

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 MAY 14 PM 4:22

Approved as to Form and Legality

A. Lewis

CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 12938 - C. M. S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT TO SELL APPROXIMATELY TWO THOUSAND (2,000) SQUARE FEET OF CITY-OWNED SURPLUS REAL PROPERTY LOCATED ALONG THE WESTERLY EDGE OF DIMOND PARK ADJACENT TO 4689 AND 4683 BENEVIDES AVENUE TO SHAY AND OLIVIA HARTING, THE ADJOINING PROPERTY OWNERS, FOR THE TOTAL FAIR MARKET VALUE OF FORTY-FIVE THOUSAND DOLLARS (\$45,000.00)

WHEREAS, the City of Oakland ("City") owns a small strip of land located at western edge of Dimond Park which is physically detached from the body of the Park ("the City Parcel"), and is adjacent to 4689 and 4683 Benevides Avenue, Assessor's Parcel Number 024-0551-001, owned by Shay and Olivia Harting; and

WHEREAS, the City Parcel has been used as a driveway to access the homes of the Hartings and other Benevides Avenue residents in properties adjacent to the City's parcel, and access for the residents must be maintained; and

WHEREAS, the Parcel is not needed by the City for public purposes; and

WHEREAS, the Open Space, Conservation and Recreation Element of the Oakland General Plan recommends that the City allow no net loss of open space within Oakland's urban park system, so that the City must seek to replace open space that is sold to private entities; and

WHEREAS, a legal description has been developed and more fully described in Exhibit A, that indicates the property is approximately 2,000 square feet in area; and

WHEREAS, the Property is to be sold in "AS-IS" condition and the City makes no representations regarding land use or other permitting issues that may affect the property; and

WHEREAS, the Property is not developable as a separate parcel; and

WHEREAS, the parcel is less than 5,000 square feet and considered a substandard lot, and its location is adjacent to a parcel of land owned by the Purchaser, the Property is not subject to the California Surplus Lands Act (California Government Code 54220-5432), but is subject to City Ordinance No. 11602, C.M.S., covering sales of surplus City-owned property; and

WHEREAS, information regarding the surplus property was circulated pursuant to Government Code requirements and the Property may be sold through a negotiated sale; and

WHEREAS, an independent appraisal established the Property's fair market value at \$45,000.00; and

WHEREAS, Shay and Olivia Harting, the owners of the abutting property, have tendered an offer to purchase the Property in the amount of \$45,000.00; and

WHEREAS, Shay and Olivia Harting have deposited with the City the total amount of the sale price and additional administrative fees for the subject property; and

WHEREAS, after the Property is sold to Shay and Olivia Harting, the City will receive property taxes and will save the cost of maintaining the Property; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines that the herein-described real property is not needed for any public purpose, is surplus to the needs of the City, and the City is not required to put the property out for competitive bidding.

Section 2. The sale of the Property to the abutting property owner is in the City's best interests as it returns a property to the tax rolls and removes the Property from City maintenance responsibility.

Section 3. The City Administrator, or his designee, is authorized to negotiate and execute the Offer to Purchase and Sales Agreement from Shay and Olivia Harting the adjoining property owners, for the sum of \$45,000.00, and to execute a Quitclaim Deed conveying the Property, and any and all other documents necessary to effectuate the sale of the Property. The sales proceeds will be placed in General Purpose Fund (1010), Real Estate Services Organization (88639), Surplus Property Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32). The sale of this Property will help meet the surplus property revenue requirements in the Fiscal year 2008-09 budget.

Section 4. Pursuant to Ordinance No. 11602 C.M.S., the City Administrator may conduct a negotiated sale of the surplus Property because such sale is in the best interest of the City.

Section 5. The city has acquired three (3) lots, totalling over one-half acre in size, adjacent to Dimond Park, which shall serve as replacement for the open space sold to the Hartings.

Section 6. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information in the staff report accompanying this Ordinance, that it can be seen with certainty that there is no possibility that the conveyance of the Property by the City to the Purchaser may have a significant effect on the environment, and therefore this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15312(Surplus Government Property Sales) of the CEQA guidelines;

Section 7. The City Administrator, or his designee, shall cause to be filed with the County of Alameda a Notice of Exemption and an Environmental Declaration (California Fish and Game Code Section 711.4) for this action.

Section 8. The Manager, Real Estate Services is hereby authorized to take any and all actions necessary, consistent with this Ordinance, to complete the sale of the Property.

Section 9. The Purchase and Sales Agreement for the purchase of this property shall be approved as to form and legality by the City Attorney's Office and a copy shall be filed with the Office of the City Clerk.

Section 10. This Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 16 2009

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



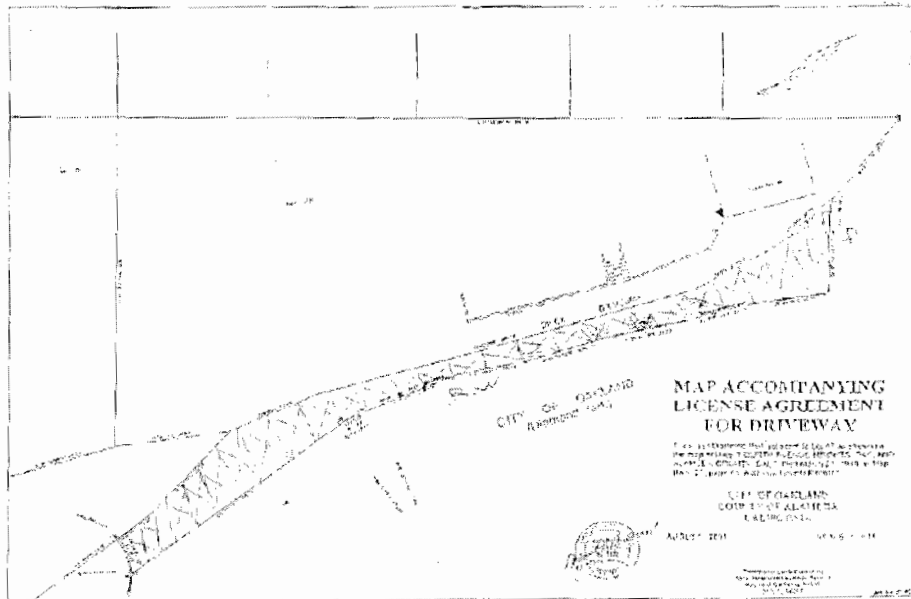
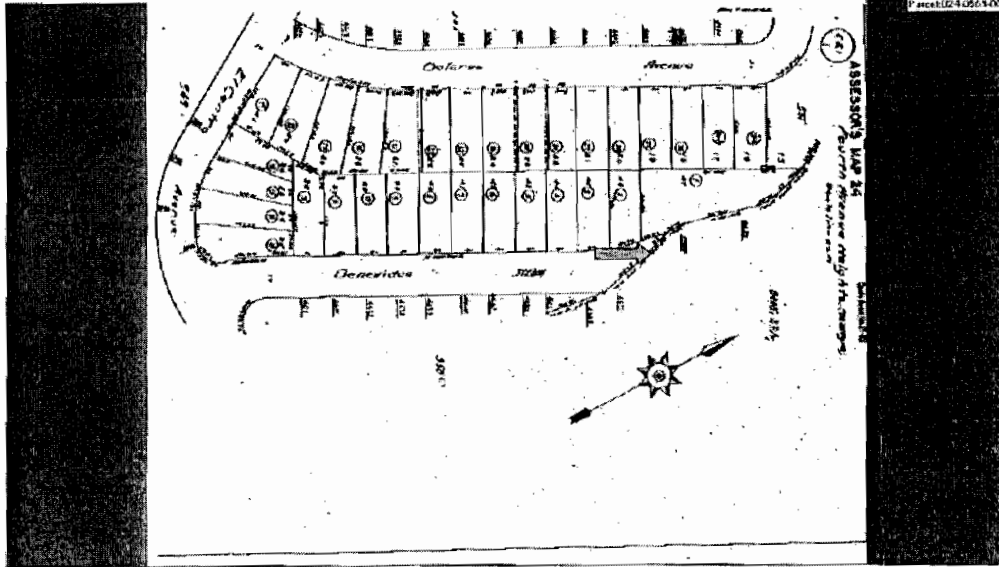
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date: JUN 2 2009

DATE OF ATTESTATION:

6/23/09

EXHIBIT "A"



NOTICE AND DIGEST

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT TO SELL APPROXIMATELY TWO THOUSAND (2,000) SQUARE FEET OF CITY-OWNED SURPLUS REAL PROPERTY LOCATED ALONG THE WESTERLY EDGE OF DIMOND PARK ADJACENT TO 4689 AND 4683 BENEVIDES AVENUE TO SHAY AND OLIVIA HARTING, THE ADJOINING PROPERTY OWNERS, FOR THE TOTAL FAIR MARKET VALUE OF FORTY FIVE THOUSAND DOLLARS (\$45,000.00)

An Ordinance has been prepared authorizing the City Administrator to sell surplus City-owned property to the adjoining property owners at 4689 and 4683 Benevides Avenue, Oakland.

The City-owned property is a narrow irregular shaped property containing approximately Two Thousand (2,000) square feet. It is located at the terminus of Benevides Avenue and along the western edge of Dimond Park; adjacent to parcels owned by the purchaser. The parcel is surplus to the City. There are no City subsidies involved in the sale of this surplus property.