

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Angel Rios, Jr.  
Jacky Morales-Ferrand  
Margaret McCahan

**SUBJECT: SYCAMORE TERRACE SITE  
15520 ALMADEN ROAD**

**DATE:** May 14, 2018

Approved

*D. DSYL*

Date

*5/15/18*

**COUNCIL DISTRICT: 10**

## RECOMMENDATION

- (a) Adopt a resolution approving the transfer on or before October 30, 2018, of an undeveloped Low and Moderate Income Housing Asset property (known as Sycamore Terrace) located at 15520 Almaden Expressway at Coleman Road (south San Jose), Assessor Parcel Numbers 694-02-002 and 694-02-015 from the Housing Department to the Parks, Recreation and Neighborhood Services Department (PRNS) for the future construction of additional park and open space for Almaden Lake Park at 15520 Almaden Expressway in exchange for the appraised value of the property consistent with California Community Redevelopment law.
- (b) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:
  - (1) Decrease the Future PDO/PIO Projects Reserve appropriation by \$811,000; and
  - (2) Establish a Transfer to the Low and Moderate Income Housing Asset Fund appropriation to the Finance Department in the amount of \$811,000.
- (c) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10: Council District 10 Construction and Conveyance Tax Fund:
  - (1) Decrease the Unrestricted Ending Fund Balance by \$426,000; and
  - (2) Establish a Transfer to the Low and Moderate Income Housing Asset Fund appropriation to the Finance Department in the amount of \$426,000.
- (d) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Low and Moderate Income Housing Asset Fund:
  - (1) Increase the estimate for Transfers and Reimbursements in the amount of \$1,237,000; and
  - (2) Increase the Housing Project Reserve by \$1,237,000.
- (e) Adopt a resolution authorizing the City Manager to submit a grant application and, if awarded, negotiate, and execute a grant agreement with the Santa Clara Valley Open Space Authority for an amount up to \$300,000 in funding for the transfer of the Sycamore Terrace property located at 15520 Almaden Expressway at Coleman Road and to take all actions necessary to effectuate the grant.

## **OUTCOME**

Transfer of the Site from the Housing Department to PRNS in exchange for the appraised value is consistent with the provisions of the California Redevelopment Law (CRL). The transfer will allow for the future construction of additional park and open space for Almaden Lake Park. The 1.42-acre site is accessible to Lake Almaden Park via the newly opening Guadalupe River Trail (Coleman Road Undercrossing).

## **BACKGROUND**

The Site is a 1.42-acre property comprised of two parcels that are currently vacant. The first property is a 0.92-acre parcel that was acquired through foreclosure on February 16, 1995, at a cost of \$1,621,921. The second property is a 0.51-acre parcel which was transferred to the Housing Department by the Department of Parks, Recreation and Neighborhoods (PRNS) in 2001, for the amount of \$750,000.

## **ANALYSIS**

From 1991 to 2013, the Housing Department issued two Requests for Proposals ("RFP") and engaged with three separate developers to develop the Site. Due to unanticipated fluctuations in the housing market, increased construction and insurance costs, the proposed development was deemed financially infeasible by the first two developers and they withdrew from the project. Additional detail on the City's efforts to develop the site are included in Rules Committee memorandum which is included as **Attachment A**.

On November 11, 2017, the Rules and Open Government Committee reviewed different options regarding the potential development of the Site. Subsequent to the Committee meeting, the Housing Department and PRNS developed a proposal for the Housing Department to transfer the Site to PRNS for its appraised value of \$1,237,000. Upon City Council approval, funds will be deposited in the Low and Moderate Income Housing Asset Fund consistent with Health and Safety Code Sections 33334.16 to be used for affordable housing purposes. This allows the Site to remain as an open space/parkland asset and meets the CRL requirements. The recommended appropriation actions are necessary to fulfill the City's obligations as described in the 2016-2017 Housing Successor to the Redevelopment Agency Annual Report accepted by City Council on March 20, 2018, which states that the sale of the property must be initiated in 2018 in accordance with the CRL. Although the transfer of funds will occur in 2017-2018, as discussed following, the transfer of property will not take place immediately.

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The recommended City Council Resolution for the transfer of the Sycamore Terrace property will memorialize the transfer of the subject property from the Housing Department to PRNS. To help offset acquisition costs, PRNS will apply for funding from the Santa Clara Valley Open Space Authority (OSA). For the City to receive funds from the OSA, a participating jurisdiction is required to submit a completed application a minimum of 90 days before the jurisdiction expects a decision on the application and prior to any closing on an acquisition or the start of any site development/restoration. Funding will be denied for acquisitions that have already been completed.

In order to ensure that the OSA funding can be utilized for this project, PRNS will take the following actions:

- 1) PRNS will submit an application to OSA requesting \$300,000 for this project immediately following City Council approval of this memorandum;
- 2) In late May or June, PRNS will attend a hearing of the OSA Citizen's Advisory Committee for preliminary approval (or denial) of this potential grant;
- 3) Assuming the OSA Citizen's Advisory Committee approves this grant, PRNS will attend a hearing of the full OSA board of directors in July or August to receive final approval for the grant; and
- 4) By October 30, 2018 or earlier:
  - a. If the OSA board approves, denies, or has not yet made a decision on the grant request, the Housing Department will transfer the subject property to PRNS. The source of funds will be reflected in the recommended actions of this memo.
  - b. If the OSA board approves the grant, the grant funding of \$300,000 will be deposited into Council District 10 C&C Fund.

PRNS staff has discussed the timing of these actions and specifically the delayed transfer of the subject property from the Housing Department to PRNS with OSA staff, and OSA staff has confirmed that the City's advance approval of the property transfer prior to submitting the grant application to OSA will not negatively impact the City's grant application.

The Site includes a grove of native California Sycamore trees and is bounded by riparian frontage on two sides. These conditions will be incorporated as part of future development proposals to ensure preservation. This project will allow for an expansion of Almaden Lake Park by 1.42 acres. Last year, the Guadalupe River Trail Undercrossing under Coleman Road was completed. This will provide a trail connection from the existing parking lot at Almaden Lake Park to the site. A map of the site is provided as **Attachment B**.

#### **EVALUATION AND FOLLOW-UP**

Staff will return to the City Council in the future regarding budgetary actions for study, planning, environment, design and development efforts leading to parkland and open space improvements at the site.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website prior to the May 22, 2018 City Council meeting.

### **COORDINATION**

This memorandum has been coordinated with the Office of the City Attorney.

### **COMMISSION RECOMMENDATION/INPUT**

This item does not require input from a board or commission.

### **FISCAL/POLICY ALIGNMENT**

Acquisition of the proposed site aligns with public park and recreation goals of the *Greenprint 2009 Update*, and the *Envision San José 2040 General Plan*.

### **COST SUMMARY/IMPLICATIONS**

A total of \$1,237,000 is needed for the land transfer and associated costs for the property located at 15520 Almaden Expressway at Coleman Road in San Jose. Funds will be transferred to the Low and Moderate Income Housing Asset Fund from the Subdivision Park Trust Fund (\$811,000) and the Parks C&C Fund District 10 (\$426,000). The Sycamore Terrace property is not developed, but will need annual weed abatement. Its anticipated to cost \$1,500 annually for weed abatement of the 1.42-acres, which will be absorbed by PRNS.

The recommended budget actions were not factored into the development of the 2018-2019 Proposed Budget, but will be incorporated into to the Manager's Budget Addendum Recommendation Amendments to the 2018-2019 Proposed Operating and Capital Budgets scheduled for release at the end of May 2018. To account for the impact of the recommended actions in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10, the following adjustments to the 2018-2019 Proposed Capital Budget will be brought forward:

- 1) Reduce the 2018-2019 Beginning Fund Balance by \$426,000 to reflect the 2017-2018 recommended actions included in the memo to the Unrestricted Ending Fund Balance;
- 2) Eliminate the 2018-2019 Council District 10 Land Acquisition Reserve of \$250,000;
- 3) Reduce the 2018-2019 Infrastructure Backlog Reserve in the amount of \$100,000; and
- 4) Decrease the 2018-2019 Ending Fund Balance by \$76,000.

### **BUDGET REFERENCE**

The table below identifies the fund and appropriations proposed to transfer the Sycamore Terrace property for the future construction at Almaden Lake Park.

Fund #	Appn. #	Appropriation Name	Total Appn.	Recommended Budget Action	2017-2018 Adopted Operating/ Capital Budget Page	Last Budget Action (Date, Ord. No.)
375	NEW	Transfer to the Low and Moderate Income Housing Asset Fund	N/A	\$811,000	N/A	N/A
375	8845	Future PDO/PIO Projects Reserve	\$9,454,030	(\$811,000)	678	2/13/2018 30070
389	NEW	Transfer to the Low and Moderate Income Housing Asset Fund	N/A	\$426,000	N/A	N/A
389	8999	Unrestricted C&C CD10 Ending Fund Balance	\$1,257,744	(\$426,000)	576	2/13/2018 30070
346	R003	Transfers and Reimbursements	\$0	\$1,237,000	N/A	N/A
346	8437	Housing Project Reserve	\$44,398,788	\$1,237,000	1011	1/9/2018 30060

### **CEQA**

Exempt, File No. PP18-028, CEQA Guidelines Section 15316, Transfer of Ownership of Land to Create Parks.

/s/  
ANGEL RIOS, JR.  
Director of Parks, Recreation and  
Neighborhood Services

/s/  
JACKY MORALES-FERRAND  
Director of Housing Department

  
MARGARET MCCAHAN  
Budget Director

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I hereby certify that there will be available for appropriation in the Low and Moderate Income Housing Asset Fund in the Fiscal Year 2017-2018 moneys in excess of those heretofore appropriated therefrom, said excess being at least \$1,237,000.



MARGARET MCCAHAN

Budget Director

Attachment A: Rules and Open Government Committee Memorandum

Attachment B: Proposed Land Acquisition Site (Sycamore Terrace)

For questions contact Nicolle Burnham, PRNS Deputy Director of Capital Programs, at (408) 793-5514.



# Memorandum

**TO:** RULES AND OPEN  
GOVERNMENT COMMITTEE

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** 15520 ALMADEN ROAD

**DATE:** November 1, 2017

Approved

*D. D. Syl*

Date

*11/3/17*

## RECOMMENDATION

It is recommended that the Rules and Open Government Committee consider and make recommendations to Council regarding the following options for the housing assets located at 15520 Almaden Road ("the Site"), which are held by the City as the housing successor to the Redevelopment Agency of the City of San José ("Redevelopment Agency"):

1. Develop the Site
2. Trade the Site for another City-owned Property
3. "Sell" the Site at the Appraised Value to a City Department
4. Sell the Site to a Third Party

## BACKGROUND

The Site is a 1.42-acre property comprised of two parcels that are currently vacant. The first property is a 0.92 acre parcel that was acquired through foreclosure on February 16, 1995 at a cost of \$1,621,921. The second property is a 0.51 acre parcel which was transferred to the Housing Department by the Department of Parks, Recreation and Neighborhood Services (PRNS) in 2001, for the amount of \$750,000. The Housing Department, acting under the cooperation agreement between the City and the Redevelopment Agency expended a total of \$2,371,921 in Low and Moderate Income Housing Funds ("20% Funds") to purchase both sites for affordable housing. The Site's General Plan designation is Open Space and the zoning is Agricultural.

From 1991 to 2013, the Housing Department issued two Requests for Proposals ("RFP") and engaged with three separate developers to develop the Site. Due to unanticipated fluctuations in the housing market, increased construction and insurance costs, the proposed development was deemed financially infeasible by the first two developers and they withdrew from the project.

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In 2003, the Housing Department entered into negotiations with Barry Swenson Builder (“BSB”). BSB agreed to develop the site to include 32 units with 16 units price-restricted to moderate-income households. BSB did not initially pursue development of the site which was named Sycamore Terrace (“the Project”). During this timeframe, the City adopted a new riparian corridor ordinance that required a redesign of the project and resulted in a reduced number of units. BSB sought an extension of the Project’s development permit, which was approved by the City in 2007. From 2007 to 2013, the City granted BSB several additional permit extensions, culminating in a Last and Final general extension that expired on August 20, 2013. BSB also sought and the City approved an amendment to the original permit that reduced the total number of units from 32 to 27 and the total number of affordable units from 16 to 9.

The San José real estate market experienced a significant downturn starting in 2007. BSB was unable to develop the Site due to issues of financial infeasibility and physical constraints. Other factors impacted the Project’s site/development plan. These included:

1. Designation of a large sycamore tree on the Site for preservation;
2. Identification of ingress/egress issues which severely limited design options; and
3. A request from the County of Santa Clara for improvements/mitigations associated with Almaden Expressway were requested to be part of the Project.

On June 28, 2011, the Governor signed into law Assembly Bill X1 26, as subsequently amended by AB1484, which provided for the dissolution and winding down of redevelopment agencies throughout the State of California (“Dissolution Legislation”). On January 24, 2012, pursuant to the Dissolution Legislation, the City of San José elected to be the Successor Agency (“Successor Agency”) to the Redevelopment Agency to administer the dissolution and winding down of the Redevelopment Agency. On February 1, 2012, the Redevelopment Agency was dissolved and, upon dissolution, all assets, properties and contracts of the Redevelopment Agency were transferred to the Successor Agency pursuant to the terms of the Dissolution Legislation.

Upon dissolution of the Redevelopment Agency, the City elected to retain the housing assets and affordable housing functions of the Redevelopment Agency. With this election, the City assumed all the affordable housing assets. The Site was identified as a housing asset to be retained by the City, and approved as such by the state Department of Finance and is therefore subject to the provisions of the California Redevelopment Law (“CRL”) which relate to affordable housing and housing assets.

On October 13, 2013, the Governor signed into law Senate Bill 341 which amended provisions of the CRL relating to the functions to be performed by housing successors. SB 341 reset the ten-year clock on the development of properties purchased by the former Redevelopment Agency. To remain compliant with California State law, the Site must be developed for affordable housing. Development activity must be initiated by March 2018 or staff must obtain an additional five-year extension. If the City decides not to pursue the development of the site, any other option must be consistent with the CRL.



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On June 26, 2017, the Housing Department provided to the Community and Economic Development Committee, a comprehensive report on the number of affordable and homeless apartments and where they are located in the city. As detailed in the report, the proportion of affordable homes in each council district ranges from 1% to 12%. Council Districts 3, 5, and 7 have the highest percentages of affordable housing. Council Districts 1, 8, and 10 have the lowest proportions. Council District 10 has 616 deed restricted affordable apartments in San José which represents 2% of the total amount of affordable housing in the City.

On August 2, 2017, Councilmember Khamis issued a memorandum to the Rules Committee directing Planning Staff to rezone the Site to Open Space. Housing staff was directed to return to the Rules Committee with options for the City Council to consider that are consistent with CRL. Several of the options may impact the General Fund so the potential impacts are included as part of the analysis.

On September 12, 2017, the Housing Department received a new appraised value for the Site based on the Site's current highest and best use that is consistent with the General Plan 2040 designation. The appraiser estimated the Site's value assuming an Open Space General Plan designation to be \$1,237,000.

## **ANALYSIS**

The Housing Department recommends the following four options for City Council consideration that are consistent with the CRL:

### **Option 1: Develop the Site**

The Site was acquired to be developed for affordable housing, however it has historically been challenging to develop because of the prior development focus on for-sale housing and the change in development requirements as described in the background section of this memorandum. Physical constraints remain that may still render the Site challenging for residential development. These constraints are detailed below:

- The development permit expired in 2013. Thus, any future project on the Site would be subject to the City's riparian corridor ordinance. As a result, the Site's buildable area would be significantly decreased. The most recent entitlement allowed for 27 homes to be built, yet 9 of those units would now be located within the riparian buffer, thereby reducing the number of developable units to 18.
- The Site's proximity to Almaden Expressway creates challenges for the ingress and egress of vehicles to the Site. These challenges include constricted space for acceleration or deceleration and potential safety concerns at a busy intersection. A future developer of the

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Site would be required to develop a mitigation plan for approval by the County of Santa Clara, which has jurisdiction over the Almaden Expressway.

- The Housing Department (or partner developer) would be required to obtain a General Plan Amendment and a Planned Development (“PD”) Zoning for the Site to develop it as residential because the development permit expired in 2013.
- In 2018, the CRL requires the City to make additional findings in order to continue pursuing development of the Site.
- The Housing Department would need to issue a new RFP for the Site since no agreements have been executed with any developer, the conditions are different, and so much time has elapsed since BSB has been engaged on the development of the Site.

Despite the challenges, both for-profit and non-profit developers have expressed interest in developing the Site. BSB continues to be interested in developing the Site because they already have a significant financial investment in predevelopment costs. There are also limited development opportunities in Council District 10. The Site provides an opportunity to build in an area of the city where there are few affordable housing options.

This option meets the CRL requirements and has no impact to the General Fund.

## **Option 2: Trade the Site for Another City-owned Property**

In an effort to meet CRL requirements and pursue the opportunity to develop affordable housing, another option is to trade the Site for another developable City-controlled property. For this approach to work, the Housing Department would need to exchange the Site for another property that would yield the same or higher number of affordable units.

In late 2016, the Office of Economic Development notified the Housing Department that the City-owned property located at 460 Park Avenue was available for purchase. Consistent with the City’s Surplus Lands Policy, the Housing Department commissioned an appraisal of the 0.36-acre Park Avenue property. The property appraised for \$1,220,200. Due to the increased densities in the Downtown Core, the Housing Department estimates that 30-40 apartments could be developed on the Park Avenue properties.

Rather than purchasing the Park Avenue property with 20% Funds as intended, City Council could consider directing staff to initiate actions needed to transfer ownership of the Park Avenue property to the Housing Department in exchange for the Site. The Park Avenue property could then be developed into affordable apartments, and the City could determine the Site’s future use. The Park Avenue site is located in District 3. District 3 has 3,746 or 11% of the total amount of deed restricted apartments in San José. It has the second highest number of affordable developments in the City. To meet the CRL requirements, the Housing Department would still

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need to be reimbursed for the difference in the value of the two sites, estimated to be approximately \$17,000.

Impact to the General Fund

The negative financial impact to the General Fund would be approximately \$1.24 million, consisting of foregone revenue from the Park Avenue property of \$1.22 million – revenue built into the current year's General Fund revenue projections – and the additional \$17,000 that Housing Department funds would need to be reimbursed. The City could try to sell the Site as surplus land as described in Option 4.

**Option 3: "Sell" the Site at the Appraised Value to a City Department**

Under the CRL, the Site cannot be given to another City department to be used for a non-affordable housing use and therefore it must be sold. A new appraisal value of the Site was completed on September 12, 2017, based on the Site's current highest and best use. Consistent with the General Plan 2040 designation, the appraiser estimated the Site's value assuming an Open Space General Plan designation to be \$1,237,000. The Housing Department could transfer the Site to another City Department in exchange for the appraised value, consistent with the requirements of the CRL and the proceeds would be deposited in the LMIHAF.

There have been internal discussions with PRNS regarding the use of this site as a future park or open space area. This site is directly across the street from Almaden Lake Park so while this immediate area is not lacking in open space, adding to the open space inventory for this area would provide flexibility to add needed recreational amenities in the future. Additionally, a trail extension along the Guadalupe River underneath Coleman Road is currently under construction so this property will soon be connected to Almaden Lake Park through an easily accessible trail. If funding were available, PRNS would support adding this to the open space and parkland inventory. However, at this time, sufficient funding for this purchase is not available in the PRNS capital budget unless other projects and priorities are defunded or delayed. In addition, any resources to maintain the new parkland will likely be limited in the coming years due to anticipated General Fund deficits.

**Option 4: Sell the Site to a Third Party**

The sale of the Site outside the City would need to comply with the CRL requirements and the applicable requirements of City's surplus lands policy. The property would be sold for the Site's current highest and best use and all funds from such sale would be returned to the LMIHAF. The Site's Open Space General Plan designation would likely impact the value of the site. The Housing Department may be challenged to replace the lost units because of the decreased value of the property.

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Surplus Property Sales Process

If the City acquires the property as a result of the trade described in Option 2, the City could offer the Site for sale consistent with the Surplus Property Policy. On April 30, 2013, the Council approved amendments to the Surplus Property Policy (City Council Policy 7-13) that establishes the procedures for selling city-owned real property. City staff would notify the City Council via an information memorandum of their intent to sell the Site. If no City use was identified for the Site, staff would then provide a written notification letter with an offer to sell the property to a "Preferred Entity" for the development of affordable housing, parkland, recreational use, or open space purposes; or for a school facility. Because the Site is zoned A – Agriculture, if more than one Preferred Entity makes an offer to purchase the site, under the surplus lands policy the City does not have to give priority to the Preferred Entity that complies with the affordable housing requirements in that policy.

Impact to the General Fund

The open space designation likely limits the potential pool of buyers to government entities or private entities that are organized to maintain open space, which could result in a lower sale price than the appraised value of \$1.22 million. As described earlier in this memorandum, the total potential negative impact to the General Fund is \$1.24 million minus the funds received from the sale.

COORDINATION

This memorandum has been coordinated with the Office of the City Attorney, Office of Economic Development, Parks, Recreation, and Neighborhood Services and the City Manager's Budget Office.

/s/

JACKY MORALES-FERRAND

Director of Housing

For questions please contact Jacky Morales-Ferrand, Director, Housing Department at (408) 535-3855.

Site Map  
15520 Almaden Road

