



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: December 17, 2020

Approved

Date

12/17/20

COUNCIL DISTRICT: 5

SUBJECT: STORY NO. 69. REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF AN APPROXIMATELY 0.99-GROSS ACRE PORTION OF COUNTY TERRITORY CONSISTING OF ONE (1) LOT GENERALLY LOCATED APPROXIMATELY 50 FEET SOUTH OF THE SOUTHEAST CORNER OF FLEMING AVENUE AND NOB HILL DRIVE.

RECOMMENDATION

Adopt a resolution ordering the reorganization of territory designated as Story No. 69 which involves the annexation to the City of San José of approximately 0.99 gross acres of land generally located approximately 50 feet south of the southeast corner of Fleming Avenue and Nob Hill Drive, and the detachment of the same from the appropriate special districts including Santa Clara County Central Fire Protection District, Santa Clara County Sanitation District 2-3, and Santa Clara County Library Services.

OUTCOME

Upon completion of the annexation/reorganization proceedings, the territory designated as Story No. 69 will be annexed into the City of San José and eligible to receive City services.

BACKGROUND

On December 15, 2020, the City Council adopted Ordinance No. 30508, a prezoning (File No. C20-004) to the R-1-8 Single-Family Residence Zoning District for the subject property. The prezoning designation is a required process prior to the approval of an annexation, and the zoning becomes effective upon annexation of the property into the City. City Council action on December 15, 2020, also included the adoption of a resolution initiating proceedings for 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 use permit. These criteria of the Santa Clara County Zoning Ordinance align with Santa Clara County Local Area Formation Commission (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.

Site and Surrounding Land Uses

The site is located on the south side of Fleming Avenue, approximately 50 feet south of the southeast corner of Fleming Avenue and Nob Hill Drive, and is surrounded by single-family residences to the north, south, east, and west.

ANALYSIS

The subject property is within the Urban Service Area of the City of San José, and is also contiguous to property to the south that is within City limits (775 Fleming Avenue, Assessor's Parcel Number 601-40-028). The parcels shown in white on the attached Zoning Map (Exhibit "C") are located within unincorporated Santa Clara County. No development applications are on file for the subject site.

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 Local Agency Formation Commission (LAFCO) review. Pursuant to this code section, the City Council is required to make certain findings as listed below. Staff's analysis follows each finding.

1. The unincorporated territory is within the City's Urban Service Area as adopted by LAFCO.

The site is located within the City's Urban Service Area as shown on the Envision San Jose 2040 General Plan Land Use / Transportation Diagram.

2. 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 reorganization as definite and certain on October 19, 2020.

3. The proposal does not split lines of assessment or ownership.

The subject parcel is being reorganized in its entirety. No lines of assessment or ownership will be split.

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

The site is contiguous to City of San Jose territory to the north and east. No such islands will be created with this annexation.

5. The proposal is consistent with the City's adopted General Plan.

The proposal is consistent with the Envision San Jose 2040 General Plan goals and policies in that it directs urban development to areas within the Urban Service Area and within city boundaries, and the subject site is within the Urban Service Area and Urban Growth Boundary. The proposal is also consistent with the underlying Residential Neighborhood land use designation of the 2040 General Plan Land Use / Transportation Diagram.

6. The territory is contiguous to existing City limits.

The area proposed for reorganization is contiguous to the City limits along the north and east boundaries as shown on the attached Plat Map (Exhibit "B").

7. The City has complied with all conditions imposed by the Commission for inclusion of the territory in the City's Urban Service Area as follows:

On March 6, 2020, the City of San Jose informed LAFCO of its intent to annex the subject territory. To date, the City has received no conditions of approval from LAFCO with respect to the subject annexation. Furthermore, on April 2, 2020, the City advised the following applicable special districts, from which the territory would be detached, of its intent to annex the subject property: Santa Clara County Central Fire Protection District, Santa Clara County Sanitation District 2-3, and Santa Clara County Library Services. To date, the City has received no objections from said districts to the proposed annexation.

CONCLUSION

Upon completion of the annexation/reorganization proceedings, the territory designated as Story No. 69 will be annexed into the City of San José and eligible to receive City services.

CLIMATE SMART SAN JOSÉ

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

EVALUATION AND FOLLOW-UP

Upon obtainment of LAFCO's certification of the proposed annexation, the approximately 0.99-gross acre area of unincorporated Santa Clara County designated as Story No. 69 will be within the incorporated area of the City of San José and eligible to receive City services.

PUBLIC OUTREACH/INTEREST

This item is being conducted in accordance with Section 56662(a) of the California Government Code for annexations that have consent of all landowners and for which no public hearing or notice is required. However, in accordance with the 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 500 feet of the subject property and posted on the City website. Staff has been available to respond to questions from the public.

COORDINATION

This project was coordinated with Santa Clara County LAFCO and the City Attorney's Office.

CEQA

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the annexation is consistent with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617).

/s/

ROSALYNN HUGHEY, Director
Planning, Building and Code Enforcement

For questions please contact Robert Manford, Deputy Director, at 408-535-7900.

Attachments: Exhibit A – Legal Description
Exhibit B – Annexation Plat Map
Exhibit C – Zoning Map
Exhibit D – Draft Resolution

EXHIBIT "A"
GEOGRAPHIC DESCRIPTION

All that certain real property, situated in Pueblo Tract No. 1 of the Pueblo Lands of the City of San Jose, in the County of Santa Clara, State of California, described as follows:

Being a portion of Parcel One as described in the Grant Deed from Fleming Avenue Development, LLC, a Delaware limited liability company to Secured Asset Fund Corporation, a California corporation as to an undivided 90% interest and Ninh M. Le, as an unmarried man as to an undivided 10% interest, recorded June 1, 2017 under Document Number 23662718, Official Records of Santa Clara County, State of California, and more particularly described as follows:

BEGINNING at the point of intersection of the southeasterly line of said Parcel One so conveyed to Secured Asset Fund Corporation, with the southwesterly Right-of-Way line of Fleming Avenue (40 feet wide), said POINT OF BEGINNING lying upon the San Jose City Limits line, as established by City's annexation Story No. 1-B and Story No. 48;

Thence leaving said point of beginning, (1) South 54°15'00" West, 244.56 feet along said City Limits, as established by Story No. 1-B Annexation and along the southeasterly line of said Parcel One described in said Grant Deed;

Thence leaving said City Limits and continuing along said Parcel One described in said Grant Deed, (2) North 66°29'41" West, 151.81 feet;

Thence along said Parcel One described in said Grant Deed, (3) North 34°18'45" East, 75.38 feet;

Thence along said Parcel One described in said Grant Deed, (4) North 59°02'45" East, 226.83 feet to the southwesterly line of Fleming Avenue (40 feet wide) and City Limits as established by Story No. 48 Annexation;

Thence along said southwesterly line of Fleming Avenue and City Limits as established by Story No. 48 Annexation, (5) South 46°11'15" East, 139.53 feet to the POINT OF BEGINNING.

The above described parcel of land contains 0.92 acre, more or less.

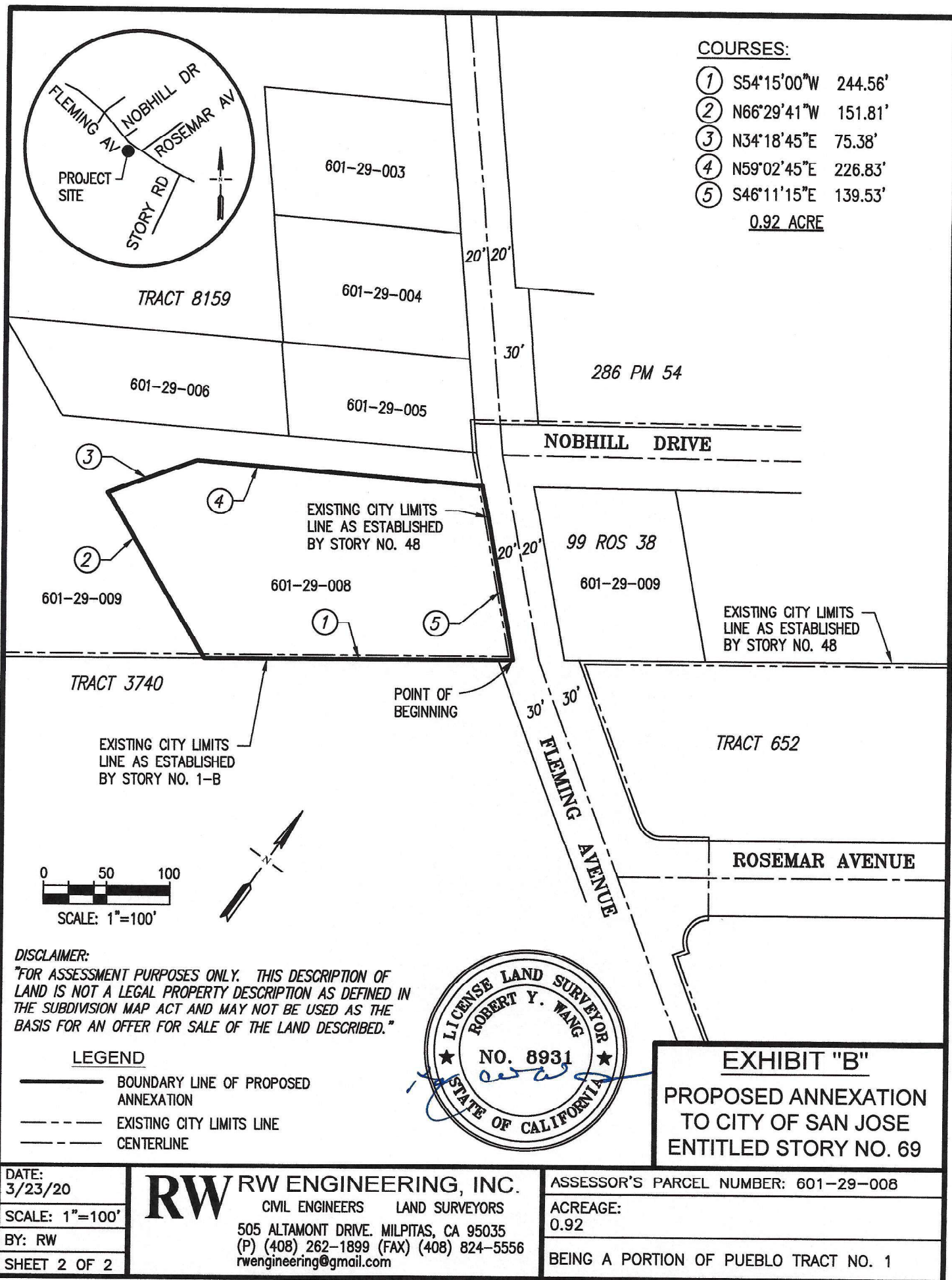
For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

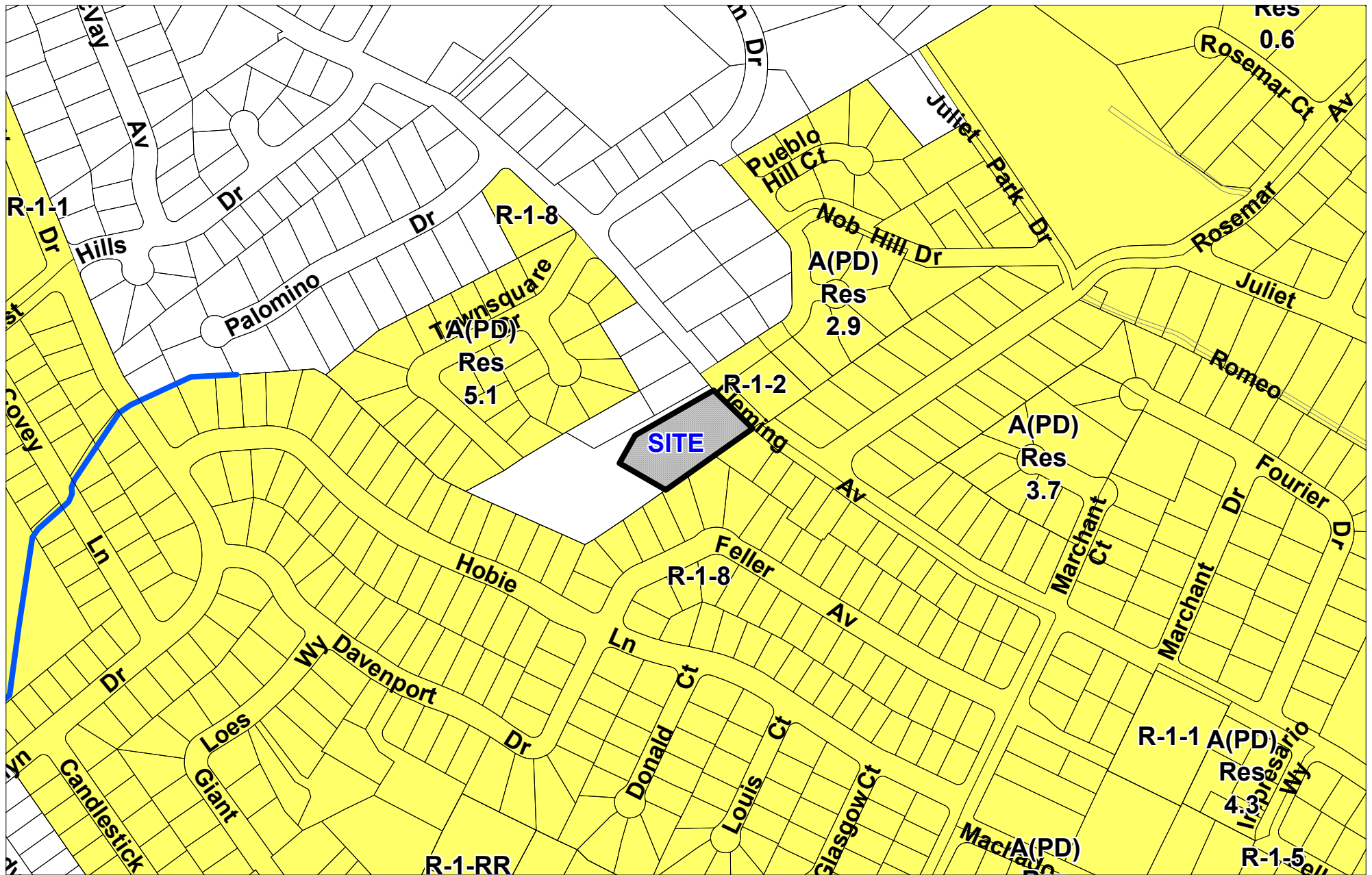


COURSES:

- ① S54°15'00"W 244.56'
- ② N66°29'41"W 151.81'
- ③ N34°18'45"E 75.38'
- ④ N59°02'45"E 226.83'
- ⑤ S46°11'15"E 139.53'

0.92 ACRE





File No: C20-004 & STORY 69

District: 5

Zoning



Prepared by the Department of Planning,
Building and Code Enforcement
12/02/2010

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ORDERING THE REORGANIZATION OF CERTAIN UNINHABITED AND UNINCORPORATED TERRITORY DESIGNATED AS STORY NO. 69, SUBJECT TO LIABILITY FOR GENERAL INDEBTEDNESS OF THE CITY

WHEREAS, the City of San José desires to order proceedings, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, as the same may be amended from time to time, of the annexation of territory designated as Story No. 69 to the City of San José, and the detachment of certain territory from Santa Clara County Central Fire Protection District, Santa Clara County Sanitation District 2-3, and Santa Clara County Library Services; and

WHEREAS, this proposal includes an annexation to the City of San José of certain unincorporated territory located within the County of Santa Clara and within the Urban Service Area of said City which is not subject to review by the Local Agency Formation Commission as provided under Section 56757 of the California Government Code; and

WHEREAS, such territory is known by the short form designation of “**Story No. 69**,” and a description of the boundaries of this territory is set forth in Exhibit “A” attached hereto and incorporated herein by this reference, which description is subject to correction or revision as required; and

WHEREAS, a map showing the location of such territory is attached hereto as Exhibit “B” and incorporated herein by this reference; and

WHEREAS, the subject real property, comprising of approximately 0.99 acres located on the north side of Story Road, approximately 50 feet south of the southeast corner of

Fleming Avenue and Nob Hill Drive (APN 601-29-008), is contiguous to the City of San José and is within the City's Urban Service Area; and

WHEREAS, the subject property currently is receiving or will receive the following benefits from the City, to wit: all municipal services, not limited to street maintenance, street light, law enforcement, sanitary sewer, code enforcement, street sweeping, garbage collection, and fire protection; and

WHEREAS, this territory was considered for pre-zoning to R-1-8 Single-Family Residence Zoning District (under File No. C20-004) on December 15, 2020 (Ordinance No. 30508) and will be so zoned upon its annexation to the City of San José in accordance with Section 20.120.300 of the Zoning Ordinance (Title 20 of the San José Municipal Code); and

WHEREAS, the City of San José is the Lead Agency for environmental review for the reorganization known as "**Story No. 69**" under the California Environmental Quality Act of 1970, as amended ("CEQA"); and

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the annexation is consistent with Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617); and

WHEREAS, the County Surveyor of Santa Clara County has found the real property description of the subject property and the map of the subject property (Exhibits "A" and "B," respectively) to be in accordance with California Government Code Section 56757,

the boundaries to be definite and certain, and the proposal to be in compliance with the County's Local Agency Formation Commission's annexation policies; and

WHEREAS, as provided in Government Code Section 56757, the City Council of the City of San José shall be the conducting authority for a reorganization to the City, and the City Council by this resolution is proposing the reorganization described in this Resolution; and

WHEREAS, as the territory is uninhabited, and all owners of land included in this proposal have consented to this annexation; and

WHEREAS, Government Code Section 56662 provides that if a proposal for an annexation is accompanied by proof that all owners of land within the affected territory have given their written consent the City Council may approve or disapprove the annexation without public hearing; and

WHEREAS, this proposal is consistent with the sphere of influence of the City of San José; and

WHEREAS, the reason for the proposed reorganization is as follows: to annex the subject territory and detach the same from special districts to eliminate a duplication of services; and

WHEREAS, evidence pertaining to the proposed reorganization was presented to the City Council at the City Council's public hearings on this matter; and

WHEREAS, the following facts pertain to the findings required by the Council in accordance with Government Code Section 56757:

1. The unincorporated territory proposed for reorganization is within the City's Urban Service Area, as adopted by the Santa Clara Local Agency Formation Commission.
2. The County Surveyor has determined the boundaries of the proposed reorganization to be definite and certain, and in compliance with the Santa Clara County Local Agency Formation Commission's road annexation policies.
3. The proposal does not split lines of assessment or ownership in that all affected parcels are being organized in their entirety.
4. The proposal does not create islands or areas in which it would be difficult to provide municipal services in that the completion of reorganization proceedings would result in the reduction in size of a county pocket of unincorporated territory.
5. The proposal is consistent with the City's adopted General Plan in that existing and future urban development should be located within cities.
6. The territory is contiguous to existing City limits.
7. The City has complied with all conditions imposed by the Local Agency Formation Commission for inclusion of the territory in the City's Urban Service Area as follows: On March 6 2020, the City of San José informed LAFCO of its intent to annex the subject territory. To date, the City has received no conditions of approval from LAFCO with respect to the subject annexation. Furthermore, on April 2, 2020, the City advised the following applicable special districts, from which the territory would be detached, of its intent to annex the subject property: Santa Clara County Central Fire Protection District, Santa Clara County Sanitation District 2-3, and Santa Clara County Library Services. To date, the City has received no objections from said districts to the proposed annexation.
8. The pre-zoning designation on the subject territory is R-1-8 Single-Family Residence Zoning District (File No. C20-004) inasmuch as the City Council on December 15, 2020 enacted an ordinance so pre-zoning the subject territory (Ordinance No. 30508).

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

1. That it is the conducting authority pursuant to Section 56757 of the California Government Code for the annexation of property designated "**Story No. 69,**" more particularly described in Exhibit "A" and more particularly shown upon that certain

map attached hereto as Exhibit “B”, both of which exhibits are incorporated herein by this reference;

2. That the following findings are made by the City Council for the City of San José:
 - a. That said territory is uninhabited (per California Government Code Section 65046, territory within which fewer than 12 registered voters reside) and comprises approximately 0.99 gross acres.
 - b. That the annexation is consistent with the orderly annexation of territory within the City’s urban service area and is consistent with the City policy for annexation when providing City services.
 - c. The City of San José has determined that the proposed annexation is consistent with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617).
 - d. That the subject territory will be zoned R-1-8 Single-Family Residence Zoning District within the City of San José immediately upon annexation in accordance with Section 20.120.110 of Chapter 20.120 of Title 20 (Zoning Ordinance) of the San José Municipal Code.
 - e. That the territory is within the City’s urban service area as adopted by the Local Agency Formation Commission of Santa Clara County.
 - f. That the County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Local Agency Formation Commission’s road annexation policies.
 - g. That the proposed annexation does not split lines of assessment or ownership.
 - h. That the proposed annexation is consistent with the City’s General Plan.
 - i. That the territory to be annexed is contiguous to existing City limits.
 - j. That the City has complied with all conditions imposed by the Local Agency Formation Commission for inclusion of the territory in the City’s urban service area. On March 6 2020, the City of San José informed LAFCO of its intent to annex the subject territory. To date, the City has received no conditions of approval from LAFCO with respect to the subject annexation. Furthermore,

on April 2, 2020, the City advised the following applicable special districts, from which the territory would be detached, of its intent to annex the subject property: Santa Clara County Central Fire Protection District, Santa Clara County Sanitation District 2-3, and Santa Clara County Library Services. To date, the City has received no objections from said districts to the proposed annexation.

3. That all affected local agencies that will gain or lose territory as a result of this reorganization have not submitted written opposition to the waiver of protest proceedings.
4. That all property owners have been provided written notice of this proceeding and no opposition has been received.
5. That said annexation is hereby ordered without any further protest of these reorganization proceedings pursuant to Section 56662(c) and (d) and is subject to the following additional terms and conditions: None.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory reorganized will be taxed on the regular County assessment roll, including taxes for existing bonded indebtedness, and that the City Council hereby takes the additional following actions:

1. The City Council hereby orders the territory designated as **Story No. 69** reorganized to include the following changes of organization: (a) the designated territory **Story No. 69** is detached from Santa Clara County Central Fire Protection District, Santa Clara County Sanitation District 2-3, and Santa Clara County Library Services; and (b) the designated territory **Story No. 69** is annexed into the City of San José. The City of San José, as conducting authority, reorganized such territory as indicated above, it being found and concurred in that the territory involved in the reorganization is uninhabited and all the owners of land within the territory have filed a written petition for the City Council to initiate said reorganization.
2. The City Council further hereby describes the exterior boundaries of the territory reorganized as all that real property in the County of Santa Clara, State of California, described in Exhibit "A" and depicted in Exhibit "B," attached hereto and incorporated herein by this reference.

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ADOPTED this ____ day of _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk