



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: January 21, 2020

Approved

Date

1/22/2020

COUNCIL DISTRICT: 3

SUBJECT: DECLARATION OF SURPLUS LAND AND APPROVAL TO NEGOTIATE AND EXECUTE AN OPTION AGREEMENT TRANSFERRING SURPLUS PROPERTY TO HABITAT FOR HUMANITY

RECOMMENDATION

- (a) Adopt a resolution determining that the City-owned 0.24-acre property located at the southeast corner of the intersection of East Reed Street and South Fourth Street is not needed for, nor adaptable to, municipal purposes and is, therefore, surplus to the needs of the City.
- (b) Authorize the City Manager to negotiate and execute an eighteen-month Option to Purchase agreement with Habitat for Humanity East Bay/Silicon Valley to sell a portion (approx. 5,227 sq. ft.) of the City's East Reed Street and South Fourth Street property.

OUTCOME

If City Council approves the actions listed above, the East Reed Street and South Fourth Street property ("Property") will be designated as surplus to the needs of the City. This will authorize staff to dispose of the property pursuant to Cal. Gov. Code §50570 and San Jose Municipal Code 4.20.080. Consistent with California law and the City of San Jose's policy governing the sale of certain surplus property, the Property will be transferred to a non-profit housing corporation, Habitat for Humanity subject to the affordable housing requirements of Cal. Healthy and Safety Code §50052.5/§50053 and the required recordation of an affordable housing covenant.

If approved, the City will enter into an eighteen-month Purchase Option allowing Habitat for Humanity to purchase the Property for \$1. Staff understands that upon entering into the Purchase Option with the City, Habitat for Humanity will engage the developer KT Urban to relocate the 4-unit historic, Pallesen Apartment Building to the Property at KT Urban's expense. The

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Pallesen Apartment Building is currently located on the site of KT Urban's planned Garden Gate Tower project.

Habitat for Humanity could decline to exercise its purchase option due to environmental and title due diligence, failure to reach an agreement with KT Urban for the relocation of the Pallesen Apartments structure, or failure to complete the required permitting process to move the Pallesen structure to the Fourth and Reed location.

BACKGROUND

Surplus Sale

The Surplus Land Act (Gov Code §54220 et seq.) generally governs the sale of surplus lands. In accordance with the Act, in 2018, San Jose noticed intent to sell as surplus the City-owned Fourth and Reed Property, known as APN 472-27-106. The City offered the sale of the Property through a competitive process in accordance with Section 4.20.040 of the San Jose Municipal Code. The City received four offers, and Habitat for Humanity was the highest bidder. Direct negotiations with Habitat for Humanity in 2018 and 2019 did not result in a sale because Habitat ultimately determined that the site's topography and layout constrained development potential in a way that made it infeasible for them to construct new housing product. However, Habitat for Humanity remained interested in finding the right fit for an affordable housing project on the Property by using the site to accommodate the Pallesen relocation.

The Fourth and Reed property has been determined to be not needed for, nor adaptable to, municipal purposes as its unique site constraints restrict the buildable utility of the site. The site has been used by homeless individuals and is a management challenge for the City.

With no agreement reached under the 2018 notice, the City is now able to proceed with a sale of the potential surplus property to Habitat for Humanity through direct negotiations under Cal. Gov. Code §50570 and San Jose Muni Code §4.20.080, both of which allow for direct sales of surplus land to non-profit housing corporations. In order to comply with the above laws, the property must be transferred to an affordable housing agency subject to the affordability requirements of Cal. Health and Safety Code §50052.5/§50053 and with a covenant that transfers the property back to the City if the owner of the land becomes no longer majority non-profit.

Pallesen Apartments

The Pallesen Apartment building, constructed in 1910, is a four-unit residential structure designed by Wolfe & McKenzie in the Mission Revival style. The structure is listed on San Jose's historic resources inventory, as a structure that is eligible to be listed on both the National Register of Historic Places as well as the state historic registry.

On October 23, 2019, the Planning Commission held a Public Hearing on the Garden Gate Tower Project located at the intersection of First Street and East Reed Street to consider the

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adequacy of the project's Special Use Permit, among other things. At this hearing, Mark Tersini, representing KT Urban, noted the opportunity to relocate the Pallesen Building to the Fourth and Reed site.

On November 19, 2019, the San Jose City Council approved KT Urban's mixed-use Garden Gate Tower project. The Special Use Permit resolution (file no. SP18-001) authorized the demolition of existing on-site buildings, including the historic Pallesen Apartment Building. Demolition of the Pallesen Apartment Building was determined to be a significant and unavoidable impact on San Jose's cultural resources. Council stated its desire to see the structure relocated, and Mr. Tersini agreed to move the structure once a suitable site was located.

Habitat Relocation Project and Remainder Parcel

The Fourth and Reed Property is irregularly configured. The Property consists of 10,454 square feet. However, roughly half of the property, 5,227 square feet, at the southern end has very limited access due to a constrained site layout and the I-280 freeway onramp. The City's sale to Habitat would be for the frontage half of the property, approximately 5,227 square feet, subject to survey. A new plat map and legal description would be prepared to effectuate the transfer.

The Pallesen Apartment building has a footprint of 2,400 square feet. With building setbacks, roughly 5,000 square feet would be required to accommodate the relocated building. Habitat for Humanity's purchase of the frontage area would create a remainder parcel with no access that is steeply inclined and immediately adjacent to the I-280 right of way. The City would analyze appropriate use for the remainder parcel at a later date.

General Plan and Zoning

The property is designated in the General Plan as Downtown Core. This designation includes office, retail, service, residential, and entertainment uses in the Downtown area. The General Plan calls for promoting consistency with surrounding residential uses at the edge of the Downtown area. Zoning for the Property is split between Commercial General (CG) and Two Family Residential (R2).

ANALYSIS

Staff's analysis of the East Reed Street and South Fourth Street property indicates that the site is challenged for development. The location is directly adjacent to I-280 and has steep inclines through the back portion with an irregular L-shaped site configuration. A City-commissioned appraisal of the property determined Highest and Best Use to be sold as a joinder to a neighboring property. The opportunity to relocate the Pallesen Apartments represents a good opportunity to support both affordable housing and historic preservation. Habitat for Humanity has committed to a fifty-five-year deed restriction limiting all four potential units for sale at prices affordable to low income individuals (60% of the Area Median Income, or AMI) or lower.

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CONCLUSION

The City's participation in the previously described relocation project would be through providing a Purchase Option on the Fourth and Reed property to Habitat for Humanity. The rest of the relocation project would be completed through an independent agreement between Habitat for Humanity and KT Urban. The project will address two issues in the City's interest. First, the desire to maximize affordable housing provision on the Fourth and Reed site/within the downtown area, and second, the need to find a receiver site for the Pallesen Apartments to preserve the City's historic resources and sense of place.

EVALUATION AND FOLLOW-UP

Upon resolution of the Purchase Option with Habitat for Humanity, future actions affecting the remainder of the Fourth and Reed property will proceed through the development process.

Council direction given at the time of the Garden Gate Tower decision was for City staff and KT Urban to find a receiver site for the Pallesen Apartments. Staff recommends that partnering with Habitat for Humanity on the Fourth and Reed site is the best and most practical way to relocate this important structure.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals. The project would facilitate transit options other than single-occupancy, gas-powered vehicles as a residential project in downtown.

COORDINATION

This memorandum has been coordinated with the Housing Department to facilitate partnering with Habitat for Humanity on the future of the Fourth and Reed site, the City Attorney's Office, the City Manager's Budget Office, and Planning, Building, and Code Enforcement.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

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COST SUMMARY/IMPLICATIONS

This action would result in a below fair market sale of the 4th & Reed property to Habitat for Humanity. The 4th and Reed property is estimated by Staff to have a fair market value of \$70,000 in 2018. Habitat would use roughly one half of the site to relocate the Palleson Apartments. This value, which reflects a sale of the full site, is based on offers received for the property in 2017, and negotiations on the property throughout 2018 and 2019. This value reflects a highest and best use based on sale of the property as a “joinder” due to its irregular shape and other challenges of building on the property previously referenced.

The portion of the property that will be transferred to Habitat for Humanity will have an affordable housing restriction applied to all future housing units and a covenant that would revert ownership back to the City if the land is no longer majority-owned by an affordable housing non-profit. Staff recommends selling the site to Habitat for Humanity for the amount of \$1, given the high cost of relocating and restoring the Palleson Apartment structure. State law allows municipalities to sell property at below-market rates to support affordable housing provision.

CEQA

Determination of Consistency with the Garden Gate Tower Final Supplemental Environmental Impact Report (Resolution no. 79320).

/s/

KIM WALESH

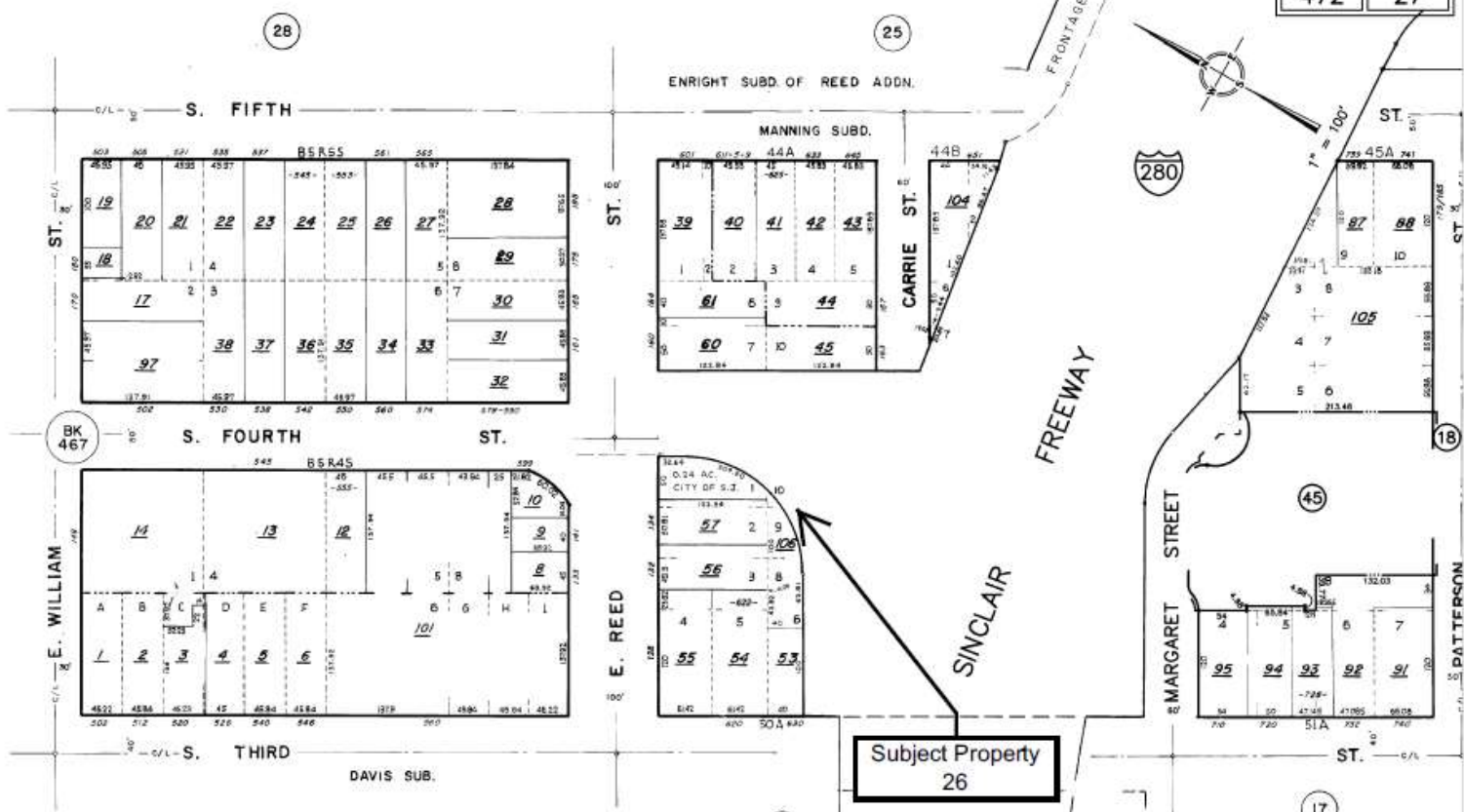
Deputy City Manager

Director of Economic Development

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

Attachments





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