



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: November 13, 2017

Approved

Date

11-15-17

COUNCIL DISTRICT: 4

**SUBJECT: SALE OF A PORTION OF CITY-OWNED PROPERTY ON THE
NORTHEASTERLY CORNER OF BERRYESSA ROAD AND
MERCADO WAY**

RECOMMENDATION

Adopt a resolution:

- a) Declaring 783 square feet of vacated street on Berryessa Road, east of Mercado Way, surplus to the needs of the City;
- b) Authorizing the City Manager or his designee to execute a Purchase and Sale Agreement with the adjacent property owner S.J. Mercado Properties, LLC. (Mercado Properties) in an amount not to exceed \$1,000; and
- c) Authorizing the City Manager or his designee to execute the sale agreement, the quitclaim deed, all other documents necessary to complete the transaction and any modifications or amendments thereto.

OUTCOME

Adoption of this resolution will allow for the sale of approximately 783 square feet of a City-owned property at the northeast corner of Berryessa Road and Mercado Way to S.J. Mercado Properties, LLC. for One Thousand Dollars (\$1,000) that will be deposited to the General Fund.

BACKGROUND

On August 14, 2007, the City approved a Planned Development Zoning (PDC03-108) for the development of up to 2,818 residential units and up to 365,622 square feet of commercial, office,

November 13, 2017

Subject: Sale of a Portion of City-Owned Property on Berryessa Road

Page 2

and/or industrial use, and approximately 36 acres of public park/open space on a 120.3 acre site at the northeast corner of Berryessa Road and Mercado Way as shown in the attached location map. As a condition of the development project, the developer was required to re-align and improve Berryessa Road per City's General Plan. As a result of the re-alignment and improvements, there is a remainder of a 783 square foot excess portion of right-of-way behind the new public sidewalk that is the subject of this proposed surplus sale.

On January 10, 2017, the City Council approved a summary vacation of 783 square foot right-of-way behind the public sidewalk at the corner of Berryessa Road and Mercado Way and the property became available for surplus sale.

Staff has negotiated and S.J. Mercado Properties, LLC. has agreed upon a purchase price of \$1,000. The subject property is undevelopable, small in size, and is irregularly shaped.

ANALYSIS

Municipal Code Chapter 4.20 permits the sale of City-owned surplus property upon Council finding and determination that the property is not needed for, nor adaptable to, municipal purposes. Further, while such sales are generally required to be undertaken on a competitive basis, Municipal Code Section 4.20.070 authorizes the sale of surplus property through direct negotiation at fair market value, and upon such other terms and conditions as Council may direct, to the owner of property adjacent to such surplus property. The City property has been determined to not be independently developable. Staff reviewed market activity in the area prior to offering the property for sale including recent sales and properties that are currently for sale and has determined that the proposed sale price represents fair market value for the property, since the property is undevelopable, particularly in light of its size, configuration, location, and restrictions on development.

Staff has determined that there are no other municipal purposes now or in the foreseeable future for which the property could be used and therefore there is no reason for the City to own and maintain the property. Staff also reviewed the conditions of the property, particularly in light of its size, configuration and location as well as the impact of the proposed use on the surrounding area, and negotiated directly with the adjacent property owner, S.J. Mercado Properties, LLC. Both parties have tentatively agreed, subject to Council review and approval, upon a purchase price of \$1,000.

In accordance with Council Policy 7-13, since the parcel is less than 5,000 square feet and is not independently developable, the property is exempt from applying an Affordable Housing Restriction.

EVALUATION AND FOLLOW-UP

The transfer of the subject property is anticipated to be completed within 30 days of approval by the City Council.

POLICY ALTERNATIVES

Alternative #1: Reject the sale of the property and continue City ownership.

Pros: By retaining the property, the City retains the ability to use the property for future municipal purposes if the need arises.

Cons: By rejecting the sale, the City will continue to incur costs for maintenance of the property and the ongoing liability for repairs and safety.

Reason for not recommending: Continuing ownership of the property will result in continued maintenance expenses and potential liability. No future municipal uses have been identified.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the November 28, 2017 Council agenda.

COORDINATION

This memorandum has been coordinated with the Public Works Department, the City Attorney's Office, and the City Manager's Budget Office.

COST SUMMARY/IMPLICATIONS

Revenue resulting from the property sale will be deposited into the General Fund.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is required or associated with this action.

HONORABLE MAYOR AND CITY COUNCIL

November 13, 2017

Subject: Sale of a Portion of City-Owned Property on Berryessa Road

Page 4

CEQA

San Jose Flea Market General Plan Amendment & Planned Development Rezoning EIR
(Resolution No. 73956)

/s/

KIM WALESH
Deputy City Manager
Director of Economic Development

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

Attachments

EXHIBIT A
LOCATION MAP



EXHIBIT B

LEGAL DESCRIPTION OF REAL PROPERTY

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of Berryessa Road shown as Parcel B on that Record of Survey filed for record March 10, 1969 in Book 250 of Maps, page 19, in the Official Records of Santa Clara County, and more particularly described as follows:

COMMENCING at the most southerly corner of Lot A as shown on that Map of Tract 10160 filed for record on October 15, 2013, in Book 865 of Maps, page 8, Santa Clara County Records, being a point in the northwesterly line of said Berryessa Road; thence along said northwesterly line, the following two courses:

1. Thence North $36^{\circ} 07' 47''$ East, 226.28 feet;
2. Thence North $43^{\circ} 10' 17''$ East, 65.00 feet to the TRUE POINT OF BEGINNING, being on the easterly line of Mercado Way as shown on said Map of Tract 10160;

Thence continuing along said northwesterly line, North $43^{\circ} 10' 17''$ East, 118.42 feet;
Thence leaving said northwesterly line, South $35^{\circ} 48' 16''$ West, 92.54 feet to the beginning of a tangent curve to the right;
Thence Westerly along said curve, having a radius of 28.00 feet, through a central angle of $62^{\circ} 45' 36''$, an arc length of 30.67 feet to the TRUE POINT OF BEGINNING.

Containing 783 square feet, or 0.018 acres, more or less.

All distances are U.S. Survey (grid) feet. To obtain ground distances multiply expressed distances by 1.00004802.




EXHIBIT C

PLAT OF REAL PROPERTY

ALL DISTANCES ARE IN US SURVEY FEET (GRID) VALUES. TO OBTAIN GROUND DISTANCES MULTIPLY HEREIN DISTANCES BY 1.00004802.

LEGEND

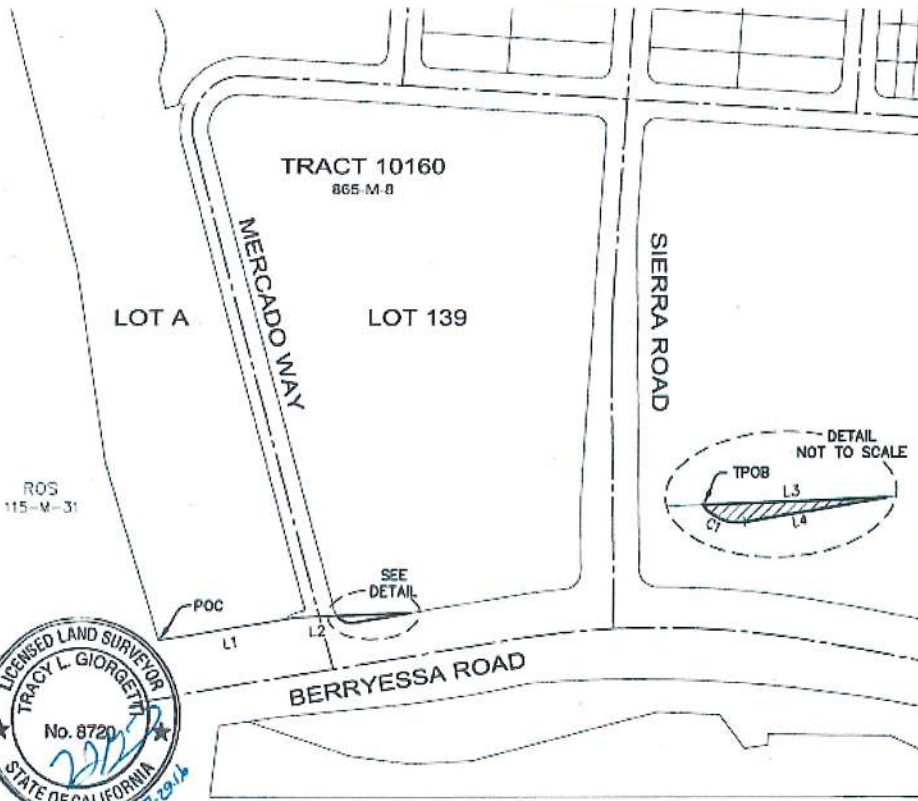
POC POINT OF COMMENCEMENT
 TPOB TRUE POINT OF BEGINNING
 PORTION TO BE VACATED

0 100 200
 1 IN. = 200 FT.



LINE TABLE		
LINE	BEARING	LENGTH
L1	N36°07'47"E	226.28'
L2	N43°10'17"E	65.00'
L3	N43°10'17"E	118.42'
L4	S35°48'16"W	92.54'

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	28.00'	62°45'36"	30.67'



SHEET 1 OF 1

Date: 2016-07-29
 Drawn: SL
 Check: DT/RF
 Checked: TG
 Proj. No.: TV
 090841PL01



1570 Oakland Road (408) 497-2200
 San Jose, CA 95131 hmmh.com

PLAT TO ACCOMPANY DESCRIPTION:
 STREET VACATION

SAN JOSE

CALIFORNIA