

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** April 15, 2019

Approved



Date

4/25/19

**COUNCIL DISTRICT: 9**

**SUBJECT: SALE OF A CITY-OWNED PROPERTY AT REBEL WAY**

## RECOMMENDATION

Adopt a resolution:

- a. Approving the sale of a portion of the city-owned property at Rebel Way, Assessor's Parcel Number (APN) 569-46-001, to Linda Yamauchi, for the amount of \$11,445.44 (Parcel A); and
- b. Approving the sale of the remaining portion of the property to W. Scott and Sarah E. Gardner, for the amount of \$12,906.56 (Parcel B); and
- c. Authorizing the City Manager or his designee to execute the purchase and sale agreements, the deeds, and all other documents necessary to complete the transaction.

## OUTCOME

Adoption of this resolution will allow for the sale of a property that is approximately 20,338 square feet (0.47 acres) of undevelopable City-owned property located at Rebel Way, APN 569-46-001, to Linda Yamauchi and W. Scott and Sarah E. Gardner, for the total amount of \$24,352. The net proceeds of the sale will be recognized and deposited to the General Fund. The transfer of this property will include the reservation of a right of way easement and storm drain easement.

## BACKGROUND

This parcel is approximately 20,338 square feet of vacant land adjacent to Rebel Way. The property is encumbered with both an existing PG&E overhead power line easement across the entire property and a storm drain easement. In addition, the City will reserve a public right of

way easement along the street frontage. The encumbrances render the property undevelopable. Essentially, the property is serving as "open space" to the community. Since the property is vacant land it requires ongoing annual maintenance for weed abatement activities.

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. The City Council made the surplus property finding for this property in 2009, (Resolution# 74994). Further, the competitive sales process referred to as "bid and negotiation" can be used as an alternative to conducting a public auction. 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.

On January 3, 2018, in accordance with amended California Government Code Section 54222, staff prepared and distributed a notification to local agencies of the availability of the proposed sale property for the development of housing for persons and families of low or moderate income; park, recreation, open space; public school and/or enterprise zone purposes. Staff did not receive any responses to the 54222 notification letters.

### **ANALYSIS**

Staff initiated a bid and negotiation process to sell the property, soliciting bids by advertising in the Mercury News, listing the property on Loopnet and CoStar and providing electronic notification to over 250 brokers and developers. Staff received several telephone inquiries concerning the property. The bid received from Linda Yamauchi and W. Scott and Sarah E. Gardner was the highest bid of two formal submitted bids. Based upon the review of the market activity in the area, existing PG&E, storm drain and proposed public right of way easements along the street frontage, the impact of the proposed use for additional backyard landscaping, and taking into consideration the industry standard adjustments reflecting a discount for easement encumbrances, staff has concluded that the offer of \$24,352 from the adjacent property owners, Linda Yamauchi and W. Scott and Sarah E. Gardner was the highest, most qualified bid and reflects the fair market value of the property. The 80-foot wide property will be split in the middle and divided into two lots, Parcel A (easterly strip) and Parcel B (westerly strip), as depicted in the Plat Map (Attachment C). All parties have tentatively agreed, subject to Council review and approval, upon a purchase price of \$24,352.

As the property is undevelopable, and there are no other municipal purposes now or in the foreseeable future for which the property could be used, staff sees no reason for the City to own and maintain the property.

The property is being sold "as is" and with the reservation a public right of way easement. The buyer has had the opportunity to inspect the property for any deficiencies. The buyer has been

provided with all applicable disclosures and property information that was contained in the Real Estate property files. In addition, the buyer has been advised that in accordance with Council Policy, a deed restriction which states that if the property is ever used for the development of ten (10) or more residential uses, then the owner (or its successor-in-interest) must provide not less than fifteen percent (15%) of the total number of units developed on the subject parcel at affordable prices for rental or for-sale property will be recorded at the time of the transfer. The deed restriction will run with the land for fifty-five (55) years, and be enforceable against any owner (or its successor-in-interest) who violates the covenant or restriction.

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

The transfer of the subject property is anticipated to be completed within 30 days of execution of the Purchase and Sale Agreement by the City. No further actions will be required by staff after the close of escrow unless there is a violation of the deed restriction in the future.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the May 7, 2019 Council Agenda.

### **COORDINATION**

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

### **COMMISSION RECOMMENDATION/INPUT**

There is no commission recommendation associated this this item.

### **FISCAL/POLICY ALIGNMENT**

The sale is in alignment with the Mayor's March 2009 Budget Message, Section Investment Strategies, Item 1h which stated: "The City is currently undergoing a rigorous asset management review to include the sale of nonessential and underperforming city-owned properties, restructuring of existing leases with for-profit and non-profit operators of city facilities, and leasing of city infrastructure to private or other governmental operators."

**COST SUMMARY/IMPLICATIONS**

Upon Council's approval of the sale of a City owned property at Rebel Way, and the City's subsequent Purchase and Sale Agreement, the \$24,352 payment will be deposited into the City's General Fund.

**CEQA**

Categorically Exempt, File No. PP19-029, CEQA Guidelines Section 15312, Surplus Government Property Sales.

/s/  
KIM WALES  
Deputy City Manager  
Director of Economic Development

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

Attachments

# ATTACHMENT A

## Aerial of Property



Assessor's Parcel Map

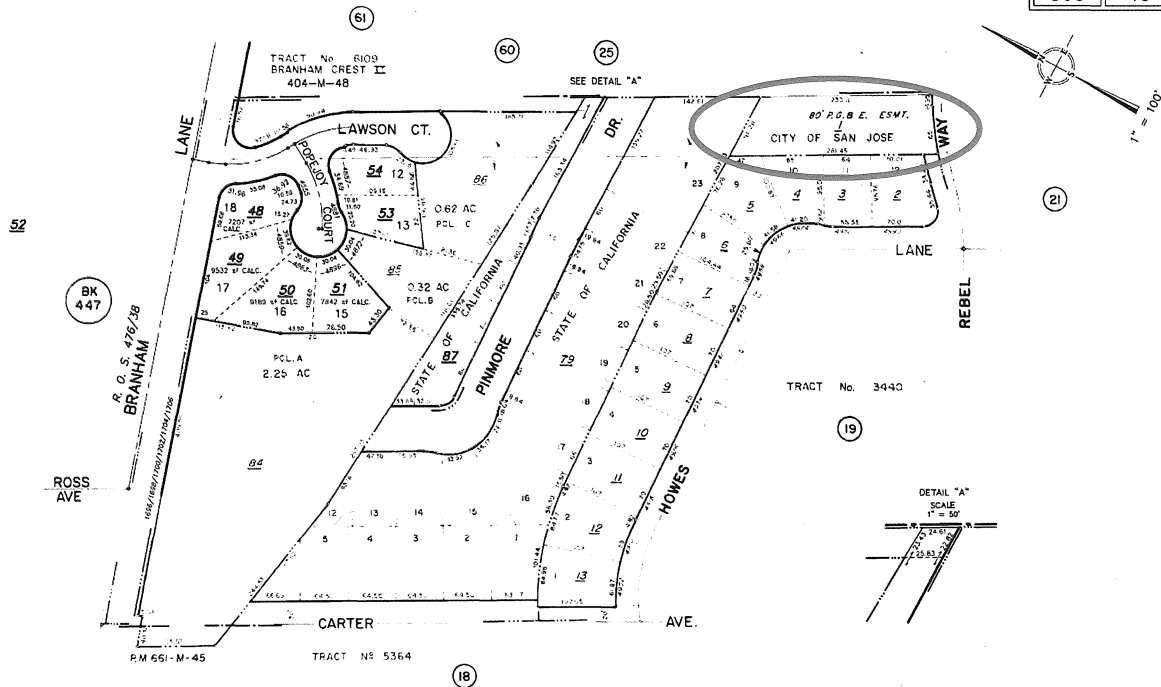
OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

BOOK

569

PAGE

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LAWRENCE E. STONE - ASSESSOR  
Cadastral map for assessment purposes only  
Compiled under R. & T. Code, Sec. 327,  
Effective Roll Year 2018-2019

# ATTACHMENT C

## Plat Map

