COUNCIL AGENDA: 08-19-08
ITEM: 2.12

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOSEPH HORWEDEL

SUBJECT: SEE BELOW

DATE: July 28, 2008

Approved Deanna J. Santana Date 8/6/08

COUNCIL DISTRICT: 6
SNI AREA: N/A

SUBJECT: HAMILTON NO. 59 REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF AN APPROXIMATELY 131 GROSS ACRE COUNTY ISLAND CONSISTING OF APPROXIMATELY 450 PARCELS BETWEEN MERIDIAN AVENUE AND LEIGH AVENUE, NORTH OF HAMILTON AVENUE

RECOMMENDATION

It is recommended that the City Council adopt a resolution initiating proceedings and setting September 23, 2008 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Hamilton No. 59 which involves the annexation to the City of San José of approximately 131 gross acres of land located between Meridian Avenue and Leigh Avenue, north of Hamilton Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service.

OUTCOME

Upon completion of the annexation/reorganization proceedings, the 131 gross acre County island designated as Hamilton No. 59 will be within the incorporated area of the City of San José.

BACKGROUND

On April 26, 2006, the City Council voted to proceed with a County Island Annexation Program that involves the annexation of all unincorporated County pockets less than 150-acres in size. Phases 1 and 2 of this program resulted in the annexation of 32 County islands (covering 230 acres). The City of San José is initiating the annexation of the subject area in conjunction with Phase 3 of this program. There is a pending Planning Director initiated Prezoning (File No. C08-021) to assign City of San José zoning districts to the area prior to annexation, which is scheduled for City Council consideration on August 12, 2008.

In November of 2006, the City and County entered into a Settlement Agreement to resolve disputes related to development of the County Fairgrounds site and development under the City's North San Jose Area Development Policy. As a part of that Settlement Agreement, the City agreed to review and process for ultimate consideration by the City Council the annexation to City of pockets of County territory that are 150 acres or less. While not agreeing to any particular outcome or decision on any particular annexation proposal, City did agree to make good faith efforts to process those annexations for City Council consideration by April 15, 2011. This proposed annexation has been reviewed and processed pursuant to the agreements reached by the City and County in that Settlement Agreement.

The proposed annexation consists of approximately 450 parcels developed with single-family, two-family, and multi-family residences as well as office and commercial buildings along Hamilton and Meridian Avenues which upon annexation to the City of San Jose would be detached from the following special districts: Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service.

ANALYSIS

Annexation of this and other islands of less than 150-acres as part of the County Island Annexation Program fulfills the long-standing policy of the City, County and LAFCO that existing and future urban development should be located within cities. In addition, the County Island Annexation Program implements the Urban Service Area policies of the San Jose 2020 General Plan that encourage cooperative efforts to seek the annexation of urbanized County pockets within San Jose's Urban Service Area. Annexation of County Pockets will ultimately result in more efficient delivery of urban services throughout San Jose by creating logical city boundaries, removing existing gaps in infrastructure, and improving the efficiency of the delivery of urban services such as police and fire protection.

EVALUATION AND FOLLOW-UP

City staff provides status updates on the County Island Annexation Program on the website dedicated to the program and in periodic updates to the City Manager's Office.

POLICY ALTERNATIVES

Not Applicable

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1**: Requires Council action on the use of public funds equal to $1 million or greater.
  (Required: Website Posting)
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. Staff held community meetings on March 19, March 25, April 2, April 3, and July 8, 2008 with residents, property owners, and business owners in the county islands scheduled for annexation in 2008. The July 8th meeting focused on presenting the staff recommended zoning districts.

A notice of the public hearing was published, posted on the City's web site and distributed to the owners and tenants of all properties located within 300 feet of the project site. Information on the County Island Annexation Program is available on the Planning Division's website on the areas proposed for annexation and general information on what current county residents can expect upon the annexation of their property to the City of San José. An Answer Book has been distributed to all residents and property owners within the areas scheduled to be annexed in 2008 as a part of Phase 3 of the program.. Staff has also been available to discuss the proposal with members of the public.

Issues specific to this area

- **Lot sizes and large single family residences.** Residents within this area have expressed concern with the potential subdivision of existing large lots that would result in development inconsistent with the general character of the area. As such, staff revised its recommendation from R-1-8 (5,445 square foot minimum lot size) to R-1-5 (8,000 lot size) in recognition of this concern and to reflect the average lot sizes in the area. Staff also explained the .45 floor-to-area ratio calculation that would trigger the Single-Family House Permit which requires discretionary approval at a public hearing for which neighboring residents are notified.

- **Potential delay to development at 1711/1723 Hamilton Avenue.** Upon annexation of the County island, the City would be prevented by State law from approving a rezoning of property within the area for two-years. A developer has indicated that they intend to proceed with the development of a mixed use (office/residential) project, which would require rezoning and potentially a General Plan amendment as it is not permitted in the proposed CO Commercial Office Zoning District. Staff has responded that although the property's zoning could not be changed for two years subsequent to the annexation, the developer can move forward with the City rezoning process to have a proposal ready for hearing at the end of the two years. Staff's position is that it is important to proceed with the County Island Annexation Program as originally scheduled and it is not appropriate to delay the process for a project that is only in its preliminary conceptual phase of development.

Below is a summary of some of the primary issues of concern to residents of this and other County Islands proposed for annexation as part of the County Island Annexation Process:

- **Taxes**. There will be no change to the assessed valuation of property or tax rate as a result of annexation to the City of San Jose. Some assessments change or will be eliminated (libraries, sewer, street lighting), with the amount of special assessments comparable to what was paid

in the County. Newly annexed residents will be subject to the City's transfer tax ($3.30/1000) and utility user's tax (5%).

- **Streamlined Annexation Process**. The State has waived formal protest proceedings for unincorporated areas surrounded or substantially surrounded by cities, that are already developed and within their Urban Service Area, and are less than 150 acres in size. Staff has received comments of concern from residents and property owners regarding the limits placed on their ability to protest annexations as a result of the streamlined process.

- **County/City Permit Processes**. Under State law, no changes in zoning or general plan designations can be approved for two years after the annexation unless findings can be made that a substantial change has occurred. The County stops accepting new development permits about six weeks prior to the annexation initiation hearing. Those with valid building permits in the County can continue construction, and inspections will be conducted by the County. New development permits can be obtained from the City once the annexation is effective.

- **Zoning Regulations**. Staff has provided information to residents regarding development standards under the new zoning districts, as well as other policies and programs such as regulations for legal nonconforming uses and the secondary unit program.

- **Boundaries (School district, zip code, and real estate)** Annexation does not affect school district boundaries. Address and real estate listing boundaries are not determined by the City. There are no immediate changes to these boundaries as a result of annexation. Staff cannot speak to the possibility of future changes in these boundaries by outside agencies or organizations.

- **Code Enforcement.** City of San Jose Code Enforcement will respond to complaints of code violations once the annexation is effective.

- **Sidewalks, Sewers, Lighting, Streets**. Upon annexation, residents should not expect the City to construct sidewalks or require construction of sidewalks until new development takes place or improvements are made within the public street right-of-way. The City also constructs sidewalks as part of street improvement projects funded through the City's Capital Improvement Program. San José does not have an assessment for street lights but will take over responsibility for maintaining existing street lights and taking care of outages, malfunctions, and damages.

- **Collection of Garbage and Recyclables** Annexation into San José, will result in an eventual change to one of the companies under contract with the City for garbage and recyclable collection services. The change will not occur immediately upon annexation. Customers will be notified in advance regarding the time at which their garbage collection services will change to the new company.

Information regarding these and other issues are addressed in the Annexation Answer Book which was provided to all residents and property owners, well in advance of the proposed annexation to the City of San Jose.

COORDINATION

This project was coordinated with the Department of Public Works, Department of Transportation, Fire Department, Police Department, Building Division, Environmental Services Department and the City Attorney. Staff from the relevant Departments meets on a regular basis regarding issues related to the County Island Annexation Program. The City provides regular updates to the County of Santa Clara on the status of the program.

FISCAL/POLICY ALIGNMENT

This project is consistent with the City Council's direction to initiate annexation of unincorporated islands of less than 150-acres.

COST SUMMARY/IMPLICATIONS

The annexation of this and other islands will remove existing gaps in infrastructure and inefficiencies in the delivery of urban services such as police and fire protection. Upon annexation, the City of San José will receive tax revenue from property in these unincorporated pockets whose residents utilize City facilities such as roads, libraries, parks, and community centers. Incorporation of these islands will result in a more equitable distribution of costs amongst all residents who benefit from City services and facilities.

The City will incur operational costs to provide direct services to the area such as emergency services provided by the Police and Fire Departments, demands by residents and businesses for street maintenance, code enforcement, recreational and library services. The larger County islands were intentionally included as part of the third and last phase of the County Island Annexation Program (initiated in 4/2006) to allow sufficient time for City service providers to prepare to take responsibility for providing services in these areas. Planning staff has closely coordinated with staff from other departments to assist in their preparation to provide services to the area.

BUDGET REFERENCE

Not applicable.

CEQA

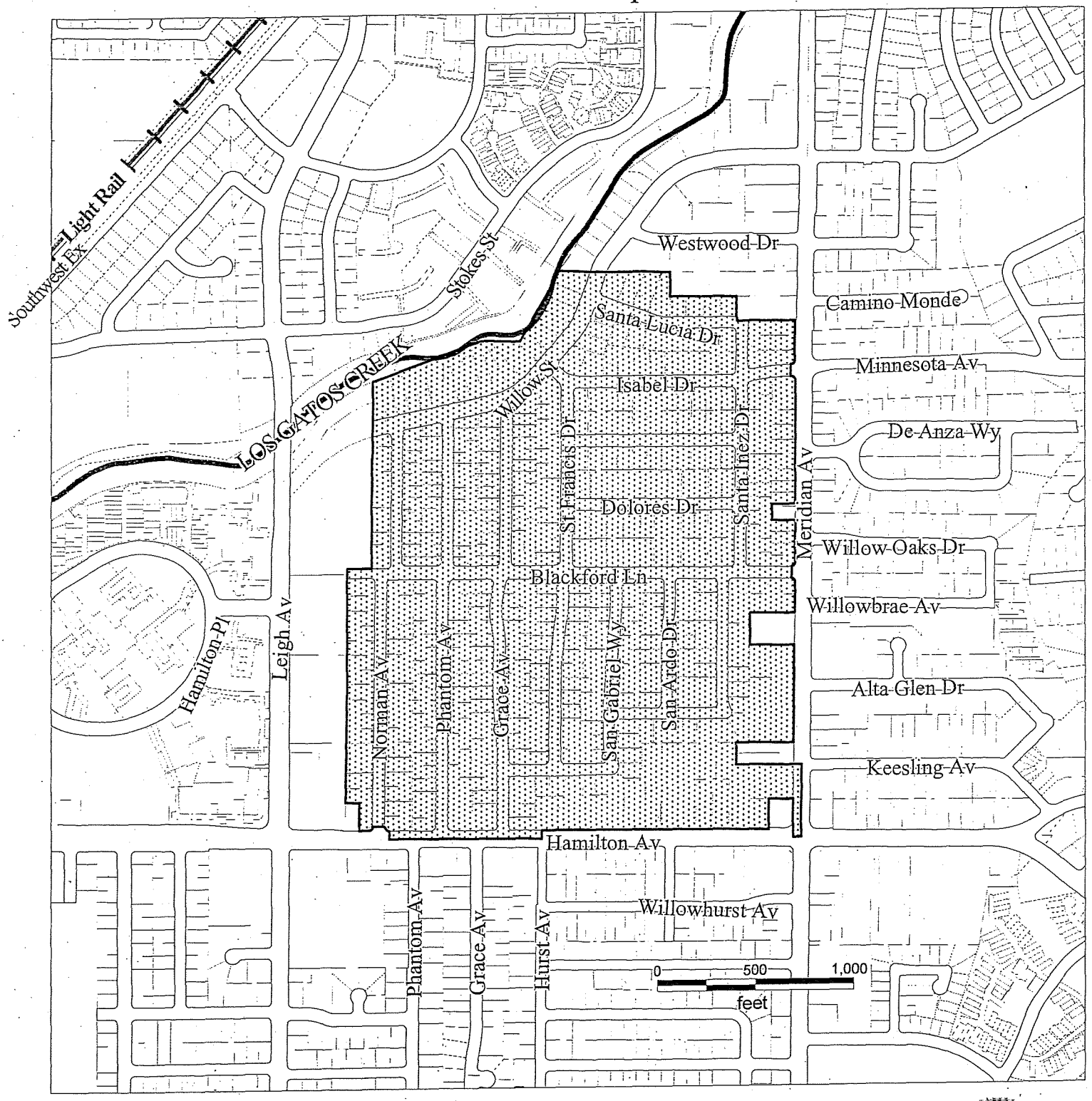
Resolution No. 65459.

Andrew Crabtree
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Richard Buikema, Senior Planner, at the Department of Planning, Building and Code Enforcement at 408-535-7800.

HAMILTON 59, C08-021

Location Map



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Map Created On:
6/19/2008

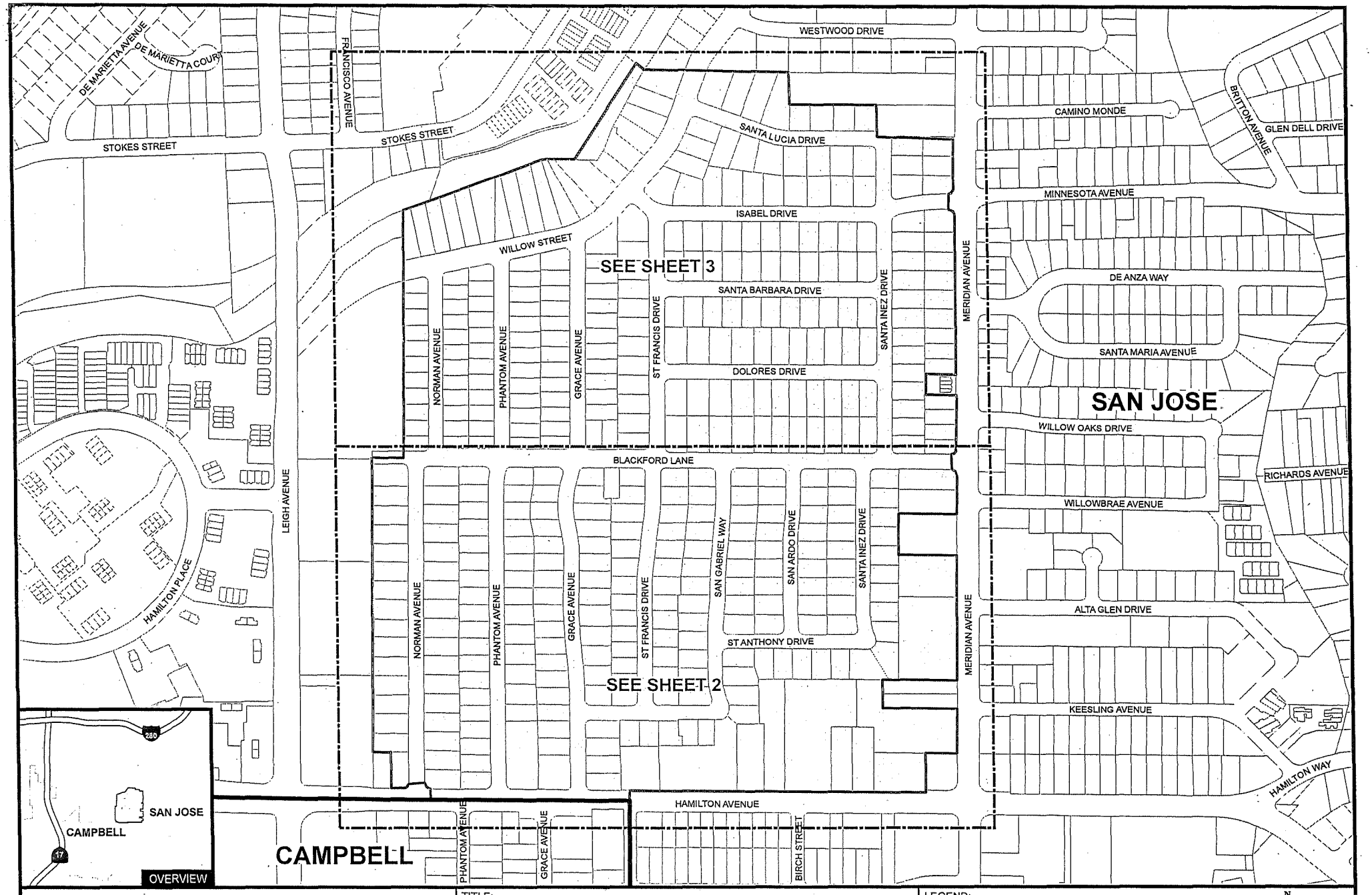
Noticing Radius = 300 Ft

Prepared by the Department of Planning, Building, and Code Enforcement
City of San Jose, California

Joseph Horwedel, Director

District: 6
Quad: 98

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY



County of Santa Clara

Department of Planning and Development
Office of the County Surveyor

County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, California 95110

TITLE:

EXHIBIT "A"

San Jose Pocket Annexation No. 37
Hamilton No. 59
130 Acres +/-

Prepared by the Office of the County Surveyor
July 11, 2008
Gwendolyn Gee, County Surveyor

LEGEND:

- Area of Annexation
- Incorporated Lands
- Unincorporated Lands
- Urban Service Area

N W E S

0 100 200 300 400 Feet

Sheet 1 of 3

County of Santa Clara

Department of Planning and Development
Office of the County Surveyor

County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, California 95110

TITLE:

ASSESSOR'S PARCEL NUMBERS

San Jose Pocket Annexation No. 37
Hamilton No. 59

Prepared by the Office of the County Surveyor
July 11, 2008
Gwendolyn Gee, County Surveyor

LEGEND:

- Area of Annexation
- Incorporated Lands
- Unincorporated Lands
- Urban Service Area

N W E S

0 50 100 150 200
Feet

Sheet 2 of 3

SEE SHEET 2

County of Santa Clara

Department of Planning and Development
Office of the County Surveyor

County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, California 95110

TITLE:

ASSESSOR'S PARCEL NUMBERS

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Prepared by the Office of the County Surveyor
July 11, 2008
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N W E S

0 50 100 150 200 Feet