

Capitola City Council

Agenda Report



Meeting: July 25, 2024

From: Community Development Department

Subject: Real Property Exchange Between the City and Soquel Union Elementary School District

Recommended Action: Adopt a resolution approving an Agreement for Exchange of Real Property ("Exchange Agreement") by and between the City of Capitola and the Soquel Union Elementary School District, governing the transfer of a portion of Monterey Avenue Park, comprising approximately 3,736 square feet, in exchange for a portion of New Brighton Middle School, comprising approximately 3,886; and approve the Exchange Agreement as categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guideline §15312.

Background: In accordance with Government Code section 65402 (a), on April 4, 2014, the Capitola Planning Commission determined that the proposed disposition and acquisition of land governed by the Exchange Agreement is consistent with the Capitola General Plan. On February 7, 2024, and April 25, 2024, the District Board and City Council determined, respectively, that the lands governed by the Exchange Agreement are exempt surplus land pursuant to California Government Code §§ 54221 (f)(1)(C) and 54221 (f)(1)(D)¹ and thus not subject to the requirements of the Surplus Land Act.

The Soquel Union Elementary School District ("District") is the fee owner of 4.9 acres of real property located at 700 Monterey Avenue, Capitola, Santa Cruz County, California, Assessor's Parcel Number 036-151-01, which real property is the site of the New Brighton Middle School and related playing fields ("District Parcel"). The City of Capitola ("City") is the fee owner of 3.9 acres of real property known as Monterey Avenue Park, located adjacent to the District Parcel on Monterey Avenue in the City of Capitola, Santa Cruz County, California, Assessors' Parcel Number 036-151-02 ("City Parcel"). The District Parcel and City Parcel are more particularly identified on the assessor parcel map enclosed as Exhibit A to the Exchange Agreement (Attachment 1).

The District and the City have been discussing the exchange of a portion of the District Parcel, consisting of approximately 3,886 square feet ("District Exchange Parcel"), for an approximately 3,736 square foot portion of the City Parcel ("City Exchange Parcel"). The District Exchange Parcel and City Exchange Parcel are depicted as the two (2) sections highlighted in orange (Areas A and C) and two (2) sections highlighted in blue (Areas B and D), respectively, on the Aerial View Map enclosed as Exhibit B to the Exchange Agreement (Attachment 1).

The District has undertaken master planning of its educational facilities and determined the contemplated exchange of the City Exchange Parcel and District Exchange Parcel would significantly improve the layout of the recreational facilities. Thus, the City Exchange Parcel to be disposed of by the City and acquired by the District would be used and developed by the District to enhance the recreational facilities at the New Brighton Middle School as part of a larger redevelopment of the District Parcel.

The District Exchange Parcel to be acquired by the City is made up of two separate areas, Area A and Area C. The larger of the two areas, Area C, can be used and developed by the City to enhance the

¹ 54221. As used in this article, the following definitions shall apply:

(f) (1) Except as provided in paragraph (2), "exempt surplus land" means any of the following:

(C) Surplus land that a local agency is exchanging for another property necessary for the agency's use. "Property" may include easements necessary for the agency's use.

(D) Surplus land that a local agency is transferring to another local, state, or federal agency, or to a third-party intermediary for future dedication for the receiving agency's use, or to a federally recognized California Indian tribe.

recreational facilities at Monterey Avenue Park, whereas the long and narrow area, Area A, will serve to guarantee and enhance pedestrian access to the Park from within the Cliffwood Heights neighborhood.

California Government Code § 65402(a) provides that if a general plan has been adopted, no real property shall be acquired or disposed of by the City until the location, purpose, and extent of such disposal has been submitted to and reported upon by the planning agency as to the conformity with said adopted general plan. On April 4, 2024, the City of Capitola Planning Commission considered the proposed disposal of the City Exchange Parcel and acquisition of the District Exchange Parcel by the City of Capitola and determined that said actions were consistent with and conform with the Capitola General Plan. The staff report and supporting documentation presented to and considered by the Planning Commission can be found at:

<https://meetings.municode.com/adaHtmlDocument/index?cc=CAPITOLACA&me=7a1699cfde7f4d0f8d2bce5df22a5e22&ip=True>.

The Surplus Land Act, California Government Code §§54220 *et. seq.*, establishes procedures for the disposition of “surplus land” owned by a “local agency” which generally requires said “surplus land” to be made available for affordable housing purposes, park and recreation purposes or open-space purposes before disposition. However, as provided by Section 54222.3, these procedures do not apply to the disposal of “surplus land” which can be categorized as “exempt surplus land” pursuant to Section 54221 (f)(1)(A) through 54221 (f)(1)(S).

With respect to the District’s proposed disposition of the District Exchange Parcel, on February 7, 2024, the District adopted Resolution No. 6-2023-24, determining the District Exchange Parcel to be “exempt surplus land” pursuant to Section 54221 (f)(1)(C) because the property (i.e. the District Exchange Parcel) is being exchanged for another property (i.e. the City Exchange Parcel) necessary for the District’s use.

With respect to the City’s proposed disposition of the City Exchange Parcel, it too is “exempt surplus land” pursuant to Section 54221 (f)(1)(C) because the property (i.e. the City Exchange Parcel) is being exchanged for another property (i.e. the District Exchange Parcel) necessary for the City’s use. In addition, it also qualifies as “exempt surplus land” pursuant to Section 54221 (f)(1)(D) because the property (i.e. the City Exchange Parcel) is being transferred to another local agency. Accordingly, on April 25, 2024, the City Council adopted Resolution No. 4364 determining that the City Exchange Parcel is “exempt surplus land”.

Discussion: Government Code section 37351 authorizes the City to exchange real property as is necessary and proper for municipal purposes. The City Exchange Parcel, to be disposed of by the City and acquired by the District, is to be used and developed by the District to enhance the recreational facilities at the New Brighton Middle School as part of a larger redevelopment of the District Parcel. The District Exchange Parcel, to be acquired by the City, is to be used and developed by the City to enhance the recreational facilities at Monterey Avenue Park, as well as to enhance pedestrian access to the Park from within the Cliffwood Heights neighborhood. Accordingly, there is a strong basis to support the determination that the exchange of the City Exchange Parcel for the District Exchange Parcel as provided by the Exchange Agreement is necessary and proper for a municipal purpose.

As part of the transaction, other than the exchange of the City Exchange Parcel and District Exchange Parcel between the City and District, there is no further consideration or payment due between the parties. Further, there is no need to process any form of subdivision map or lot line adjustment to create legal parcels as both the City and District are exempt from the requirements of the Subdivision Map Act; accordingly, the land surveyor retained by the District has prepared and provided the legal descriptions of each parcel necessary to facilitate the property exchange. Further, the parties are exempt from county recording fees as well as any real estate transfer tax. As a result, neither party are expected to incur any costs or fees to finalize the transaction. Finally, each party is acquiring the property from the other in its “as-is” condition with no representations, warranties or agreement concerning the condition of the property.

CEQA: The adoption of the attached Resolution approving the Exchange Agreement is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the Class 12 exemption set forth in State CEQA Guideline §15312.

The Class 12 exemption from CEQA set forth in State CEQA Guideline §15312 exempts the sale of surplus government property. While the District Exchange Parcel and City Exchange Parcel are defined as “exempt surplus land” for purposes of the Surplus Land Act, both parcels are nevertheless surplus government property for purposes of State CEQA Guideline §15312. However, §15312 goes on to provide that there is an *exception to the exemption* with respect to parcels located within an area of statewide, regional or areawide concern per Section 15206(b)(4), including parcels within the California Coastal Zone defined in and mapped pursuant to Public Resources Code §30103. The City Exchange Parcel and District Exchange Parcel are both located within the mapped California Coastal Zone applicable to Capitola.

Nevertheless, the exemption from CEQA is still applicable if (i) the property does not have significant value for wildlife habitat or other environmental purposes **and** (ii) the property is of such size, shape or inaccessibility that it is incapable of independent development, **or** the property sold would qualify for other categorical exemptions, **or** the use of the property and adjacent property has not changed since the time of purchase by the public agency.

In this instance, neither the City Exchange Parcel nor District Exchange Parcel have significant value for wildlife habitat or other environmental purposes, as one parcel is currently a portion of an urban city park and the other a portion of an operational elementary school. In addition, given the size and shape of the parcels, as well as their inaccessibility due to their interior location within larger parcels, the parcels are incapable of independent development. Accordingly, the Class 12 exemption set forth in State CEQA Guideline §15312 applies to the adoption of the enclosed Resolution.

Recommendation: Staff recommends the City Council adopt the enclosed Resolution which includes the following findings:

1. The City Council hereby finds that all the facts set forth in the recitals of the Resolution are true, correct, and incorporated herein.
2. The City Exchange Parcel to be disposed of by the City and acquired by the District is to be used and developed by the District to enhance the recreational facilities at the New Brighton Middle School as part of a larger redevelopment of the District Parcel.
3. The District Exchange Parcel to be acquired by the City is to be used and developed by the City to enhance the recreational facilities at Monterey Avenue Park, as well as to enhance pedestrian access to the Park from within the Cliffwood Heights neighborhood.
4. The exchange of the City Exchange Parcel for the District Exchange Parcel as provided by the Exchange Agreement is necessary and proper for municipal purposes.
5. The Planning Commission has reviewed and considered the proposed exchange of the District Exchange Parcel and City Exchange Parcel by and between the District and the City and determined the City’s proposed acquisition of the District Exchange Parcel and disposition of the City Exchange Parcel is consistent with the Capitola General Plan.
6. The adoption of the Resolution, which relates to the City’s approval of the Exchange Agreement governing the transfer of the City Exchange Parcel to the District and acquisition of the District Exchange Parcel from the District, is categorically exempt from the requirements of the California Environmental Quality Act pursuant to State CEQA Guidelines §15312 which exempts the sale of surplus government property.
7. The Exchange Agreement, in the form attached as Attachment 1 to the Resolution, subject to any further clarifying revisions or corrections that may be agreed to by the City Manager and approved by the City Attorney, provided they do not increase the obligations of the City thereunder, is approved by the City Council. The City Manager is authorized to enter into, execute, and

implement the Exchange Agreement and to accept the District Exchange Parcel from the District on behalf of the City of Capitola in accordance with Government Code section 27281.

Public Noticing: The meeting agenda, City Council staff report, attachments and resolution were posted on the city website in advance of the meeting.

Fiscal Impact: As there are no payments associated with this exchange of land, there are no direct fiscal impacts associated with the proposed project. Any future improvements to Monterey Park would require future City Council budget appropriations.

Attachments:

1. Resolution with Exchange Agreement

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Julia Gautho, City Clerk; Michael Biddle, Assistant City Attorney

Approved By: Jamie Goldstein, City Manager