COUNCIL AGENDA: 11-17-09
ITEM: 4.5

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOSEPH HORWEDEL

SUBJECT: **SEE BELOW**

DATE: October 26, 2009

Approved Paul Krutko Date 10/28/09

COUNCIL DISTRICT: #7
SNI AREA: None

SUBJECT: FRANKLIN NO. 55 REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF AN APPROXIMATELY 73 GROSS ACRE COUNTY ISLAND CONSISTING OF APPROXIMATELY 202 PARCELS GENERALLY LOCATED WEST OF EAST CAPITOL EXPRESSWAY, EAST OF MONTEREY ROAD, SOUTH OF SOUTHSIDE DRIVE AND NORTH OF RANCHO DRIVE.

RECOMMENDATION

It is recommended that the City Council adopt a resolution ordering the reorganization of territory designated as Franklin No. 55 which involves the annexation to the City of San José of approximately 73 gross acres of land generally located west of East Capitol Expressway, east of Monterey Road, south of Southside Drive and north of Rancho Drive, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District No. 2-3, and Area No. 01 (Library Services) County Service.

OUTCOME

Upon completion of the annexation/reorganization proceedings, the territory designated Franklin No. 55 shall be annexed into the City of San Jose.

BACKGROUND

The City Council voted unanimously to initiate this annexation as part of Phase 3 of the County Island Annexation program on October 6, 2009. Three residents spoke in opposition to the initiation of the subject annexation with concerns raised were that this process is being done without their vote to approve, and will reduce the level of safety in their neighborhood.

The City attorney explained that the City and the County entered into a contractual agreement for annexation of County pockets and that the State statute is being used as a means to accomplish

this agreement. Mayor Reed explained that the main reason for annexation of County pockets is the County requesting service delivery be transferred to the City. Councilmember Liccardo explained that transfer of service delivery to the City will save the County resources and will result in more efficient service delivery to the residents.

The proposed annexation consists of approximately 202 parcels developed with single-family residences which, upon annexation to the City of San Jose, would be detached from the following special districts: Central Fire Protection, County Lighting, County Sanitation District No. 2-3, and Area No. 01 (Library Services) County Service.

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 annexing the subject area in conjunction with Phase 3 of this program. The City Council approved a Planning Director-initiated Prezoning (File No. C09-014) on September 29, 2009 which prezoned the subject site to allow uses consistent with the Zoning Code, the existing neighborhood and the existing uses and/or structures on the subject properties.

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, the 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.

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.

Before approving the reorganization proposal, the City Council is required to make certain findings as listed below. Staff comments follow each such 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.

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 has certified the boundaries of the reorganization.

3. **The proposal does not split lines of assessment or ownership**. All affected parcels are being reorganized in their entirety.

4. **The proposal does not create island or areas in which it would be difficult to provide municipal services**. As proposed, the annexation will not create islands. The completion of reorganization proceedings would result in the elimination of a pocket of unincorporated territory.

5. **The proposal is consistent with the City's adopted General Plan**. The proposed annexation is consistent with the City's adopted policy in that existing and future urban development should be located within cities.

6. **The territory is contiguous to existing City limits**. The area proposed to be reorganized is contiguous to the City limits as shown on the attached map.

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

- ☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater.
  (Required: Website Posting)
- ☐ **Criteria 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)**
- ☐ **Criteria 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 a community meeting on April 9, 2009 with residents,

property owners, and business owners of this county pocket as well as of the pocket just north referred to as Franklin No. 54. There were approximately 55 people in attendance, a vast majority of which were opposed to annexation. Residents had concerns about service and regulation changes, residents' participation and right to a say in the process, and the history of how this area became a county pocket. Staff received two letters of opposition to the annexation (see attached).

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 made available to all residents and property owners within the areas scheduled to be annexed in 2009 as a part of Phase 3 of the program. Staff has also been available to discuss the proposal with members of the public.

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 made available 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

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan," and certified on August 16, 1994, by the City of San José City Council.

Susan Walton
for 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.

Attachments

Owner/Applicant:	Attachments:
Director-Initiated	Letter from Gail K. Briggs, April 6, 2009 Letter from Cliff Sorgeson, April 7, 2009

April 17, 2009

Mr. Cliff Sorgeson
13070 Haga Dr
San Jose, CA 95111

To San Jose City Council and Planning Services Division.
c/o Lesley Xavier

My Name is Cliff Sorgeson
I own a home in The Monterey Manor Development at 13070 Haga Drive. City so Called Franklin No #55. This development have been here in The County since 1951.

I do not Want To be annexed into San Jose, The annexation is Not a Request of The residents and property owners of Monterey Manor or any Other developments To be annexed. The so called Temporary Change in State Law is Only an Underhanded Way To get around The Constitution and Take The Right To Vote away From The people. So Eight or Ten Members of The San Jose Council and Planning Division Can Dictate To The people. What happen To The peoples Right To Choose For Them selves?. When eight or Ten people Can Tell Sixteen or Seventeen Thousand people What They have To do whether They like it or Not, is a Dictatorship.

This so called Temporary Change in State Law Takes away The peoples Constitutional Right To Choose For Them Selves. The Right To Choose by Majority is gone.

We feel That The San Jose City Council and Planning Division is over exercising Their Authority, "by a long Shot!" over The will of The people. What has happen To Democracy Here? The Rule of The people by Majority is gone here.

Sincerely Yours
Cliff Sorgeson

RECEIVED
APR 20 2009
PLANNING DEPARTMENT

Gail K. Briggs
577 Kings Cross Way
San Jose, Ca. 95136
Phone (408) 972-4039

RECEIVED
APR 7 2009
PLANNING DEPARTMENT

6 April '09

Lesley Xavier
Planning Services Division
200 E Santa Clara St.
San Jose, CA 95113-1905

Re: Annexation

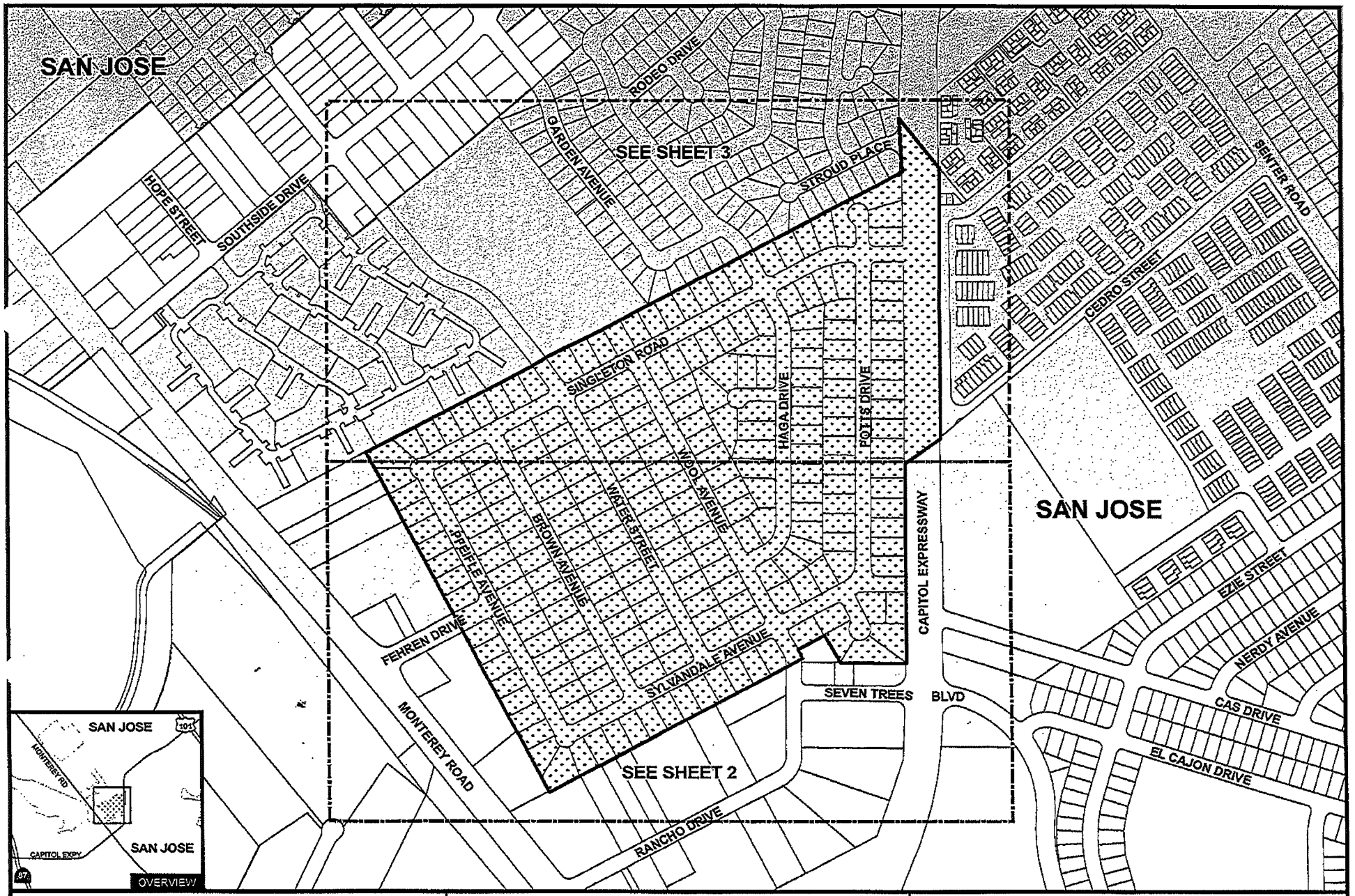
My son and I own the 12961 Wool St. House.
It is rented to a family member at the moment.

We **DO NOT** want to be part of the city.
We do not see one advantage to being part of the city.
In this economic time this makes no sense.

We vote **No on annexation.**

Thank you

Gail K. Briggs



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"

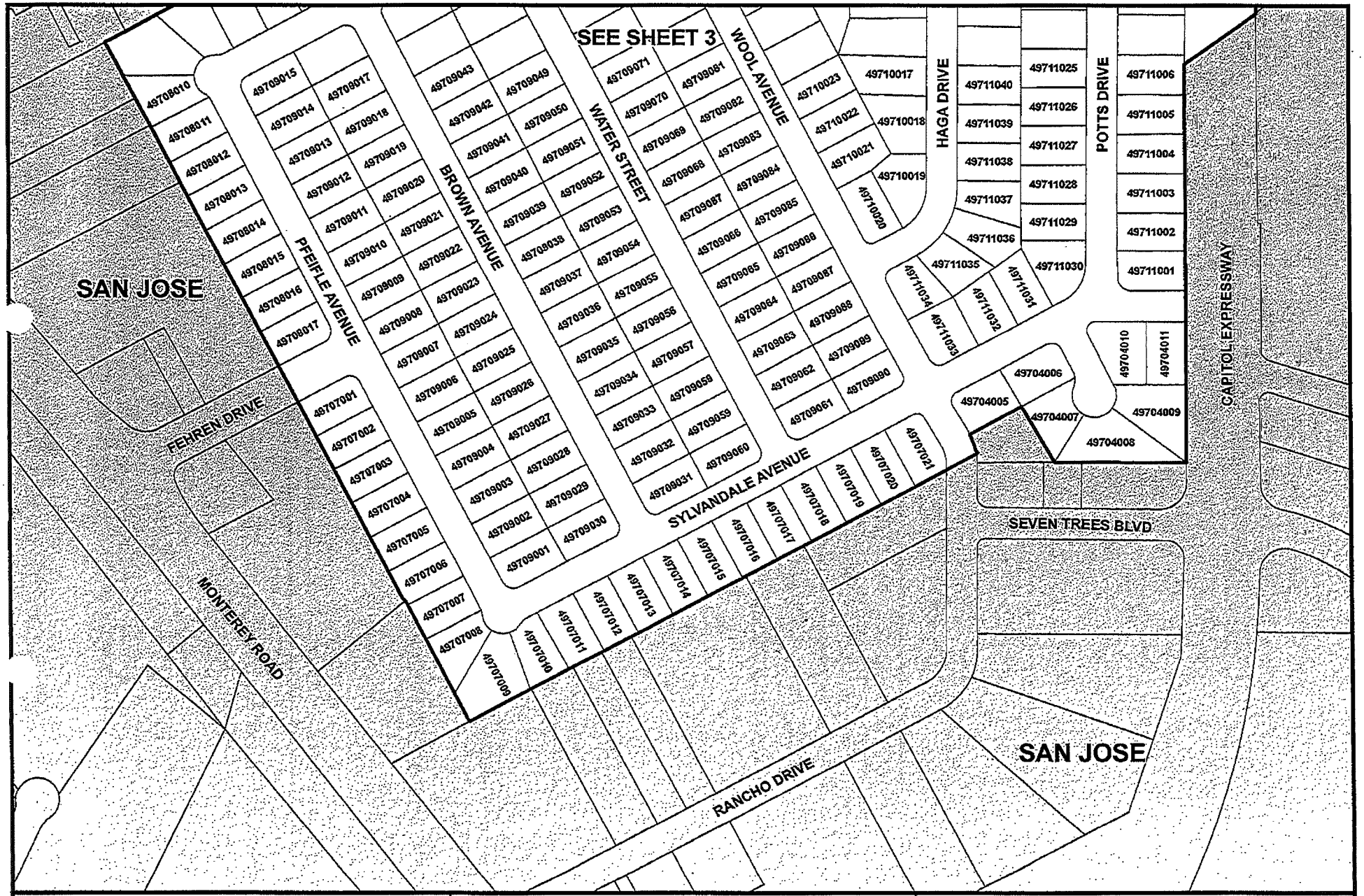
San Jose Pocket Annexation No. 42
Franklin No. 55
73 Acres +/-

Prepared by the Office of the County Surveyor
May 18, 2009
Gwendolyn Gee, County Surveyor

LEGEND:
- Area of Annexation
- Incorporated Lands
- Unincorporated Lands

N W E S
0 100 200 300 400 Feet

Sheet 1 of 3



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Gwendolyn Gee, County Surveyor

LEGEND:

Area of Annexation

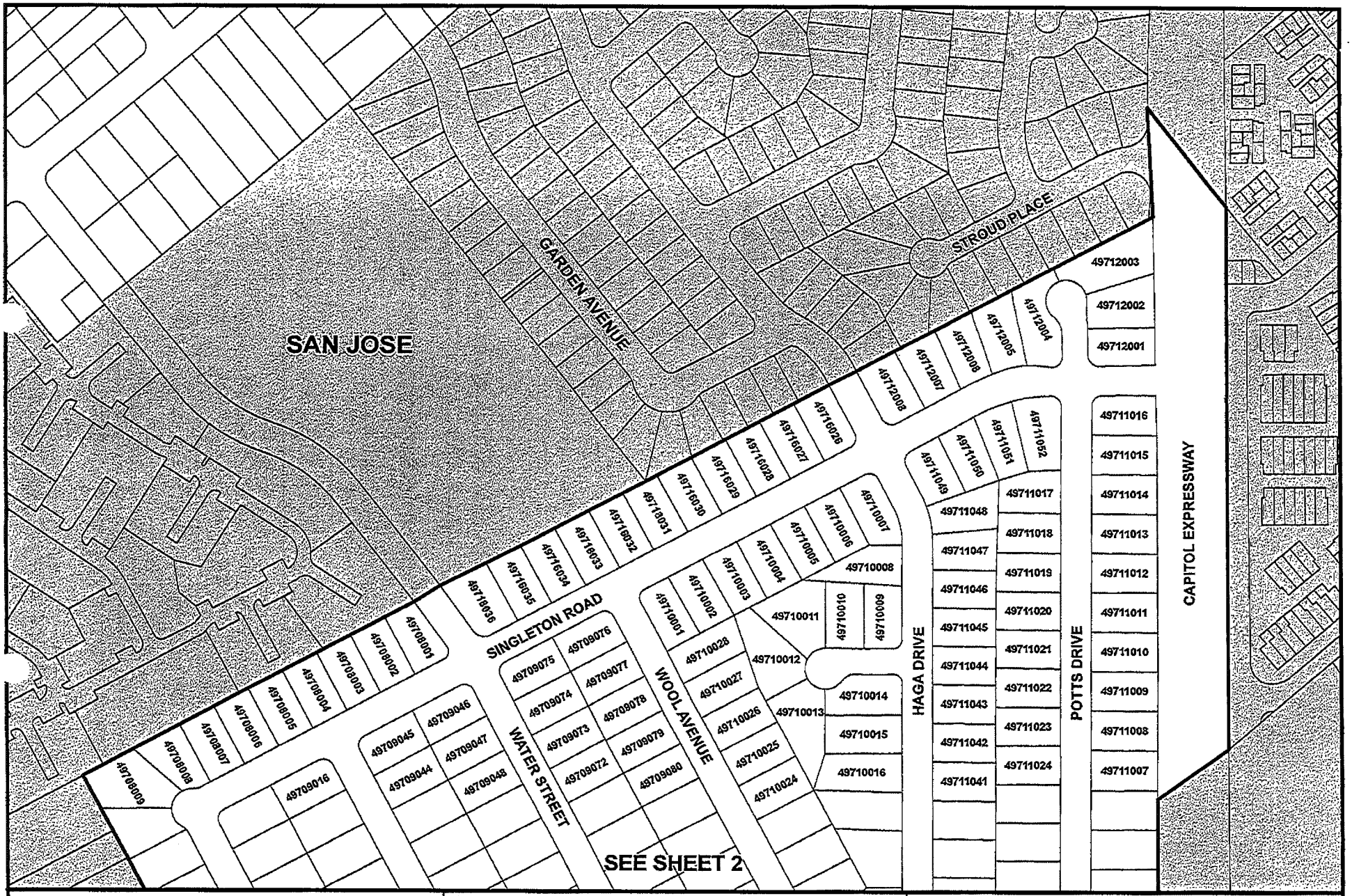
Incorporated Lands

12345678 Assessor's Parcel Number

N W E S

0 50 100 150 200 Feet

Sheet 2 of 3



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May 18, 2009
Gwendolyn Gee, County Surveyor

LEGEND:
- Area of Annexation
- Incorporated Lands
- 12345678 Assessor's Parcel Number

N W E S

0 50 100 150 200 Feet

Sheet 3 of 3