RESOLUTION NO. 75629

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ MAKING DETERMINATIONS AND ORDERING THE REORGANIZATION OF CERTAIN INHABITED, UNINCORPORATED ISLAND TERRITORY DESIGNATED AS MCKEE NO. 136, SUBJECT TO LIABILITY FOR GENERAL INDEBTEDNESS OF THE CITY

WHEREAS, the City Council desires to consider the annexation of certain unincorporated territory to the City of San José and detachment of said territory from the Central Fire Protection, County Lighting, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service Districts; which territory consists of approximately 31 ± acres generally bounded by Patt Avenue to the north, McKee Road to the south, and North White Road to the east (which territory is more specifically identified in Exhibit "A" attached hereto and incorporated herein by this reference); and

WHEREAS, the distinctive short form designation of the territory proposed to be reorganized is **McKee No. 136;** and

WHEREAS, the City of San José, by its City Council Resolution No. 75597 adopted on October 5, 2010 duly initiated reorganization proceedings for the annexation and detachment of this certain inhabited and unincorporated territory and set the time and place for consideration of such reorganization in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as the same may be amended from time to time; and

WHEREAS, the Council of the City of San José was duly designated as the conducting authority for further proceedings to reorganize the territory described herein by said Resolution No. 75597; and

WHEREAS, said territory is inhabited and not all land owner(s) of land included in the proposal consent to this annexation; and

WHEREAS, Section 56757 of the California Government Code states that the Local Agency Formation Commission shall not review an annexation proposal to any City in Santa Clara County of unincorporated territory which is within the urban service area of the City if initiated by resolution of the legislative body, and, therefore, the City Council of the City of San José is now the conducting authority for said annexation

insofar that the City initiated these reorganization proceedings under and pursuant to its Resolution No. 75597; and

WHEREAS, the reason(s) for the proposed reorganization, as set forth in the City's Resolution No. 75597 initiating reorganization proceedings, is to reduce or eliminate an unincorporated island of County territory located within the limits of City jurisdiction that is surrounded by or substantially surrounded by City territory and to facilitate subsequent development of the territory with residential and commercial uses; and

WHEREAS, the following special districts would be affected by the proposed annexation: the Central Fire Protection, County Lighting, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service Districts; and

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

WHEREAS, the City's Resolution No. 75597 fixed November 9, 2010 at 7:00 p.m., in the Council Chambers of the City of San José, City Hall, 200 East Santa Street, San José, California, as the date, time and place said Council would consider said reorganization; and

WHEREAS, the regular County assessment roll is utilized by the City; and

WHEREAS, land and improvements within the territory shall be liable for the general indebtedness of the City of San José existing at the time of annexation; and

WHEREAS, the environmental impacts of this project were addressed under the San Jose 2020 Environmental Impact Report, and related Resolution No. 65459, which Resolution became final on August 16, 1994, and this City Council has considered and approves said Environmental Impact Report and related Resolution No. 65459 prior to taking any approval action on this proposed reorganization; 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 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 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 Commission for inclusion of the territory in the City's Urban Service Area as follows:

   A. No such conditions imposed.

8. The pre-zoning designation on the subject territory is R-1-8 Single-Family Residence Zoning District (31 acres) in as much as the City Council on October 5, 2010 enacted an ordinance so pre-zoning the subject territory.

WHEREAS, the following facts pertain to the findings required by the Council in accordance with Government Code Section 56375.3:

1. The size of the subject unincorporated County territory in its entirety is less than one hundred fifty (150) acres; and

2. The unincorporated County territory constitutes an unincorporated island of County territory that is surrounded by or substantially surrounded by City territory on all sides; and

3. The unincorporated County territory is not a gated community where urban services are provided by a community service district; and

4. The unincorporated County territory is considered developed in that residential and office development is located on the subject properties; and

5. The unincorporated County territory is not prime agricultural land under the provisions of California Government Code Section 56031; and

6. The unincorporated County territory currently is receiving or will receive the following benefits from the City, to wit: all municipal 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.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSE HEREBY FINDS:

1. That it is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated "**McKee No. 136**," more particularly shown upon that certain map attached hereto as Exhibit "A," which exhibit is 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 inhabited and comprises approximately 31 ± 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 annexed (providing City Services).

   c. That the City Council has considered and adopted a Final EIR entitled, "San Jose 2020 General Plan," and related Resolution No. 65459, which addressed the environmental impacts of the project and became final on August 16, 1994. This proposal is in compliance with the California Environmental Quality Act in that the adopted EIR and related Resolution 65459 consider the environmental impacts of the proposed change.

   d. That the City Council on October 5, 2010 enacted an ordinance pre-zoning the subject territory with the following zoning designation: R-1-8 Single-Family Residence Zoning District as to the approximately 31± acres.

   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 Commission's road annexation policies; and pursuant to agreement the County has agreed to incur the costs of making this determination.

   g. That the proposed annexation does not create islands or areas in which it would be difficult to provide municipal services. This reorganization reduces

or eliminates an unincorporated county "pocket" and is adjacent to and surrounded or substantially surrounded by City territory on all sides.

h. That the proposed annexation does not split lines of assessment or ownership.

i. That the proposed annexation is consistent with the City's General Plan.

j. That the territory to be annexed is contiguous to existing City limits.

k. That the City has complied with all conditions imposed by the Commission for inclusion of the territory in the City's urban service area.

3. That the following additional findings are hereby made by the City Council for the City of San José:

a. The size of the subject unincorporated County territory in its entirety is less than one hundred fifty (150) acres; and

b. The unincorporated County territory constitutes an unincorporated island of County territory that is surrounded by or substantially surrounded by City territory on all sides; and

c. The unincorporated County territory is not a gated community where urban services are provided by a community service district; and

d. The unincorporated County territory is considered developed in that residential and commercial development is located on the subject properties; and

e. The unincorporated County territory is not prime agricultural land under the provisions of California Government Code Section 56031; and

f. The unincorporated County territory currently is receiving or will receive the following benefits from the City, to wit: all municipal services; and

4. That all property owners and registered voters have been provided written notice of this proceeding.

5. That said annexation is hereby ordered without any further protest of these reorganization proceedings pursuant to Sections 56757 and 56375.3 of the California Government Code 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 **McKee No. 136** reorganized and organized to include the following changes of organization: (a) the following districts are detached: the Central Fire Protection, County Lighting, County Sanitation District 2-3, and Area No. 01 (Library Services) County Services Districts; and (b) the designated territory **McKee No. 136** shall be annexed into the City of San José. The City of San José, as conducting authority, reorganized such territory as indicated above (with or without notice or hearings, but as required), it being found and concurred in that the territory involved in the reorganization is inhabited and not 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, shown upon that certain map attached hereto as Exhibit "A" and incorporated herein by this reference.

ADOPTED this 9th day of November, 2010, by the following vote:

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

NOES: NONE.

ABSENT: CAMPOS.

DISQUALIFIED: NONE.

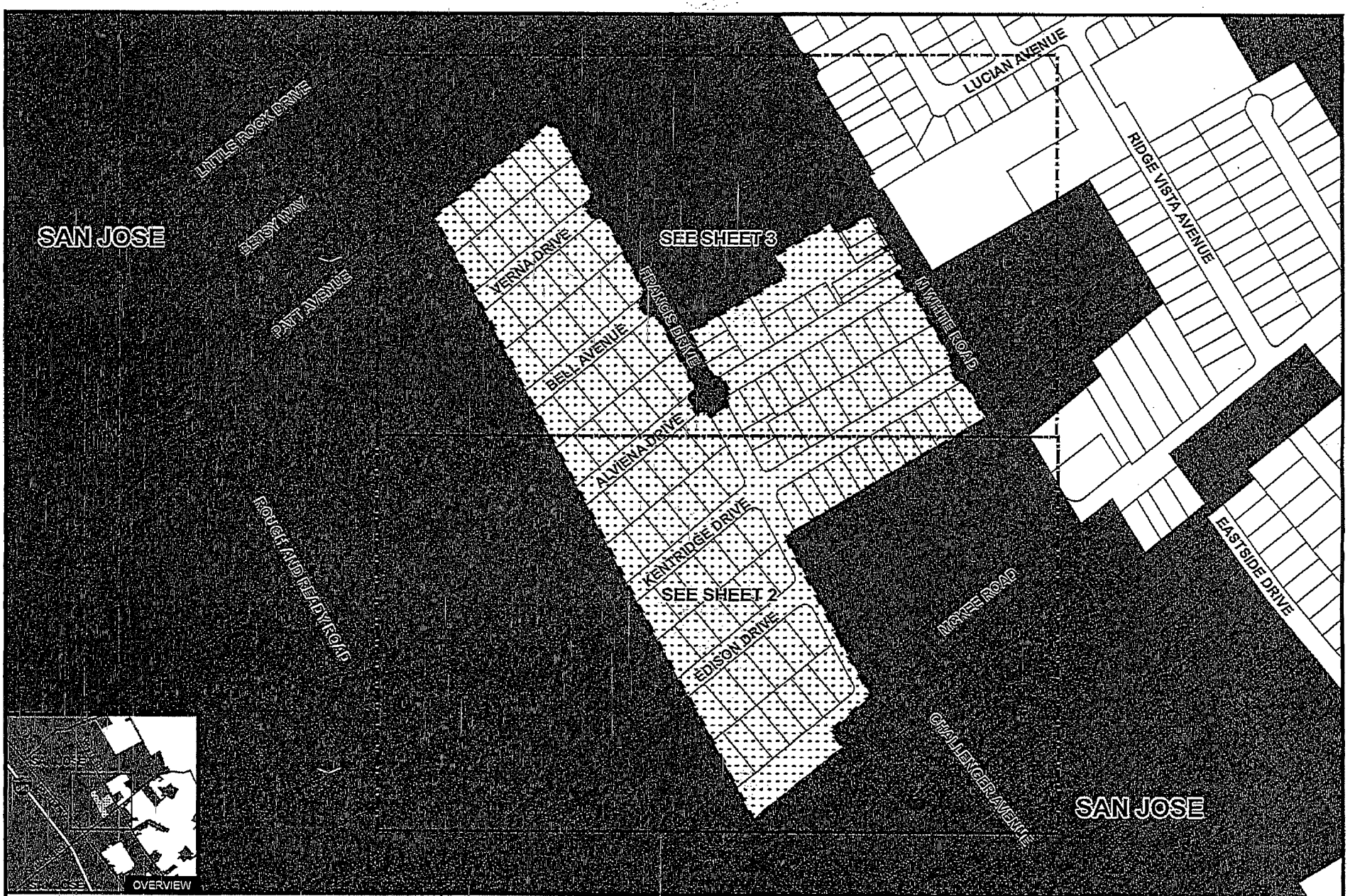
Chuck Reed

CHUCK REED
Mayor

ATTEST: Lee Price

LEE PRICE, MMC
City Clerk

Attachment: Exhibit "A"



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. 48
McKee No. 136
31 Acres +/-

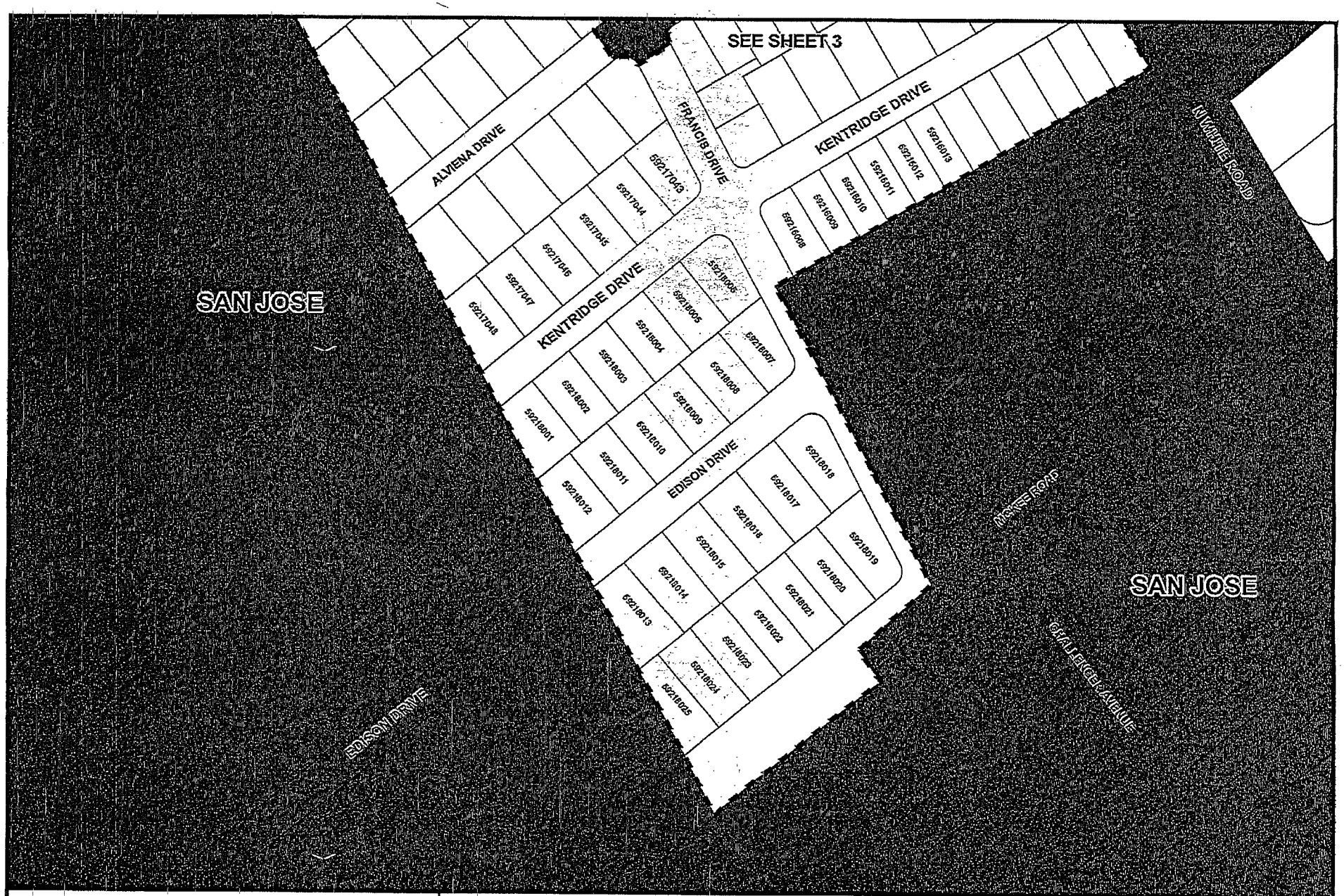
Prepared by the Office of the County Surveyor
April 14, 2010
Gwendolyn Gee, County Surveyor

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

N W E S
0 75 150 225 300
Feet

Sheet 1 of 3

75629



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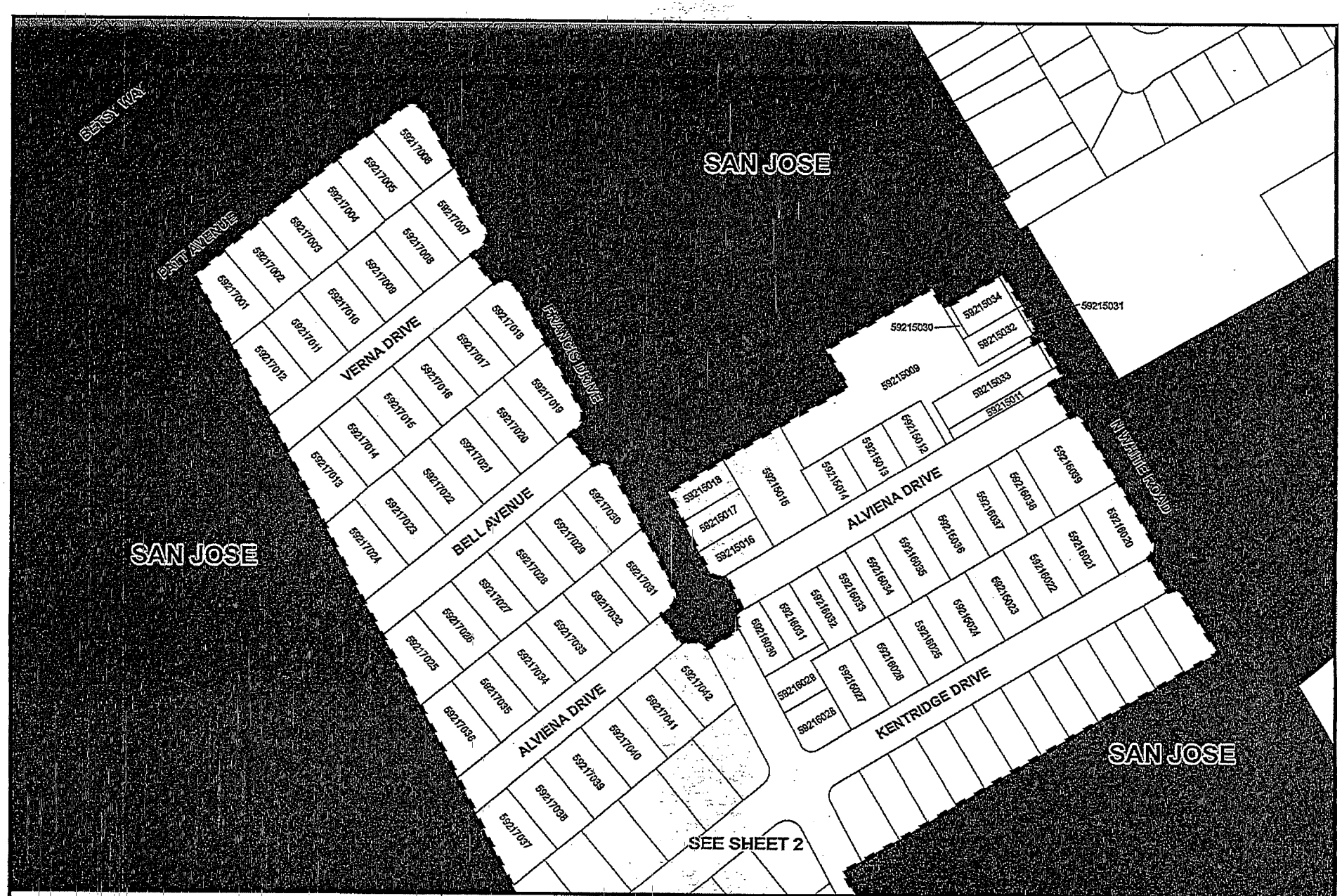
LEGEND:
- Area of Annexation
- Incorporated Lands
- Unincorporated Lands
- 12345678 Assessor's Parcel Number

N W E S
0 40 80 120 160
Feet

Sheet 2 of 3

75629



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Feet

Sheet 3 of 3

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