



COUNCIL AGENDA: 09-13-05
ITEM: 2.11(a)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

**SUBJECT: DEDICATION ACCEPTANCE OF
QUITO ROAD RIGHT OF WAY**

DATE: 08-24-05

Approved

Date

8/31/05

Council District: 1

RECOMMENDATION

It is recommended that the City Council adopt a resolution rescinding a prior rejection of an offer of dedication of an easement for right of way purposes, and accepting the dedication for a portion of Quito Road and Paseo Olivos in Tract No. 1298, pursuant to Government Code Section 66477.2, and authorizing the Director of Public Works to file a Certificate of Acceptance with the County Recorder's Office and execute all documents necessary to accept the offer of dedication.

CEQA: Exempt, PP05-070.

BACKGROUND

Quito Road is an arterial street between Saratoga Avenue and Bucknall Road that runs north to south and maintains significant bicycle and vehicular traffic volume.

The east side of Quito Road south of Northlawn Avenue to 200' south of Paseo Olivos is unimproved and needs to be widened to three lanes of vehicular traffic. The project will provide improvements to enhance pedestrian, bicycle and traffic circulation and public safety for the traveling public. The project includes the construction of curb, gutter, sidewalk and driveways and installation of drainage system, street trees, pavement restoration, upgrading of the street light system and traffic signal modification. Upon completion, this segment of the roadway will accommodate one lane of traffic in each direction, a center turning lane, new sidewalk and bicycle lanes on both sides of Quito Road.

The purpose of this action is to accept an outstanding offer of dedication of roadway that appears to have been inadvertently omitted from proper dedication. Under the Subdivision Map Act, outstanding offers of dedication may be accepted at any time, if the procedures prescribed in the Government Code are followed.

ANALYSIS

The original subdivider, Mr. Robertson, recorded Tract No. 1298 in 1954 at a time when this area was unincorporated. The recorded map offered to dedicate a portion of Quito Road and Paseo Olivos right of way to the County, but the County Board of Supervisors rejected the dedication at the time the map was recorded. The City annexed the Bucknall Tract on August 15, 1957, and this tract included that portion of Quito Road and Paseo Olivos that the County previously rejected for right-of-way dedication. Although the County accepted the remaining portion of Paseo Olivos on March 16, 1964, this dedication was ineffective as to those portions of Quito Road and Paseo Olivos at issue for the current project, which by then had been annexed to the City. In effect, a small area of the roadway was isolated from any formal acceptance of the offer of dedication due to the chain of events.

To correct this technical oversight, under Government Code Section 66477.2, the City may now accept the offer of dedication, which has remained open, as this right-of-way has never been sold to a third party. All parties having access to the roadway have quitclaimed their interest in the vicinity of the roadway. The City must accept the offer by resolution and must file an acceptance with the office of the county recorder.

In order to proceed with the project and to meet the project schedule, acceptance of dedication of the portion of Quito Road from the original subdivision map is necessary.

OUTCOME

Approval of accepting the dedication of land and the filing of the acceptance with the county recorder will enable the improvement to Quito Road to commence as scheduled.

PUBLIC OUTREACH

City staff met with affected property owners and discussed the project and the property to be acquired. A community meeting was held on October 27, 2004 to present the scope and give the public an opportunity to comment on the proposed project.

COORDINATION

This memo has been coordinated with the Planning, Building and Code Enforcement Department, City Attorney's Office and the City Manager's Budget Office.

COST IMPLICATIONS

The subject property is being transferred to the City without cost.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amount For Contract	Proposed Capital Budget	Last Budget Action (Date, Ord. No.)
429	4410	Quito Road: Saratoga to Bucknall	\$800,000	N/A	Page V-849	MBA #60 6/21/05
		Total	\$800,000	N/A		

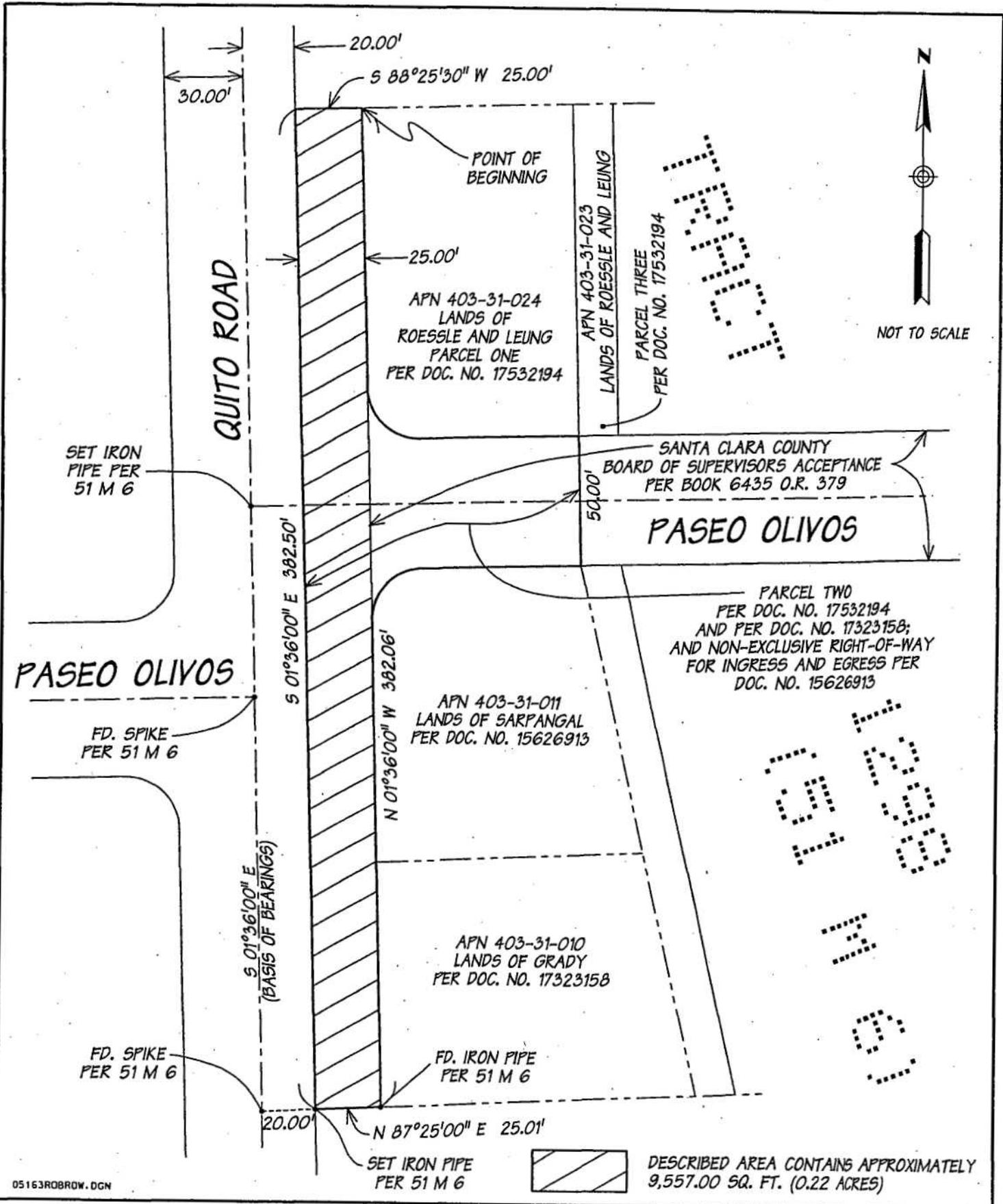
CEQA

Exempt, PP05-070.



KATY ALLEN
Director, Public Works Department

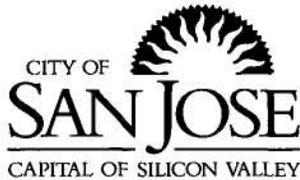
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Attachment



05163ROBROW.DGN

EXHIBIT 'A' PLAT

PREPARED BY:
 CITY OF SAN JOSE
 SURVEY SECTION
 DECEMBER 3, 2004



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 08-24-05

Approved

Date

8/31/05

Council District: 1

SUBJECT: ACCEPTANCE OF QUITCLAIM DEEDS FROM THREE PROPERTY OWNERS FOR PORTIONS OF QUITO ROAD

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving the acceptance of quitclaim deeds that release and quitclaim any legal rights the owners may have over portions of the east side of Quito Road abutting their respective properties, and authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions, from the following property owners:

- (a) Ronald R. Roessle and Julia Tsih-Leung, quitclaim of approximately 3,295 sq.ft. of the portion of Quito Road abutting their property at 12560 Quito Road (APN: 403-31-024), in the area of the proposed Quito Road street improvement project;
- (b) Sudarshan Sarpangal, quitclaim of approximately 2,942 sq.ft. of the portion of Quito Road abutting his property at 12620 Quito Road (APN: 403-31-011), in the area of the proposed Quito Road street improvement project; and
- (c) Michael Grady and Maria M. Grady, quitclaim of approximately 2,338 sq.ft. of the portion of their property at 12636 Quito Road (APN: 403-31-010), in the area of the proposed Quito Road street improvement project.

CEQA: Exempt, PP05-070.

BACKGROUND

Quito Road is an arterial street between Saratoga Avenue and Bucknall Road that runs north to south and maintains significant bicycle and vehicular traffic volume.

The east side of Quito Road south of Northlawn Avenue to 200' south of Paseo Olivos is unimproved and needs to be widened to three lanes of vehicular traffic. The project will provide

improvements to enhance pedestrian, bicycle and traffic circulation and public safety for the traveling public. The project includes the construction of curb, gutter, sidewalk and driveways and installation of drainage system, street trees, pavement restoration, upgrading of the street light system and traffic signal modification. Upon completion, this segment of the roadway will accommodate one lane of traffic in each direction, a center turning lane, new sidewalk and bicycle lanes on both sides of Quito Road.

The properties to be quitclaimed to the City of San José by various property owners is within the Quito Road right of way just to the south of Saratoga Avenue as shown on the attached map Exhibit A.

ANALYSIS

City staff determined that in order to proceed with the project, it would be necessary to have the owners of the properties abutting this segment of the east side of Quito Road quitclaim any and all interests they may have acquired in said right of way. All three current property owners or prior owners appear to have extended their yard improvements, i.e. landscaping, into the Quito Road right of way.

Since research into County and City records indicate that the County never accepted the offer to dedicate the right of way and the offer to dedicate remained open under state law, the title reports continue to show that ownership remains with the original subdivider and successors. It is arguable that under the prescriptive easement doctrine the three properties may have acquired some rights in the Quito Road right of way by virtue of adverse possession of the right of way. In quitclaiming to the City, these owners agree to release any interest, which they may have acquired, to the City. This clarifies the title to properties and enables the City's project to proceed.

OUTCOME

Approval of the acceptance of the quitclaims will facilitate commencement of the improvements to Quito Road as scheduled.

PUBLIC OUTREACH

City staff met with affected property owners and discussed the project and the property to be acquired. A community meeting was held on October 27, 2004 to present the scope and give the public an opportunity to comment on the proposed project.

COORDINATION

The deeds have been approved as to form by the City Attorney's Office. This memo has been coordinated with the City Manager's Budget Office and the Planning, Building and Code Enforcement Department.

COST IMPLICATIONS

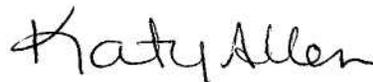
The subject quitclaims are being obtained by the City at no cost.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amount For Contract	Proposed Capital Budget	Last Budget Action (Date, Ord. No.)
429	4410	Quito Road: Saratoga to Bucknall	\$800,000	N/A	Page V-849	MBA #60 6/21/05
		Total	\$800,000	N/A		

CEQA

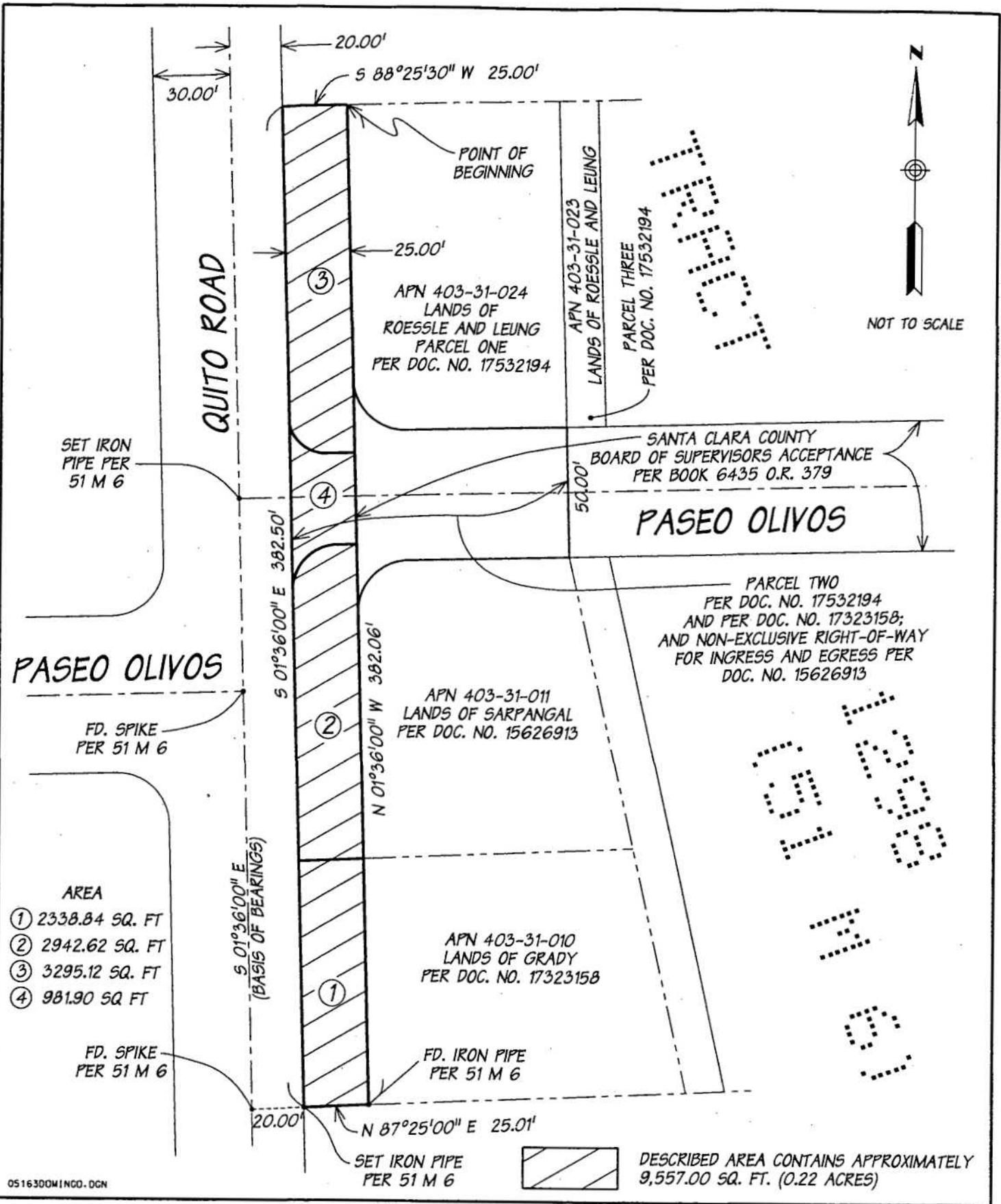
Exempt, PP05-070.



KATY ALLEN
Director, Public Works Department

BI:hla
bi081206cc

Attachment



0516300M INCO. DGN

EXHIBIT 'A' PLAT

PREPARED BY:
 CITY OF SAN JOSE
 SURVEY SECTION
 DECEMBER 15, 2004