TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: Kim Walesh
DATE: June 6, 2017

SUBJECT: SEE BELOW

SUBJECT: SALE OF SURPLUS CITY-OWNED VACANT LAND AT ALMADEN BLVD AND CARLYSLE ST TO DEL GRANDE PROPERTIES

RECOMMENDATION

Adopt a Resolution:

a. Approving the use of a Purchase and Sale Agreement between the City and Del Grande Properties for the sale of the City's 6,708 square feet of vacant land at the corner of Almaden Blvd. and Carlyle St., Assessor's Parcel Number (APN) 259-35-029, in the amount of $1,341,600; and

b. Authorizing the City Manager or his designee to negotiate and execute the Purchase and Sale Agreement, the deed, all other documents necessary to complete the transaction, and any amendments or modifications.

OUTCOME

City Council adoption of the resolution will allow for the sale of approximately 6,708 square feet of City-owned vacant land at the corner of Almaden Blvd. and Carlyle St. to Del Grande Properties for an amount of $1,341,600, which will be deposited into the City's General Fund.

The proposed Purchaser, Del Grande Properties, a California general partnerships, currently owns the three parcels adjacent to the subject property. Ownership of the subject property would allow the site to be developed with a larger, higher-density building in this prominent Downtown location.
BACKGROUND

The subject property is a relatively small (approximately 6,708 square feet), vacant parcel of land located at the corner of Almaden Blvd. and Carlysle St. in Downtown San Jose, which the City has owned since the 1950s.

In April 2009, pursuant to California Government Code Section 54222(d), staff mailed letters to “preferred entities” offering for sale a number of City-owned properties (including the subject property) for purposes of affordable housing, parks, or school development. Staff did not receive any responses from the solicitation. In June 2009, City Council adopted Resolution No. 74994, declaring 20 City-owned properties (including the subject property) surplus to the needs of the City, and authorizing the City Manager to proceed with the disposition of the 20 properties.

In accordance with Chapter 4.20 of the Municipal Code, staff advertised the subject property for sale in the San Jose Mercury News over two consecutive weekends in June 2013, and again for another two consecutive weekends in October 2013. The property was also advertised for sale on the City of San Jose website. In April 2014, staff received bids from three parties, and proceeded with a public bidding process to determine the highest, most qualified bidder. Staff ultimately determined that Del Grande Properties, which is also the adjacent property owner, was the highest, most qualified bidder, with a bid price of approximately $637,260 or $95 per square foot.

On September 27, 2014, the California State Governor approved Assembly Bill 2135, requiring local government agencies to impose certain affordable housing restrictions when disposing surplus property. As a charter city, San Jose would not have been subject to these requirements, but nevertheless desired to act in a manner consistent with the revised State law as a means of promoting affordable housing within the City. Staff analyzed AB 2135 and developed a policy that incorporates almost all of the elements of AB 2135.

On April 26, 2016, City Council adopted Resolution No. 77725 updating the City’s procedure for the disposition of surplus City-owned property to reflect the general terms of AB 2135. During the period of time between the State approval of AB 2135, and the City approval of the policy update, all pending surplus sales were suspended, including the pending sale of the subject property.

Because the pending sale of the subject property was suspended for 24 months, particularly during a period marked by increasing property values, staff ordered a property appraisal to determine the current fair market value of the property. An appraisal performed by Carnegei Nakasako & Associates in November 2016 determined the fair market value to be $1,340,000. As a result, Del Grande Properties increased its bid from $637,260 to $1,341,600.
ANALYSIS

Municipal Code Section 4.20.70 allows staff to engage in direct negotiation with an adjacent property owner, and permits the City Council to approve the sale of a property to the adjacent property owner, for fair market value. In addition to the previously conducted public bid, staff has the ability to negotiate directly with Del Grande Properties because its owners also own all three of the parcels adjacent to the subject property.

The purchase price offered for the subject property by Del Grande Properties, at $1,341,600, equates to $200 per square foot.

Staff has negotiated the following terms to incorporate into a Purchase and Sale Agreement with Del Grande Properties:

1. **Purchase Price:** $1,341,600
2. **Deposit:** $120,000 (of which $60,000 is non-refundable under any circumstance)
3. **Due Diligence:** 30 days
4. **Condition:** Property to be sold “As-Is”
5. **Close of Escrow:** To occur on or before August 1, 2017
6. **Affordable Housing:** Pursuant to City Policy No. 7-13, the subject property is subject to the affordable housing requirements based on Government Code Section 54222-54233. At the time of closing, an affordability covenant that includes an affordable housing restriction pursuant to City Council Resolution 77725 and based on Government Code Sections 54222-54233 shall be recorded on the property. Purchaser intends to develop the property as a high-rise rental development in the downtown area. Under Section D (2) of City Policy No. 7-13, a property developed for high-rise rental development in the downtown area is exempt from the affordable housing requirements of City Policy No. 7-13 if the developer obtains all necessary approvals from the City and pulls the project’s building permits by June 30, 2021. Should the developer obtain all necessary approvals from the City and pull permits by June 30, 2021, then the affordability covenant may be removed from title upon request of the City.

Staff recommends that City Council approve the sale of the subject property to Del Grande Properties according to the above terms and conditions.

COORDINATION

This memorandum was prepared in coordination with the City Attorney’s Office and the City Manager’s Budget Office.
HONORABLE MAYOR AND CITY COUNCIL
June 6, 2017
Subject: Sale of Surplus Land at Almaden Blvd. and Carlysle St.
Page 4

FISCAL/POLICY ALIGNMENT

The proposed sale is in alignment with the Mayor’s March 2009 Budget Message, Section Investment Strategies, Item 1h which stated: “The City is currently undergoing a rigorous asset management review to include the sale of nonessential and underperforming city-owned properties, restructuring of existing leases with for-profit and non-profit operators of city facilities, and leasing of city infrastructure to private or other governmental operators.”

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The sale of this property will generate $1,340,600 of revenue to be deposited into the City’s General Fund.

CEQA

Exempt, File No. PP10-016.

/s/
KIM WALESHE
Deputy City Manager
Director of Economic Development

For questions, please contact Nanci Klein, Assistant Director of Economic Development, at (408) 535-8184.
Exhibit A: Aerial Map of Subject Property

Subject City Property
APN: 259-35-029

N Almaden Blvd

Carlyle St