

CITY OF OAKLAND MAR 29 PM 5:05

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: Proposed Sale of Real Property
Girvin Drive (upslope) Parcel

DATE: March 19, 2018

City Administrator Approval

Date:

3/29/18

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Authorizing The City Administrator or Designee To Negotiate And Execute A Purchase And Sale Agreement And Related Documents Between The City of Oakland And Mohsen Abaie For The Sale Of The Girvin Drive Parcel For Not Less Than One Hundred Thirty Thousand Dollars (\$130,000), Including The Material Business Terms Described Below And Otherwise In A Form And Substance Acceptable To The City Administrator (The "Purchase And Sale Agreement").

EXECUTIVE SUMMARY

Staff is requesting that the City Council approve the sale of a City-owned surplus vacant lot (APN: 048D-7281-048) located on Girvin Drive ("Property") next to 6040 Girvin Drive for \$130,000. The Property, consisting of about 7,664 square feet of land, is more specifically described and shown in the attached legal description. The City purchased this parcel along with several other parcels in this hillside neighborhood with the intention of expanding the Shephard Canyon Park. The idea never materialized and the individual parcels on Girvin Drive, including the Property, remained vacant residentially zoned lots.

BACKGROUND / LEGISLATIVE HISTORY

The City acquired the Property under a Deed dated September 10, 1957, and recorded on December 3, 1957, from the Tax Collector of Alameda County under the contract for the Purchase of Tax Deeded Property dated July 30, 1957, between the City of Oakland and the County of Alameda. The City purchased the Property for the minimum price of \$101.00 covering the delinquent taxes.

The Property is located on the uphill slope of Girvin Drive located next to 6040 Girvin Drive (improved with a three-story single family residence built in 1994). The area is relatively secluded where the uphill slope area of Girvin Drive between Chelton Drive and Chelsea Drive remains relatively undeveloped with natural vegetation.

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CED Committee
April 10, 2018

The General Plan classification for this Property is Hillside Residential and zoned R-20 and S-10 Zone consistent with the Montclair District's current neighborhood uses.

Pursuant to the Surplus Land Act, in 2010 the Real Estate Division sent notices to affected public agencies. At that time, no agency expressed interest in retaining the Property.

Staff's market analysis established the Property value at \$130,000 based on comparable land sales. The Real Estate Division actively marketed the sale of the Property for \$130,000 on the City's website and LoopNet (an internet listing site) starting in 2011. In response to the Real Estate Division's marketing efforts, Mohsen Abaie ("Purchaser") delivered a signed form of Purchase and Sale Agreement dated October 30, 2017, with a \$13,000 deposit and a purchase price of \$130,000. This was the only offer received.

The Purchase and Sale Agreement form signed by Purchaser includes the material business terms that will be included in the final Purchase and Sale Agreement (the "Final Purchase and Sale Agreement") to be negotiated and executed with Purchaser. The Final Purchase and Sale Agreement, and all other related documents, will otherwise include terms and conditions that are acceptable to the City Administrator or designee.

ANALYSIS AND POLICY ALTERNATIVES

The reasons to sell the Property include:

1. The sale of the Property will result in \$130,000 sales proceeds to the City.
2. The sale of the Property will generate \$377/year in property taxes to the City in addition to \$1,950 in City transfer tax.
3. The sale of the Property will eliminate the need for City's services for maintenance and fire protection.

The material business terms to be included in the Final Purchase and Sale Agreement include:

1. Purchase Price: Purchaser will pay \$130,000 (all cash payments).
2. First Deposit: The first deposit of \$13,000 was delivered to the City and placed into escrow when the signed form of Purchase and Sale Agreement from Purchaser was delivered to the City.
3. Second Deposit: The second deposit for the balance of the purchase price (\$117,000) will be deposited into escrow within 30 days from the date the City Council approves the sale of the Property.
4. Closing costs: Purchaser will be responsible for all escrow fees, transfer taxes, title insurance costs and closing costs.

The alternative to a sale is to lease the Property. One of the main advantages of owning residential parcels for an individual is to claim the property tax deduction to minimize income on Internal Revenue Service Form 1040. If the Property is leased, the deduction for real property taxes will not be available to the lessee of the Property. More importantly, institutional lenders

are reluctant to make construction loans and provide long term financing in which the security for the payment of the loan is a leasehold interest, rather than a fee interest in the Property.

Furthermore, the parcel is too small and the potential lease revenue would not justify the maintenance. The City has no current or foreseeable need for the Property.

FISCAL IMPACT

If the Property is sold, the sale proceeds of \$130,000 will be deposited in the Surplus Property Project (1010), Real Estate Services Org. (85231), SURP PROP 1010-P47010 (1000235), Real Estate Program (PS32). Transfer tax of \$1,950 will also be realized in the General Purpose Fund.

The sale of the subject property will relieve the City of ongoing liability and maintenance costs and will return the subject property to the tax rolls. The sale proceeds and transfer tax of \$1,950 will also help the City's General Fund in the current fiscal year. No City subsidies will be involved in the sale of the surplus property.

PUBLIC OUTREACH / INTEREST

The Property was offered for sale to public agencies and listed on the City's website and LoopNet website. At that time, no additional outreach was deemed necessary by the Real Estate Division for the proposed policy action beyond the standard City Council agenda noticing procedures.

COORDINATION

This report and recommendations have been coordinated with staff from the City Administrator's Office, the City Attorney's Office, Public Works, Facilities and Environment, and the Controller's Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: The sale of this Property will take an underutilized site and produce increased tax revenue for the City.

Environmental: Private ownership of the property will relieve the City of ongoing cost of weed abatement and fire suppression.

Social Equity: There are no social equity opportunities associated with this report.

CEQA

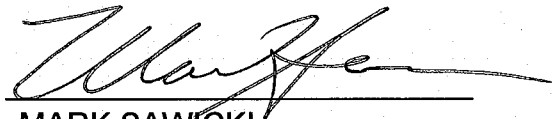
City Staff recommends that the City Council determine that the action requested of the City Council is exempt from CEQA pursuant to CEQA Guidelines Section 15312, which exempts sales of surplus government property unless the parcel is located in an area of statewide, regional or local concern.

ACTION REQUESTED OF CITY COUNCIL

Staff Recommends That The City Council Adopt An Ordinance Authorizing The City Administrator or Designee To Negotiate And Execute A Final Purchase And Sale Agreement And Related Documents (Containing the Material Business Terms Described Above and Other Terms and Conditions Acceptable to the City Administrator or Designee) Between The City of Oakland And Mohsen Abaie For The Sale Of The Girvin Drive Parcel For Not Less Than One Hundred Thirty Thousand Dollars (\$130,000).

For questions regarding this report, please contact James Golde, Manager, Real Estate Services Division at 510-238-6354.

Respectfully submitted,



MARK SAWICKI
Director, Economic & Workforce
Development

Reviewed by:
James Golde, Real Estate Manager
Real Estate Services Division

Prepared by:
Thang Nguyen, Real Estate Agent
Real Estate Services Division

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2018 MAR 29 PM 5:05

Approved as to Form and Legality
[Signature]
CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C. M. S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS BETWEEN THE CITY OF OAKLAND AND MOHSEN ABAIE FOR THE SALE OF THE GIRVIN DRIVE PARCEL FOR NOT LESS THAN ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000), INCLUDING THE MATERIAL BUSINESS TERMS DESCRIBED BELOW AND OTHERWISE IN A FORM AND SUBSTANCE ACCEPTABLE TO THE CITY ADMINISTRATOR (THE "PURCHASE AND SALE AGREEMENT").

WHEREAS, the City of Oakland ("City") owns a vacant up sloping lot ("Property") consisting of about 7,664 square feet (APN: 048D-7281-048) located on up slope side of Girvin Drive next to 6040 Girvin Drive, as described in the attached legal description; and

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

WHEREAS, market analysis establishes the Property's estimated value at \$130,000; and

WHEREAS, in 2010, the Real Estate Division communicated with potentially affected public agencies to determine whether the Property is needed for public purposes, and at that time, no agency expressed any interest in retaining the Property; and

WHEREAS, the Property's classification is Hillside Residential and the R-20 and S-10 Zone are consistent with the area's current residential uses; and

WHEREAS, Mohsen Abaie delivered a form of signed Purchase and Sales Agreement dated October 22, 2017 with the required first deposit of \$13,000 to the City for the purchase of the Property for a price of \$130,000; and

WHEREAS, after the Property is sold to Mohsen Abaie, the City will receive property taxes and will save the cost of Property maintenance; 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 hereby determines that the actions authorized by this Ordinance are exempt from CEQA pursuant to CEQA Guidelines Section 15312, which exempts sales of surplus government property.

Section 2. The City Council finds and determines that the Property is not needed for a public purpose, is surplus to the needs of the City, and pursuant to Government Code Section 54222, in 2010 notice was given to local public agencies regarding the sale the Property.

Section 3. The sale of the Property to Mohsen Abaie is in the City's best interest resulting in returning the Property to the tax rolls, generating revenue for the General Fund and removing the Property from City's maintenance responsibility.

Section 4. The City Administrator, or designee, is authorized to enter into the Purchase and Sale Agreement with Mohsen Abaie for the price of \$130,000 and on such other terms and conditions as are acceptable to the City Administrator, or designee, and to execute a Quitclaim Deed conveying the Property.

Section 5. The sales proceeds will be deposited in the Surplus Property Project (1010), Real Estate Services Org. (85231), SURP PROP 1010-P47010 (1000235), Real Estate Program (PS32).

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 designee, shall cause to be filed with the County of Alameda a Notice of Exemption and an Environmental Declaration for this action.

Section 8. The City Administrator and the Manager, Real Estate Services, are hereby authorized to negotiate and execute, amend, modify or extend all agreements, including, among others, the Purchase and Sale Agreement, and to take any and all actions necessary that is consistent with this Ordinance to complete the sale of the Property.

Section 9. The Purchase and Sale Agreement and any other documents necessary for the sale of the 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,

PASSED BY THE FOLLOWING VOTE:

BROOKS, CAMPBELL, WASINGTON, GALLO, GUILLEN, KALB, GIBSON MCELHANEY, KAPLAN, ,
REID, and PRESIDENT GIBSON MCELHANEY

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

DATE OF ATTESTATION: _____