

**RESOLUTION NO. 75596**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE INITIATING REORGANIZATION PROCEEDINGS FOR THE ANNEXATION AND DETACHMENT OF CERTAIN INHABITED TERRITORY DESIGNATED AS PENITENCIA NO. 77, DESCRIBED MORE PARTICULARLY HEREIN, AND SETTING THE DATE, TIME AND PLACE FOR CONSIDERATION OF SUCH REORGANIZATION**

WHEREAS, the City of San José desires to initiate 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 to the City of San José of certain territory comprising unincorporated islands of County jurisdiction substantially surrounded by City and the detachment of the same from the Central Fire Protection, County Lighting, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service; and

WHEREAS, this proposal includes an annexation to the City of San José of certain unincorporated territory comprising unincorporated islands of County jurisdiction substantially surrounded by City and within the urban service area of City described herein and located in the County of Santa Clara and is not subject to review by the Local Agency Formation Commission as provided under Section 56757 of the California Government Code; and

WHEREAS, such unincorporated territory is known by the short form designation of "**PENITENCIA NO. 77**," and a map showing the location of such territory is attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the subject real property, comprising 119 ± acres generally bounded by both sides of Golf Drive, the west side of Toyon Avenue, both sides of Penitencia Creek Road and both sides of Gridley Street (more specifically identified in Exhibit "A"), is contiguous to the City of San José and is within its urban service area; and

WHEREAS, the area of the subject property does not exceed one hundred fifty (150) acres in size and the subject property constitutes an island of unincorporated

County jurisdiction within City limits that is surrounded by or substantially surrounded by City jurisdiction; and

WHEREAS, the subject property is not a gated community where urban services are provided by a community service district; and

WHEREAS, the subject property is substantially developed in that single family residences, are currently located on the property; and

WHEREAS, the subject property is not prime agricultural land under the provisions of California Government Code Section 56064; 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, the following special districts would be affected by the proposed annexation: Central Fire Protection, County Lighting, County Sanitation District No. 2-3, and Area No. 01 (Library Services) County Service; and

WHEREAS, annexation would provide for the use of City services; and

WHEREAS, this unincorporated territory was rezoned by City on November 9, 2010 to the City of San José rezone designations of R-1-8 Single-Family Residence Zoning District as to approximately 106.3 gross acres and A-Agricultural Zoning District as to approximately 13.2 gross acres; and

WHEREAS, the City of San José is the Lead Agency for environmental review for the reorganization known as "**PENITENCIA NO. 77**" under the California Environmental Quality Act of 1970, as amended ("CEQA"); and

WHEREAS, the environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and findings were adopted by City Council Resolution No 65459 said Environmental Impact Report became final on August 16, 1994, and this Council has considered and approved said Environmental Impact Report and Resolution No. 65459, prior to taking any adoption actions on this Resolution; and

WHEREAS, the County Surveyor of Santa Clara County has found the map of the subject property (Exhibit "A") 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 road 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 including an annexation to the City, and the City Council by this resolution is proposing the reorganization described in this Resolution; and

WHEREAS, as the unincorporated territory is inhabited and all owners of land included in this proposal have not consented to this annexation; and

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

WHEREAS, it is anticipated that the proposed reorganization will be recommended to be subject to the following terms and conditions: none; and

WHEREAS, the reason for the proposed reorganization is as follows: to eliminate an urban pocket.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ AS FOLLOWS:**

That the City Council hereby initiates proceedings for the proposed reorganization of the designated unincorporated island territory described herein pursuant to Sections 56757 and 56375.3 of the California Government Code without protest or election proceedings and sets November 9, 2010 at 7:00 p.m., in the Council Chambers at City Hall, located at 200 East Santa Clara Street, San José, California, as

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the date, time and place for consideration of such reorganization. This Council is hereby designated as the conducting authority of said proceedings.

**ADOPTED** this 5th day of October, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,  
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

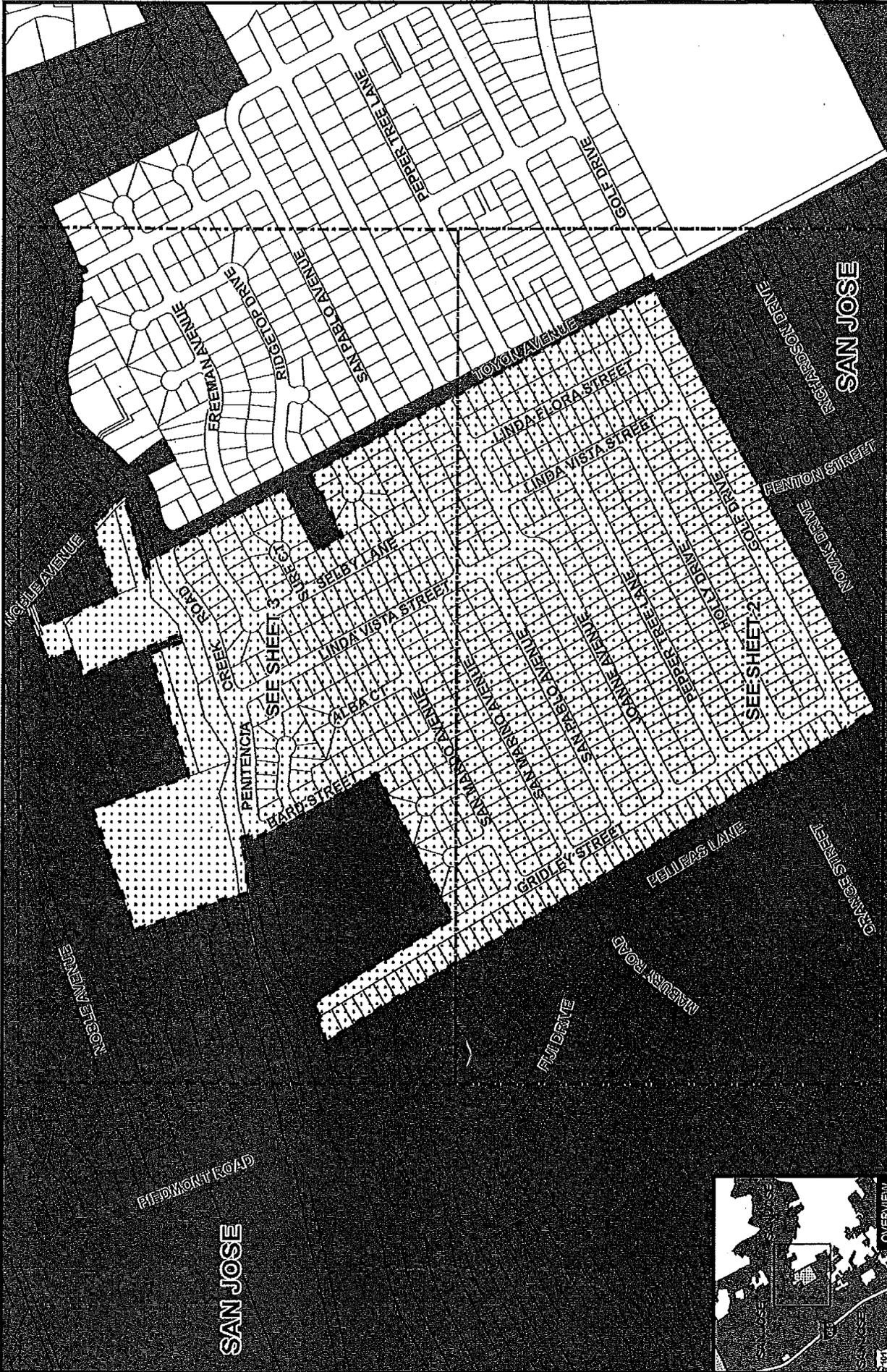
DISQUALIFIED: NONE.

  
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CHUCK REED  
Mayor

ATTEST:



\_\_\_\_\_  
LEE PRICE, MMC  
City Clerk



**LEGEND:**

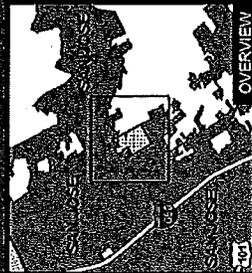
- Area of Annexation
- Incorporated Lands
- Unincorporated Lands

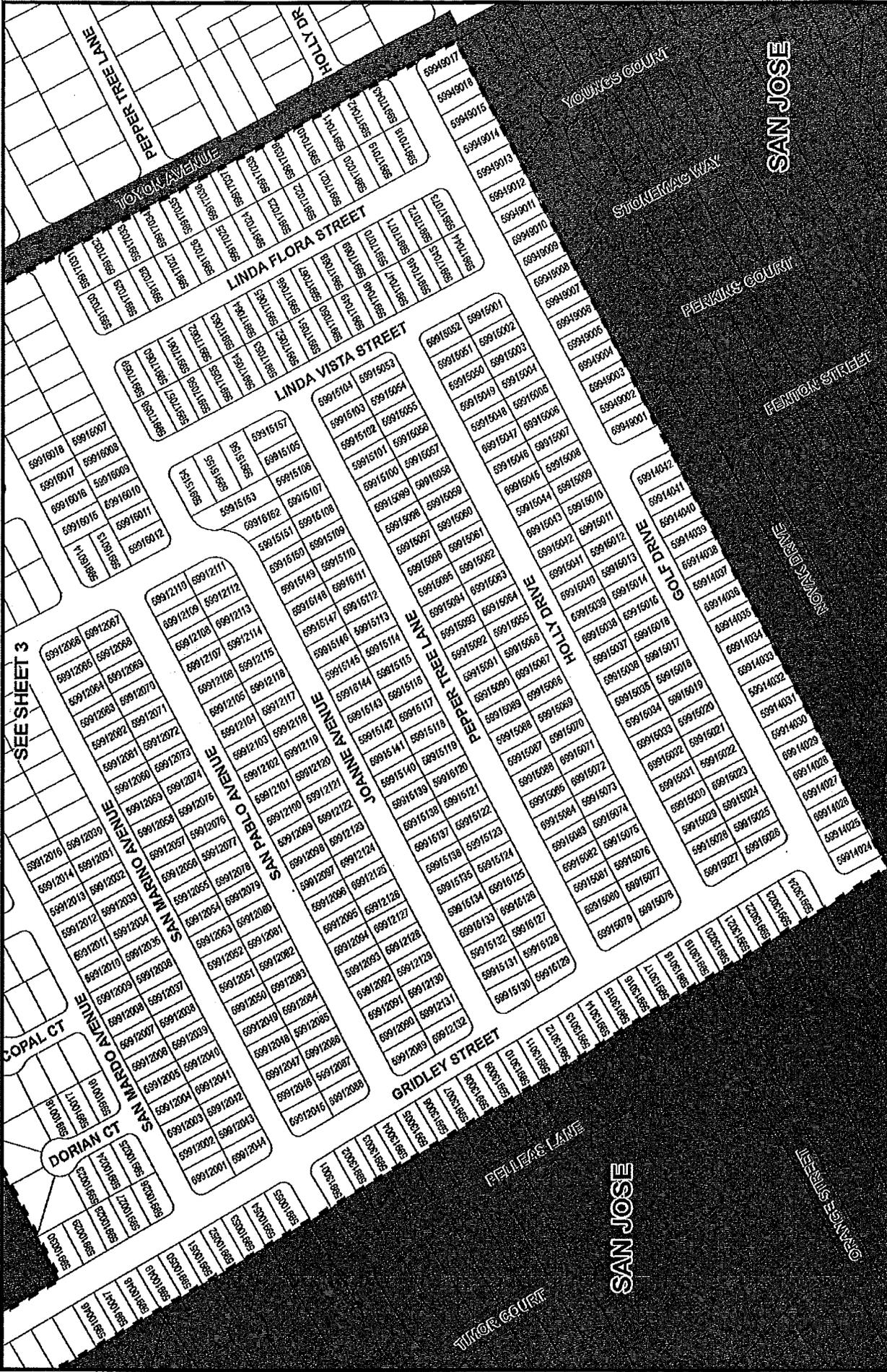
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Feet

**Sheet 1 of 3**

**EXHIBIT "A"**  
**San Jose Pocket Annexation No. 46**  
**Penitencia No. 77**  
**119 Acres +/-**  
 Prepared by the Office of the County Surveyor  
 April 14, 2010  
 Gwendolyn Gee, County Surveyor

**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





Sheet 2 of 3

LEGEND:

- Area of Annexation
- Incorporated Lands
- Unincorporated Lands

12345678 Assessor's Parcel Number

**EXHIBIT "A"**  
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TITLE:

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 Department of Planning and Development  
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