



CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2020

From: Clay Holstine, City Manager

Subject: Resolution Declaring Property Owned by the City of Brisbane

as Surplus Land

Community Goal/Result

Fiscally Prudent

Recommendation

Adopt the attached resolution (Attachment 1) declaring that certain property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, as surplus land.

Background

State law, the Surplus Lands Act (“SLA”) requires that before a local agency (broadly defined) takes any action to dispose (sell or lease) property, it must declare the property to be either “surplus land” or “exempt surplus land”. Unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property. The notice of availability must be given prior to the agency “participating in negotiations to dispose of the property”. An entity receiving notice from the agency has 60 days to notify the agency of its interest in purchasing the property and the agency is required to negotiate in good faith for not less than 90 days with any entity that has responded. Notwithstanding the obligation to negotiate in good faith, the local agency is not required to sell or lease the property for less than fair market value.

If an agency fails to provide the proper notices, there is a significant penalty that requires a local agency to forfeit 30% of the purchase/lease proceeds for the first violation and 50% for any subsequent violations.

The SLA has a number of exemptions but none of those exemptions are expressly applicable to this site.

The City owns property in Crocker Park that it obtained without cost from the McKesson Corporation in 1996. The property in question is former railroad right of way and, at the time the City took title to the property, the property was approximately six hundred ninety (690) feet in length and forty-four (44) feet in width. This strip of land was (and remains) undeveloped and is landlocked. Portions of the property are encumbered with a drainage

canal. The McKesson Corporation did not impose any conditions or restrictions on the use of the property when it transferred the property to the City and no conditions or restrictions on its use exist today. Many of the properties that adjoin this strip of land are developed.

In 2015, the City sold a portion of former railroad right of way property (29,306 square feet) to South Hill Properties (Sheng Kee Bakery) that owned (and owns) property (201 South Hill Drive) immediately adjacent to the property sold by the City. Also adjacent to this City owned property in question is a 2.1 acre site owned by the Frito-Lay Corporation (“Frito-Lay”), at 151 West Hill Place. Frito-Lay has also requested the City to sell a portion of City property—approximately 28,000 square feet-- immediately adjacent to its property, as occurred in an earlier South Hill Properties transaction, for parking purposes. A map depicting the area of which Frito-Lay has an interest in attached as Attachment 2. Of the 28,000 square feet adjacent to the Frito-Lay property, approximately one-third is encumbered with a drainage canal. Frito-Lay has indicated that if this property were sold to it, it would construct a trail on a portion of its property as well as on the property sold to it by the City, in order to connect to the eastern boundary of San Bruno Mountain State and County Park. Frito-Lay has also indicated it would restrict the property it would purchase from the City for parking of vehicles only and that it would maintain the drainage canal.

The City has no current use of this property and has no foreseeable use of it for public purposes. The City would, however, maintain the trail if this property were sold to Frito-Lay and the trail constructed.

Discussion

Because the City does not need this property for its use, in order for the City to sell the property, it must declare the property surplus land (and provide the notices described above).

As to this property, staff recommends the City declare this property “surplus land”, as none of the exemptions apply. Following that declaration, City staff will notify the various agencies and any “sponsors” on HCD’s list of the availability of the site. Assuming the City does not receive any interest within 60 days from any one to whom notice has been sent, staff will proceed with its discussions with Frito-Lay. If the City receives any interest, it must in good faith negotiate for the sale of the property for 90 days with the interested party. The City, however, is under no obligation to sell the property for less than fair market value. If the City does not receive any interest or, if such interest is received but no agreement is reached, then discussions with Frito-Lay for disposition of the property will continue.

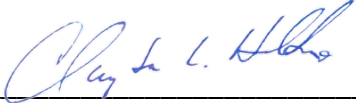
Attached is a resolution making the findings that the property is surplus land.

Fiscal Impact

There is no fiscal impact by adopting the attached resolution. If the resolution is adopted, the City may proceed to sell the property for its fair market value. Any purchase and sale agreement would be presented to the City Council at a City Council meeting.

Attachments:

1. Resolution Declaring Property Owned by the City of Brisbane as Surplus Land
2. Map depicting the Property to be declared Surplus Land



Clay Holstine, Executive Director



Thomas McMorrow, Interim City Attorney



Michael Roush, Legal Counsel

BRISBANE CITY COUNCIL RESOLUTION NO. 2020-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE DECLARING CERTAIN PROPERTY IT OWNS AS SURPLUS LAND

Whereas, State law, the Surplus Lands Act (“SLA”) requires that before a local agency, including a City, takes any action to sell or lease its property, it must declare the property to be either “surplus land” or “exempt surplus land”; and

Whereas, “surplus land” means land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular meeting declaring that such land is surplus and is not necessary for the agency’s use; and

Whereas, unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property; and

Whereas, the City of Brisbane owns vacant, landlocked, property in Crocker Park, and

Whereas, the Frito-Lay Corporation also owns property within Crocker Park and approximately 28,000 square feet of City owned property lies immediately adjacent to the Frito-Lay property; and

Whereas, Frito Lay has asked the City whether it would sell to it the approximate 28,000 square feet of City property, as depicted on the attached Exhibit 1, to be used by Frito-Lay solely for the parking of vehicles; and

Whereas, there is a drainage canal on the property and Frito-Lay has indicated that if the City sells the property to it, it would maintain the drainage canal in perpetuity; and

Whereas, Frito-Lay has also indicated that it would construct on its existing property and on the property it would acquire from the City a trail that would connect to the eastern boundary of San Bruno Mountain State and County Park; and

Whereas, the City Council finds and determines that the City has no need of this property for public purposes because of its odd shape and location and that Frito-Lay, should the property be sold to it, would maintain the drainage canal on the property in perpetuity; and

Whereas, the City Council further finds, based upon the foregoing recitals, that the approximate 28,000 square feet of City owned property is surplus land.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE RESOLVES AS FOLLOWS:

Section 1. The vacant, approximately 28,000 square foot site in Crocker Park, as depicted on the attached Exhibit 1, is declared surplus land and the City Manager shall, on behalf of the City, (a) send the appropriate notices under Government Code, section 54222, (b) negotiate in good faith for the disposition of the property should there be any interest in the property, and (c) participate in negotiations to dispose of the property should there be no interest or, if there is interest, no agreement as to the property’s disposition is reached.

Section 2. This Resolution shall become effective immediately upon its adoption.

Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2020-55 was duly and regularly adopted at a regular meeting of the Brisbane City Council on September 17, 2020 by the following vote:

AYES:

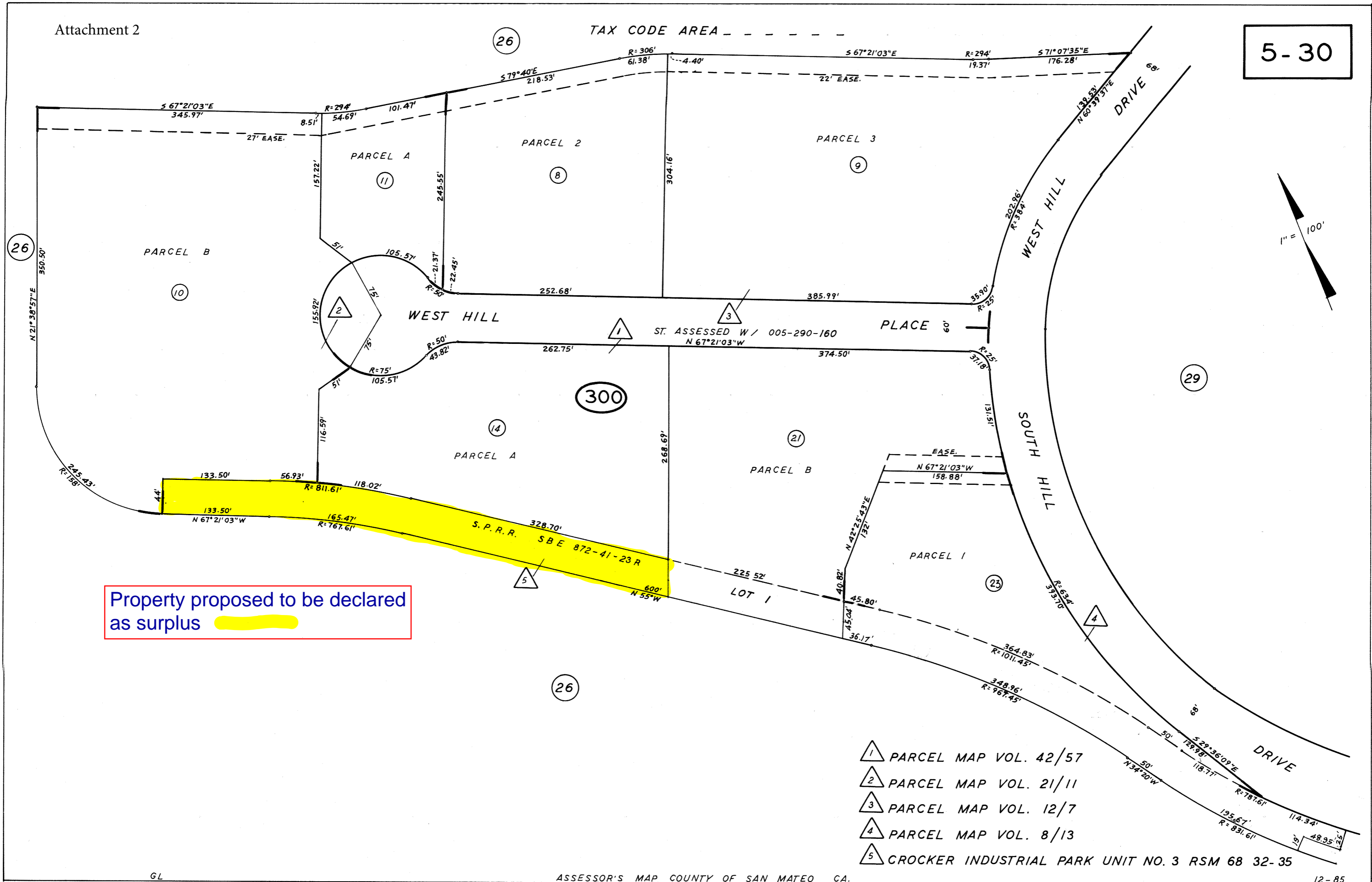
NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk

TAX CODE AREA



Property proposed to be declared as surplus

- 1 PARCEL MAP VOL. 42/57
- 2 PARCEL MAP VOL. 21/11
- 3 PARCEL MAP VOL. 12/7
- 4 PARCEL MAP VOL. 8/13
- 5 CROCKER INDUSTRIAL PARK UNIT NO. 3 RSM 68 32-35