

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**

File No. C20-004

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 acre 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 (Exhibit "C").
 - 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.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

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;

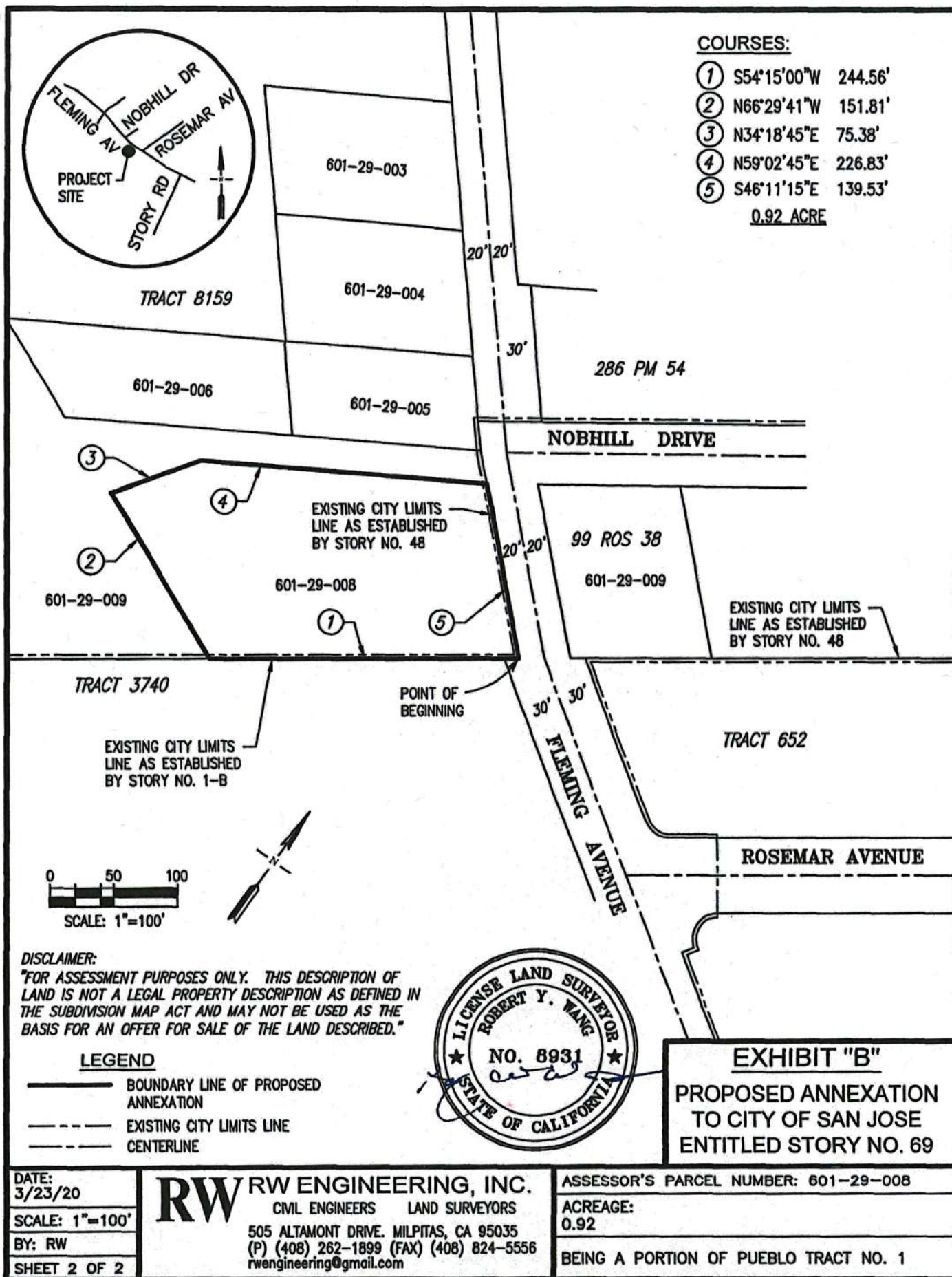
Thence along said Parcel One described in said Grant Deed, (4) North 59°02'45" East, 226.83 feet to the southwesterly line of Fleming Avenue (40 feet wide) and City Limits as established by Story No. 48 Annexation;

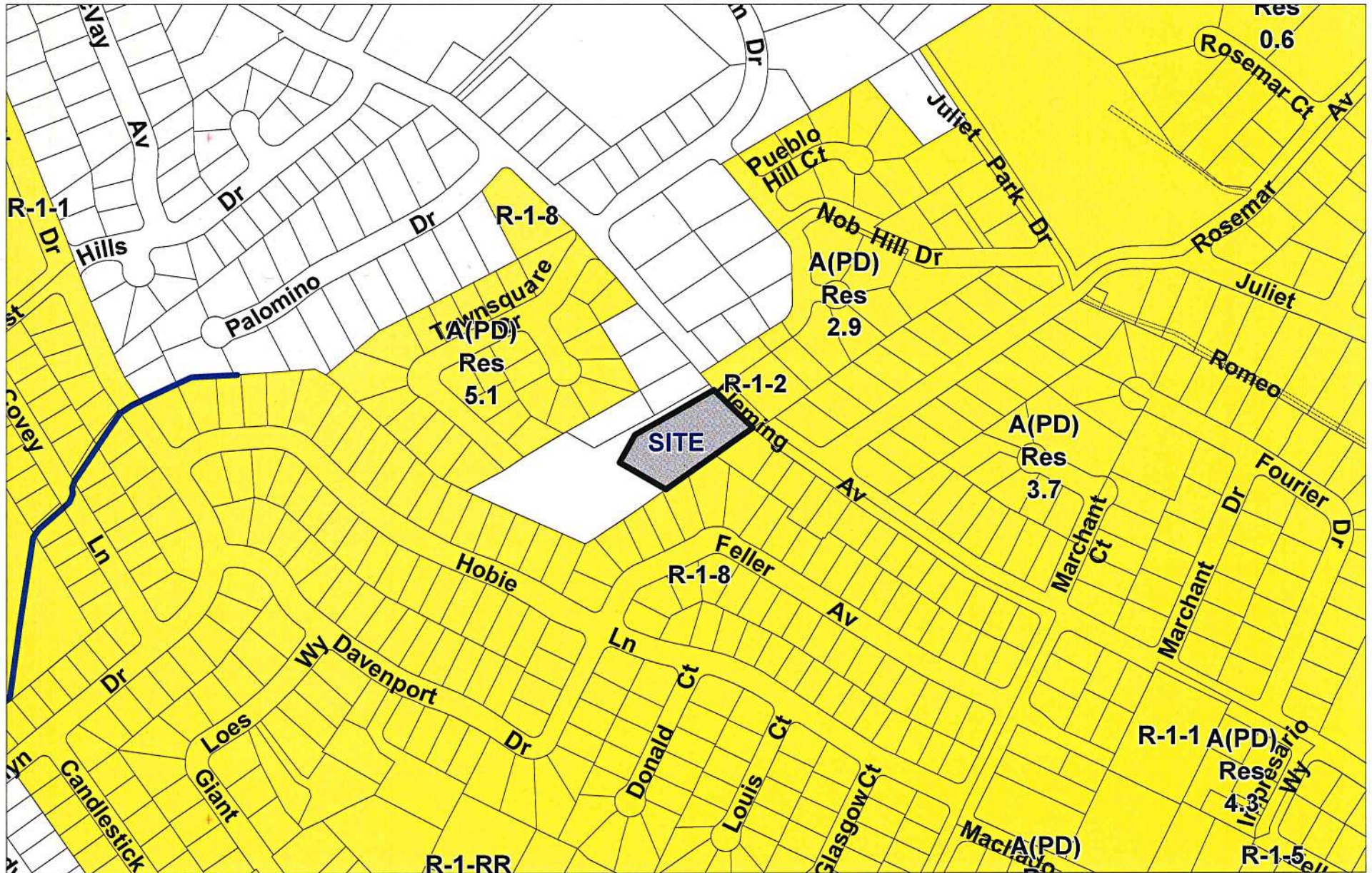
Thence along said southwesterly line of Fleming Avenue and City Limits as established by Story No. 48 Annexation, (5) South 46°11'15" East, 139.53 feet to the POINT OF BEGINNING.

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.







File No: C20-004 & STORY 69
District: 5

Zoning



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

EXHIBIT "C" (File No. C20-004)