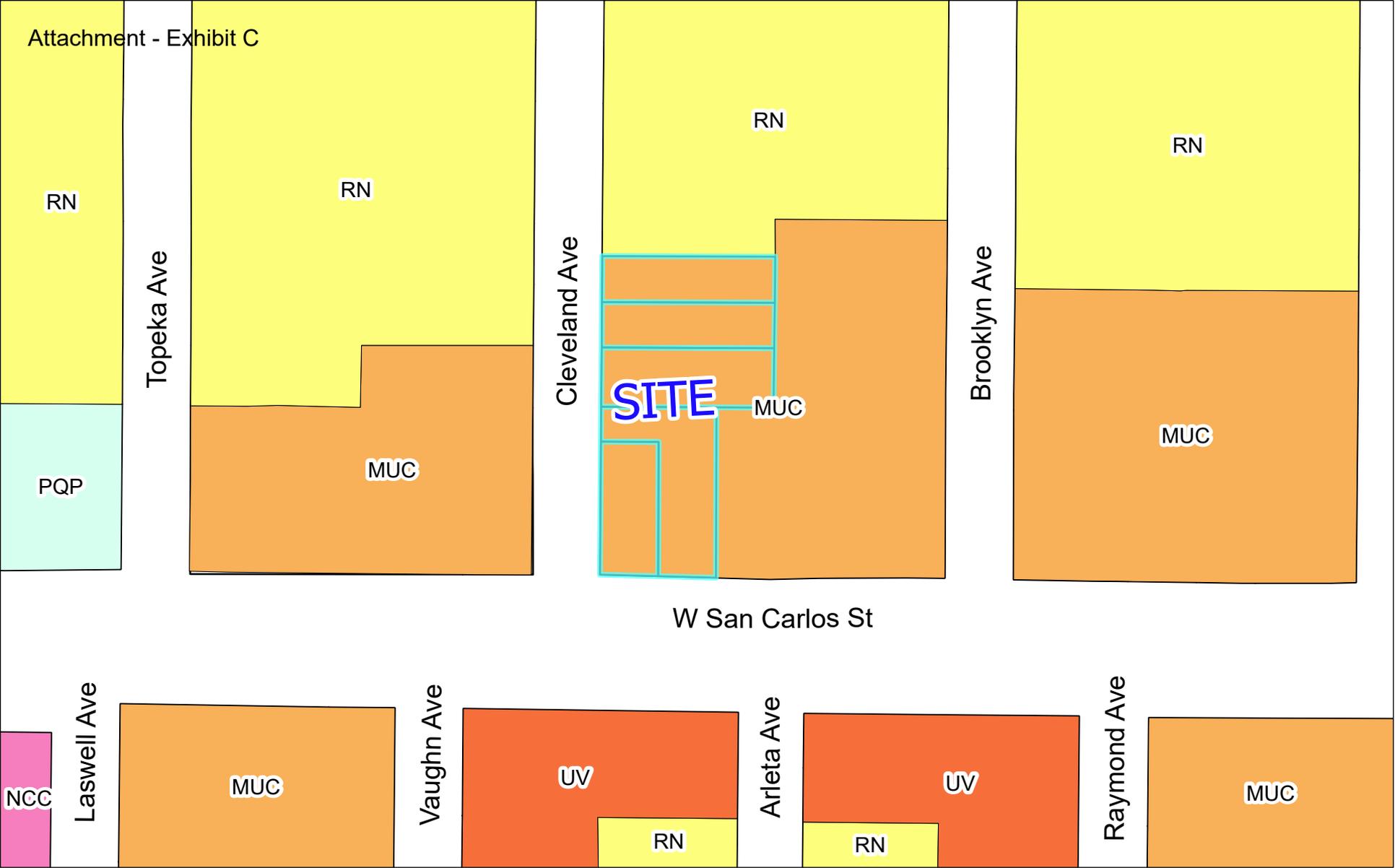


Angle: [-89°51'21"]
Deflection angle: [90°08'39"]
Distance: 41.63'
Easting: 5193.2551'
Northing: 2114.3334'

Side 8: Line

Direction: S0°08'17"E
Angle: [89°51'21"]
Deflection angle: [-90°08'39"]
Distance: 125.00'
Easting: 5193.5563'
Northing: 1989.3338'.0054'

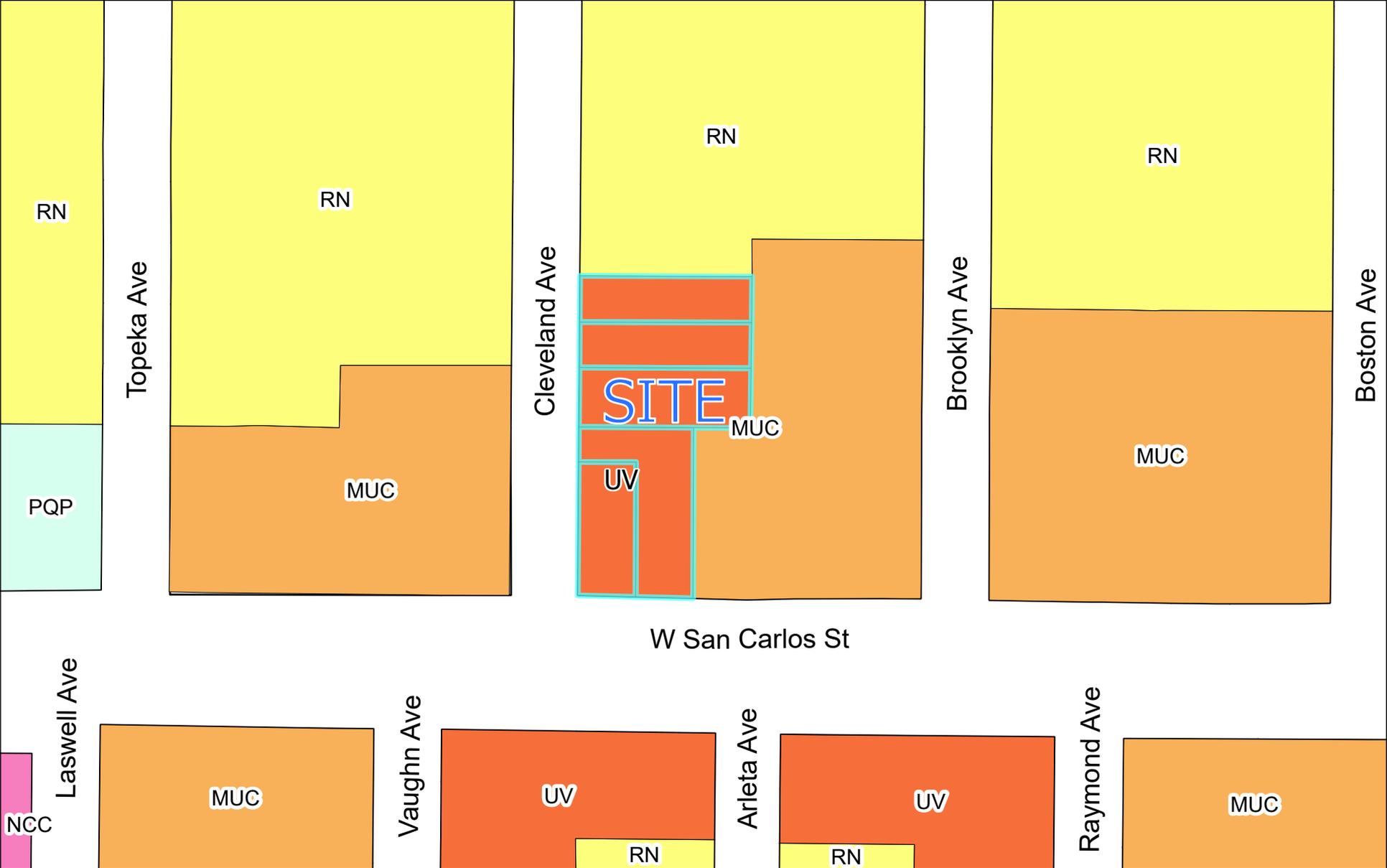




File No: GP23-001
District: 6

GENERAL PLAN





File No: GP23-001
District: 6

PROPOSED GP DESIGNATION



County of Santa Clara

Planning and Development

Office of the County Surveyor

County Government Center

70 West Hedding Street, E. Wing, 7th Floor

San Jose, California 95110

(408) 299-5730



June 5, 2023

Maira Blanco

Planner

City of San Jose, Planning Division

200 East Santa Clara Street,

San Jose, CA 95113

Maira.Blanco@sanjoseca.gov 408-535-7837

SUBJECT: Burbank No. 45 Annexation

Dear Maira Blanco:

The attached revised map and description dated May 22, 2023 of territory proposed for annexation to the City of San Jose entitled **Burbank No. 45** is in accordance with Government Code Section 56757 (c) (2). The boundaries of said territory are definite and certain. The proposal is in compliance with the Local Agency Formation Commission's road annexation policies.

Sincerely,

Jeremy Koenig, PLS

Deputy County Surveyor

Date: 6/5/2023



Attachments: legal description, plat, GIS exhibit

cc: LAFCO Executive Officer (w/attachment)

County Assessor's Office (w/attachment)

EXHIBIT A
BURBANK NO. 45
ANNEXATION TO CITY OF SAN JOSE
GEOGRAPHIC DESCRIPTION

THE LAND REFERRED TO IS SITUATED IN A PORTION OF RANCHO DE LOS COCHES IN THE UNINCORPORATED AREA OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEING A PORTION OF CLEVELAND AVENUE AND LOT 9 AND ALL OF LOTS 10, 11, 12, AND 13, BLOCK 13 OF THAT CERTAIN MAP ENTITLED "INTERURBAN PARK TRACT" DATED DECEMBER 5, 1904 AND RECORDED IN BOOK K OF MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEASTERN CORNER OF THE AFOREMENTIONED LOT 13, BLOCK 13 OF THAT CERTAIN MAP ENTITLED "INTERURBAN PARK TRACT" DATED DECEMBER 5, 1904 AND RECORDED IN BOOK K OF MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS, SAME BEING THE TRUE POINT OF BEGINNING OF THE BURBANK NO. 40 ANNEXATION TO THE CITY OF SAN JOSE AS DESCRIBED IN RESOLUTION NO. 74505 DATED SEPTEMBER 8, 2008; FROM WHICH A 3/4" IRON PIPE FOUND BEARS NORTH 89°59'38" WEST, 103.28 FEET, BEING 5 FEET EAST OF THE CENTERLINE OF SAID CLEVELAND;

THENCE (1) ALONG THE LINE OF SAID BURBANK NO. 40 ANNEXATION AND THE NORTHERLY LINE OF WEST SAN CARLOS STREET, NORTH 89°59'38" WEST, 133.28 FEET TO THE WESTERLY RIGHT OF WAY LINE OF CLEVELAND AVENUE;

THENCE (2) LEAVING SAID BURBANK NO. 40 ANNEXATION AND ALONG THE WEST LINE OF SAID CLEVELAND AVENUE, NORTH 0°08'17" WEST, 305.00 FEET;

THENCE (3) NORTH 89°51'43" EAST, 50.00 FEET TO THE NORTHWESTERLY CORNER OF LOT 8 OF THAT CERTAIN MAP ENTITLED "INTERURBAN PARK TRACT" DATED DECEMBER 5, 1904 AND RECORDED IN BOOK K OF MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS, SAME BEING THE EASTERLY RIGHT OF WAY LINE OF CLEVELAND AVENUE;

THENCE (4) ALONG THE EASTERLY LINE OF SAID CLEVELAND AVENUE, SOUTH 0°08'17" EAST, 67.50 FEET;

THENCE (5) CROSSING SAID LOT 9, SOUTH 89°59'38" EAST, 124.92 FEET TO A POINT ON THE LINE OF SAID BURBANK NO. 40 ANNEXATION AND THE EAST LINE OF SAID LOT 9, SAME BEING THE WEST LINE OF LOT 23;

THENCE (6) ALONG SAID COMMON LINE, SOUTH 0°08'17" EAST, 112.66 FEET TO THE SOUTHERLY LINE OF SAID LOT 11, BLOCK 13 OF SAID INTERURBAN PARK TRACT;

THENCE (7) ALONG SAID SOUTHERLY LINE, NORTH 89°59'38" WEST, 41.63 FEET TO THE EASTERLY LINE OF SAID LOT 13, ALSO BEING THE WESTERLY LINE OF PARCEL 1 OF THAT CERTAIN PARCEL MAP DATED DECEMBER 18, 2009 AND RECORDED IN BOOK 834 OF MAPS, PAGES 50-51, SANTA CLARA COUNTY RECORDS;

THENCE (8) ALONG SAID COMMON LINE, SOUTH 0°08'17" EAST, 125.00 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL AREA CONTAINING 39,735 SQUARE FEET OR 0.912 ACRES, AS SHOWN ON ATTACHED EXHIBIT "B", WHICH BY THIS REFERENCE IS MADE A PART HEREOF.

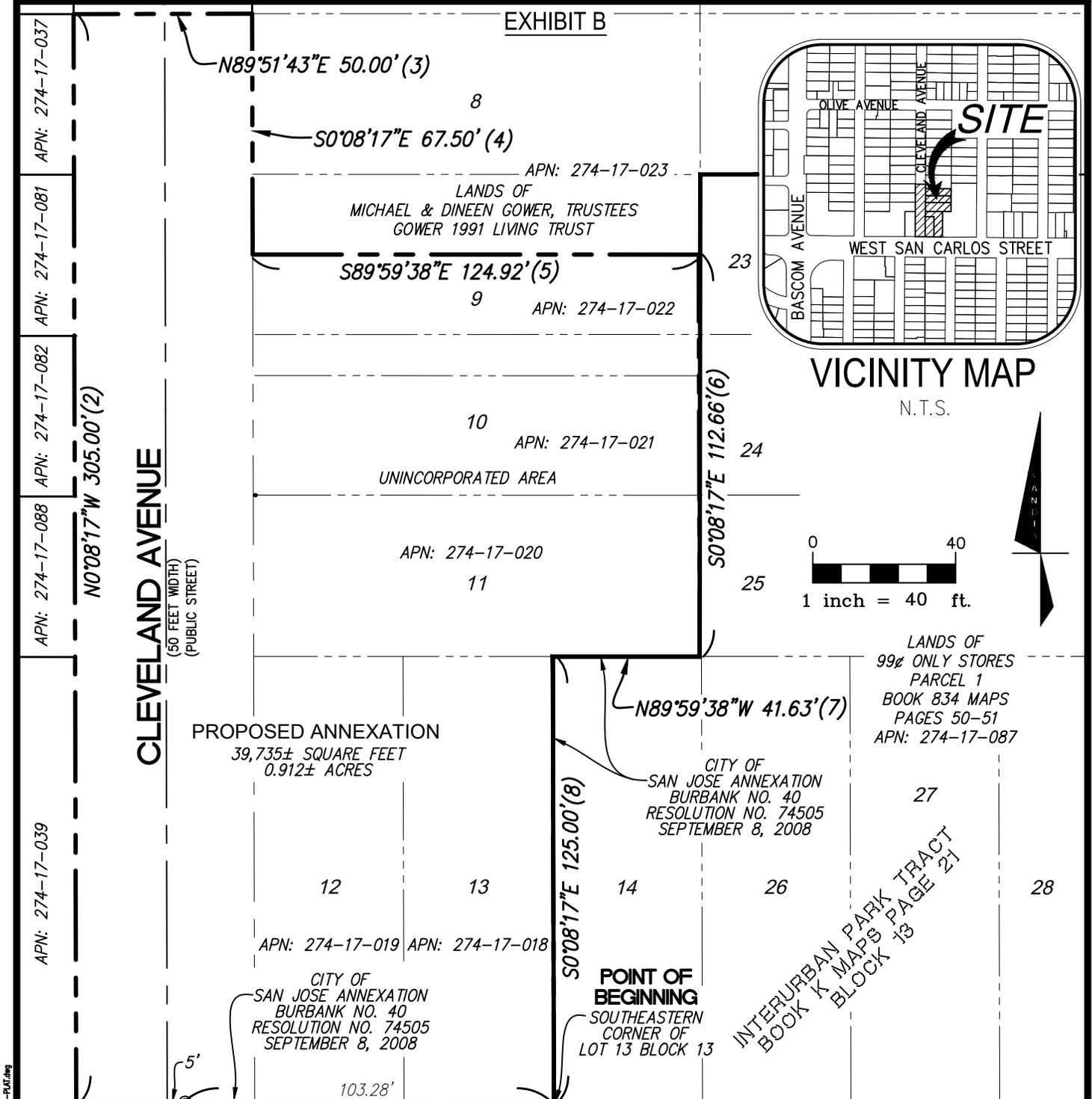
THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE CALIFORNIA PROFESSIONAL LAND SURVEYORS ACT.

FOR ASSESSMENT PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS OF AN OFFER FOR SALE OF THE LAND DESCRIBED.

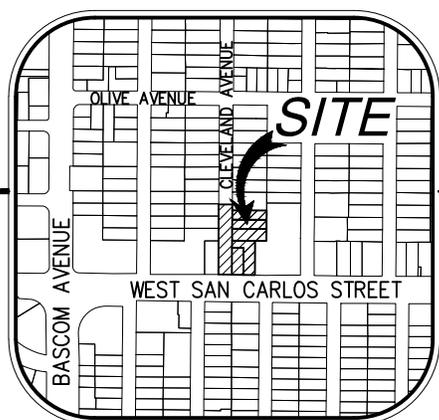


Kelly S. Johnson, PLS 9126
Date: May 22, 2023

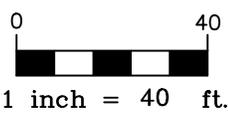




CLEVELAND AVENUE
(50 FEET WIDTH)
(PUBLIC STREET)



VICINITY MAP
N.T.S.



LANDS OF
99% ONLY STORES
PARCEL 1
BOOK 834 MAPS
PAGES 50-51
APN: 274-17-087

INTERURBAN PARK TRACT
BOOK X MAPS PAGE 21
BLOCK 13



WEST SAN CARLOS STREET
(WIDTH VARIES)
(PUBLIC STREET)

LEGEND

- PROPOSED ANNEXATION CENTERLINE
- ORIGINAL LOT LINES

ACREAGE: 0.912 ASSESSOR'S PARCEL NUMBERS: 274-17-018, 019, 020, 021, 022

FOR ASSESSMENT PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS OF AN OFFER FOR SALE OF THE LAND DESCRIBED.



BUILD ON.
SANDIS.NET

DATE : 05/22/2023
SCALE : 1"=40'
DRAWN BY: WAH
APPROVED BY: NBB
DRAWING NO.: 220561

BURBANK NO. 45
BEING A PORTION OF RANCHO DE
LOS COCHES
SANTA CLARA COUNTY
SAN JOSE CA

SHEET
1
OF 1 SHEETS



Burbank No. 45

San Jose



County of Santa Clara
 Department of Planning and Development
 County Government Center, East Wing
 70 West Hedding St., 7th Floor
 San Jose, California 95110

EXHIBIT A
Burbank No. 45
0.912 acres +/-

Prepared for the Office of the County Surveyor
 June 09, 2023
 August Hanks, County Surveyor

-  Area of Annexation
-  Incorporated Lands
-  Unincorporated Lands

