



DATE: January 20, 2015

CATEGORY: Consent

DEPT.: City Attorney's Office and
Public Works

TITLE: **Approval of Purchase and Sales
Agreements for Portions of Stierlin
Road and Washington Alley**

RECOMMENDATION

1. Authorize the City Manager to execute a Purchase and Sale Agreement with the County of Santa Clara for the purchase of 2,173 square feet of Washington Alley and 911 square feet of Stierlin Road at a sale price of \$462,600.
2. Appropriate \$462,600 from the Strategic Property Acquisition Reserve Fund for the purchase of the property. (Five votes required)
3. Authorize the City Manager to execute a Purchase and Sale Agreement with Walter Berthold Kozourek and Renate Kozourek, co-trustees of The Kozourek Trust created by Declaration of Trust April 27, 1984, for the sale of 7,810 square feet of City right-of-way being portions of Stierlin Road and Washington Alley, including the lands to be acquired from the County, near the northwest corner of Moffett Boulevard and Central Expressway at a sale price of \$1,171,500.

BACKGROUND AND ANALYSIS

On December 3, 2013, the City Council authorized the City Manager to execute a Purchase and Sale Agreement with Walter Berthold Kozourek and Renate Kozourek, co-trustees of The Kozourek Trust created by Declaration of Trust April 27, 1984, for the sale of 9,593 square feet of City right-of-way being portions of Stierlin Road and Washington Alley near the northwest corner of Moffett Boulevard and Central Expressway.

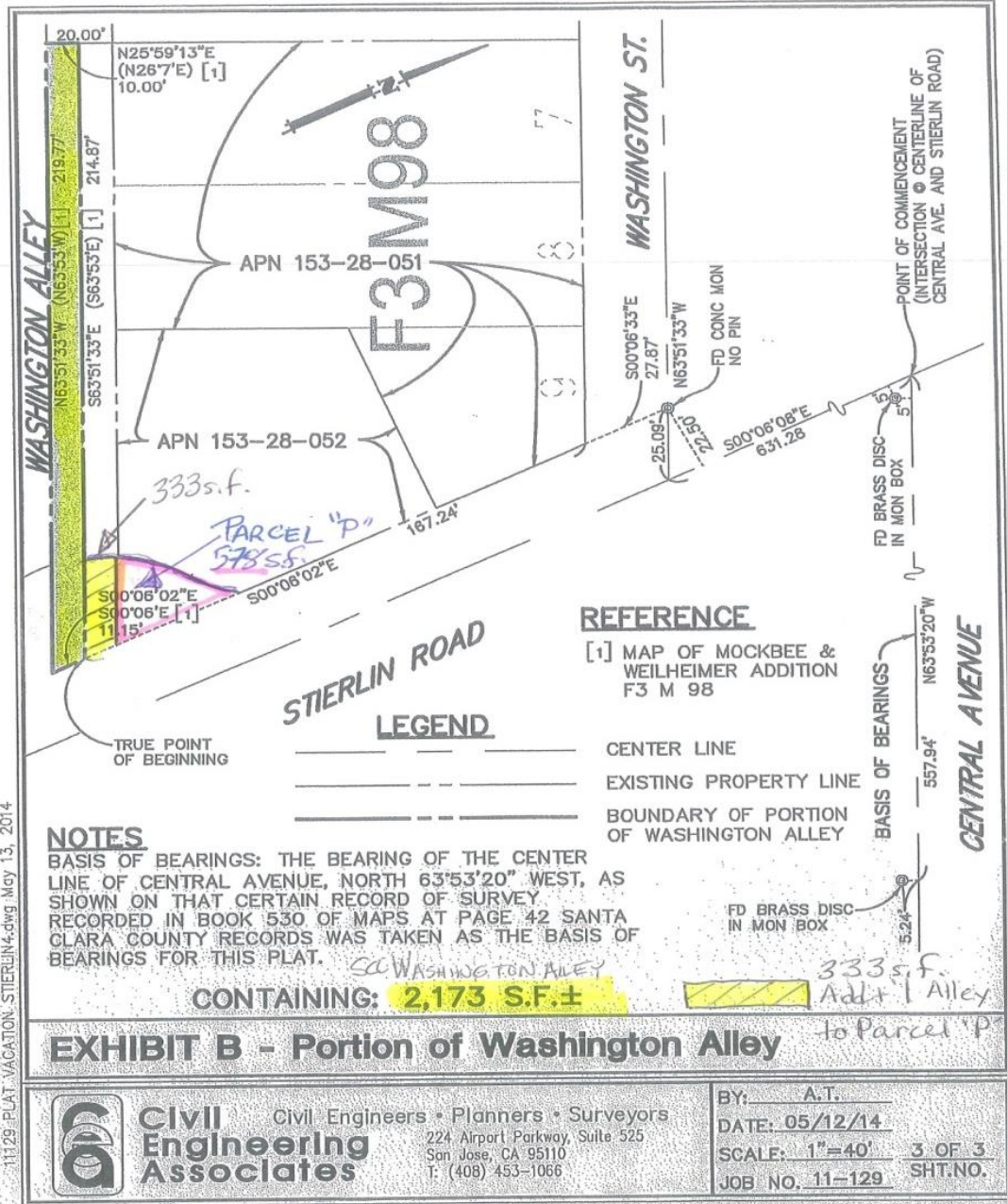
While finalizing the Purchase and Sale Agreement, two separate title companies determined fee title to Stierlin Road was vested in the heirs of an individual who purchased that and surrounding lands in 1864. In addition, title records showed a small portion of the Stierlin Road cul-de-sac bulb to be vested in the County, who acquired the property in 1963 to construct the cul-de-sac when the Central Expressway was

constructed. The title companies also concluded title to the vacated north half of Washington Alley is already vested in the Kozourek family (this strip of land abuts the parcel the Kozoureks are leasing to Prometheus) and title to the south half of Washington Alley was vested in the County, who acquired all of the properties south of Washington Alley for the construction of Central Expressway. Finally, the title companies determined all of the successor owners to the individual lots in a subdivision created in 1904 with the recording of what is referred to as the Mockbee and Weilheimer Map were the beneficiaries of easement rights within all of the roads and alleys in that subdivision. This easement creates a conflict between vehicles on Washington Alley and pedestrians and bicyclists who will travel on Stierlin Road. In order to resolve this conflict and convey clear title to the vacated portion of Washington Alley, the easement rights of 88 property owners in the vacated portion of Washington Alley had to be extinguished by acquisition or eminent domain. Staff, with the assistance of outside legal counsel, has cleared title to Stierlin Road (title is now vested in the City) and is on the verge of extinguishing the easement rights in Washington Alley.

To complete the intended action of conveying portions of Washington Alley and Stierlin Road to allow development of the 100 Moffett Boulevard project approved by Council on December 3, 2013, staff recommends purchasing 2,173 square feet of Washington Alley and 911 square feet of Stierlin Road from the County of Santa Clara at a sale price of \$462,600 (\$150 per square foot). This is the same price per square foot as the City property being sold. As part of the escrow, title would be conveyed from the County to the City and then to the Kozourek family, the abutting land owners. Prometheus Real Estate Group, developers of the 100 Moffett Boulevard property, would fund the escrow obviating the need for the Council to appropriate funds for the acquisition of the County property.

If the purchase of County property is approved, the Purchase and Sale Agreement with the Kozoureks will be revised to reflect a sale of 7,810 square feet of property to the Kozoureks for the gross sum of \$1,171,500. Sale proceeds to the City for the sale of 4,726 square feet of land within Stierlin Road would be \$708,900. The net proceeds would be \$508,900 after a \$200,000 credit, authorized by Council, for construction of the right-turn and bike-lane improvements on Moffett Boulevard.

333
 578
 2173
 3084 sq ft



FISCAL IMPACT

The sale of the City-owned property within Stierlin Road will generate \$508,900 in revenue to the City's Open Space Reserve Fund. City Council Policy A-11 designates the Open Space Reserve Fund as the repository for proceeds from the sale of excess City property. The Open Space Reserve Fund is used to fund the acquisition of open space as authorized by the City Council.

To purchase the property from the County, \$462,600 will be appropriated from the Strategic Property Acquisition Reserve Fund. However, the Strategic Property Acquisition Reserve Fund will be fully refunded upon the sale of the City property.

ALTERNATIVES

1. Direct staff to renegotiate the recommended price, terms, and conditions of the proposed property sale.
2. Allocate the sales proceeds to another fund (e.g., Strategic Property Acquisition Reserve Fund, CIP Reserve Fund, other).
3. Do not authorize the City Manager to purchase and sell the County property.

PUBLIC NOTICING

Agenda posting. In addition, the County of Santa Clara, Walter Berthold Kozourek and Renate Kozourek, and Prometheus Real Estate Group were also notified.

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JLQ-DPD/7/CAM
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