



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein
Jon Cicirelli
Jim Shannon

SUBJECT: SEE BELOW

DATE: May 26, 2021

Approved

Date

5/26/2021

COUNCIL DISTRICT: 6

SUBJECT: ACTIONS RELATED TO THE ACQUISITION OF PROPERTY AT 199 RACE STREET AND ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE SUBDIVISION PARK TRUST FUND

RECOMMENDATION

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute:
 - (1) A Purchase and Sale Agreement with Nathan Gordon and the Gordon Foundation Trust for the purchase by the City of approximately 0.29 acres (12,503 square feet) of land commonly known as 199 Race Street and located at the northwest corner of Race Street and Park Avenue, identified as Assessor’s Parcel Number 261-27-093 (“Property”), for a price of \$1,450,000; and
 - (2) Execute all other documents necessary to effectuate the transfer to the City.
- (b) Adopt the following 2020-2021 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - (1) Decrease Future PDO / PIO Projects Reserve by \$1,450,000; and
 - (2) Establish the Council District 6 Property Acquisition appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,450,000.

OUTCOME

Approval of the resolution will authorize the City Manager to negotiate and execute a purchase and sale agreement to acquire the Property commonly known as 199 Race Street, for a purchase price of \$1,450,000. Once acquired, staff would begin project planning for a potential neighborhood park. The City would assume the existing billboard lease for the duration of the lease term with the long-term goal of removing the billboard from City property.

BACKGROUND

The subject Property, identified as Assessor's Parcel Number (APN: 261-27-093), is located at 199 Race Street on the northwest corner of Race Street and Park Ave. The Property has a general plan designation of Neighborhood/Community Commercial and is zoned Commercial Neighborhood. The Property consists of a single legal parcel containing approximately 0.29 acres (12,503 square feet) of land and a vacant, 1,215 square foot, one story, shell retail building in fair condition. The site improvements are limited to an asphalt parking area, elevated billboard sign, and minimal landscaping.

The community has long been interested in acquiring this property to address the lack of park space in this neighborhood. Communities directly northwest of the site have been identified as park poor neighborhoods. Attachment B depicts the location of this property in relation to other park assets and population density. This, in conjunction with the population density surrounding the subject property, warrant the need for more localized park assets to ensure the community has access to adequate park space. In the future, the Parks, Recreation, and Neighborhood Services (PRNS) Department may seek to acquire nearby properties to expand community gathering areas that will enhance public life. The PRNS Activate SJ Strategic Plan prioritizes Equity and Access and Public Life as two of its guiding principles. Acquisition of this property will help advance the goals of the Activate SJ plan.

ANALYSIS

The Property was marketed for sale in September 2020 at an asking price of \$1,500,000. On January 13, 2021, the City and seller signed a Letter of Intent ("LOI") for the City to purchase the property for \$1,450,000, subject to the San Jose City Council's approval. An appraisal commissioned by City staff valued the property at \$1,450,000.

The property location is ideally situated for a neighborhood park use on a corner lot with high visibility. The site is located along a well-traveled corridor in a high-density residential area. The new park location would meet the department's goal of providing access to a park within a ten-minute walk. The residents immediately northwest of the site have been identified as being in a park poor neighborhood and would greatly benefit from the creation of a new park space. There has been community interest for a number of years in acquiring this and other nearby properties for future parkland.

The northern end of the property contains an elevated billboard sign with an active lease held by Clear Channel Outdoor. The lease generates \$200 per month (\$2,400 annually) in revenue and terminates on February 29, 2023. The City will allow the lease to stay in place until the expiration of the term. However, staff does not anticipate renewing the lease upon expiration because the billboard would conflict with a potential park development. The City's relocation benefits consultant, Associated Right of Way Services, recommends that Clear Channel Outdoor is not entitled to relocation benefits associated with the City's purchase of the property. Staff will

provide Clear Channel Outdoor a Notice of Non-Displacement letter stating that their lease will not be terminated.

Investigation by the Environmental Services Department and Cornerstone Earth Group discovered that the Property had previously been the site of a gas station from the 1930's to the 1960's. The current retail structure was constructed in the late 1960's and was occupied by Winchell's Donut House from the late 1960's to the early 1990's, and a Pizza Hut from the early 1990's until 2020. The retail structure consists of a large kitchen, service counter, and restroom and is suitable for a take-out/delivery restaurant operation.

An environmental investigation was conducted to determine if prior underground storage tanks ("USTs") associated with the historic gas station on the property resulted in soil and groundwater contamination. The investigation determined there is no petroleum contamination that would indicate a significant leak from former USTs on-site. An underground locator survey was conducted with ground penetrating radar and determined that there is no evidence of a UST still present on the property. There was evidence of excavation, which may indicate that any USTs once present were removed.

The investigation detected the presence of solvents in groundwater beneath the site which likely migrated from a former dry-cleaning business located 100 feet to the south where high levels of dry-cleaning solvents have recently been discovered. The presence of these contaminants in groundwater would not be a public health concern for an open-air park and staff do not anticipate any mitigation or remediation expenses or liability responsibilities for the solvents in development of a potential neighborhood park.

Should the City acquire the Property, the planning, design, and construction of any potential neighborhood park development would be subject to future CEQA review. The existing building would likely be removed after acquisition following a future budget action and environmental review.

Summary of Key Terms:

- Purchase Price: \$1,450,000.
- As-is acquisition.
- Closing costs to be paid according to Santa Clara County custom.
- City to deliver an I.R.S. §1033 exchange letter to seller at closing stating staff would recommend the Council consider the use of condemnation, should the City not successfully reach agreement with the Property Owner. An IRS §1033 Letter affords the Seller certain tax advantages from the transfer of the property due to the potential of acquiring the property via condemnation.
- City's due diligence investigations into environmental and title matters are complete.
- Anticipated close is 60 days after execution of a purchase agreement.

CONCLUSION

Approval of the recommendation will direct staff to complete negotiations and execution of a purchase and sale agreement for the 0.29 acres of land located at 199 Race Street. At conclusion, the new park space will meet the PRNS Activate SJ strategic plan goals by providing equity and access in a park poor area, public life, and enhanced recreational activities to meet the needs of the community.

EVALUATION AND FOLLOW-UP

The acquisition of the subject Property is anticipated to be completed within 60 days from execution of the purchase and sale agreement. The PRNS Department will be responsible for the delivery of any potential new park project, which would be subject to future budget actions and CEQA approval.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 8, 2021 Council Meeting.

COORDINATION

This memorandum has been coordinated with Planning, Building, and Code Enforcement, the Environmental Services Department, and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The recommended actions in the memorandum will use the Subdivision Park Trust Fund for the purchase and sale agreement to acquire the Property commonly known as 199 Race Street, for a purchase price of \$1,450,000. Once acquired, staff will begin project planning for a potential

neighborhood park in Council District 6. Any necessary funding for the construction of a new park will be considered in the budget development of future Capital Improvement Program.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the contract recommended as part of this memo.


Fund #	Appn #	Appn. Name	Total Appn	Recommended Budget Action	2020-2021 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
375	NEW	Council District 6 Property Acquisition	N/A	\$1,450,000	N/A	N/A
375	8845	Future PDO / PIO Projects Reserve	9,424,757	(\$1,450,000)	V-444	2/9/2021, Ord. No. 30531

CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/
 NANCI KLEIN
 Director of Economic Development

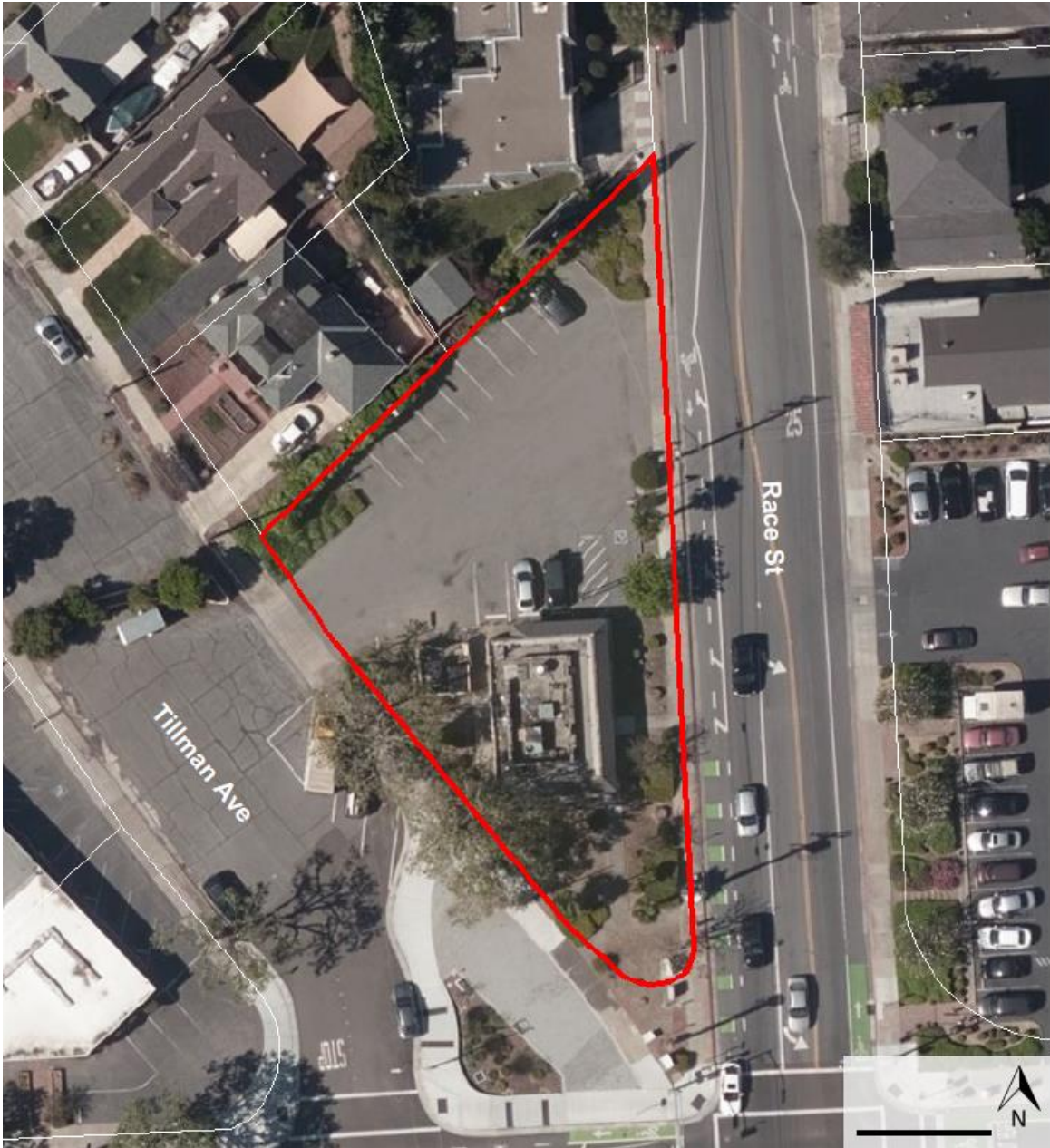
/s/
 JON CICIRELLI
 Director of Parks, Recreation, and
 Neighborhood Services


 JIM SHANNON
 Budget Director

For questions, please contact Nanci Klein, Director of Economic Development, at (408) 535-8184.

- Attachments:
 A – Site Location Map
 B – Park Asset and Population Density Context Map

ATTACHMENT A



ATTACHMENT B

