



# COUNCIL REPORT

**DATE:** October 8, 2024

**CATEGORY:** Consent

**DEPT.:** Public Works,  
Community Services

**TITLE:** **939 San Rafael Avenue  
(APN: 153-18-032)—Acquisition of Real  
Property**

## **RECOMMENDATION**

1. Approve the acquisition of property located at 939 San Rafael Avenue (APN: 153-18-032) owned by San Rafael Partners, LLC, a California limited liability company.
2. Appropriate \$6.05 million from the Park Land Dedication Fund for the acquisition and closing costs of 939 San Rafael Avenue. (Five votes required)
3. Authorize the City Manager or designee to execute all documents and take all necessary action related to the acquisition of 939 San Rafael Avenue (APN: 153-18-032).
4. Find that in accordance with the California Environmental Quality Act requirements, under Public Resources Code Section 21080.28, the California Environmental Quality Act requirements do not apply to the acquisition of land for preservation of lands for park purposes; and acquisition of the property is categorically exempt under Class 25, acquisition to preserve lands for park purposes.

## **BACKGROUND**

The property at 939 San Rafael Avenue is a 0.79-acre parcel and is improved with a 9,199 square foot industrial office building that was built in 1981 (Figure 1). The property is vacant and adjacent to 909 and 917 San Rafael Avenue, which the City acquired in 2022 for a future park and would expand the future park from 1.6 acres to 2.4 acres. In addition, an Environmental Site Assessment Phase I report, commissioned by the City, confirms the property is not likely to contain any environmental issues.

This property is located in the Terra Bella neighborhood, which is in the Stierlin Park Planning Area (Figure 2). This planning area currently has 2.3 acres of parks and open space per 1,000 residents. The closest park for the Terra Bella area is the two-acre San Veron Park on West Middlefield Road.



Figure 1: Location of 939 San Rafael Avenue



Figure 2: Stierlin Park Planning Area

## **ANALYSIS**

Staff recommends the property be acquired and assembled with the 909 and 917 San Rafael Avenue properties for the development of a new park. There is an existing single-family neighborhood to the south of the property and new residential development projects in the planning and construction phases north of the property on Terra Bella Avenue, including the 110-unit affordable housing development at 1020 Terra Bella Avenue and 303 new housing units at 1001 North Shoreline Boulevard. Increasing the park size at this location is highly desirable and will contribute toward reaching the City goal of three acres of park area per 1,000 residents for the Stierlin Park Planning Area.

The property is listed for sale at an undisclosed price; however, the broker indicated that property was in contract last year for \$6.9 million. The City obtained an appraisal from a reputable appraiser and, using the appraised value, staff negotiated a purchase price of \$6 million with the property owner. In the Closed Session on February 13, 2024, Council authorized a negotiation price of up to \$5.865 million. Staff recommends approval of the \$6 million purchase price, which is \$135,000 more than the authorized negotiation price. As part of the Purchase and Sale Agreement for 939 San Rafael Avenue, staff recommends the terms include that the City will purchase the property for \$6 million and pay all closing costs.

## **Environmental Clearance**

In accordance with the requirements of the California Environmental Quality Act (CEQA), under Public Resources Code Section 21080.28, CEQA does not apply to the acquisition of land for preservation of lands for park purposes. Acquisition of these properties has also been determined to be categorically exempt as Class 25, acquisition to preserve lands for park purposes.

## **FISCAL IMPACT**

The total cost for acquiring 939 San Rafael Avenue, including incidental real estate expenses, is \$6.05 million. There is currently \$8.3 million in uncommitted fees available in the Park Land Dedication Fund for the Stierlin Park Planning Area (Attachment 1). Staff recommends appropriating \$6.05 million for the acquisition and closing costs. There is sufficient funding available in the Park Land Dedication Fund for the Stierlin Park Planning Area for this property acquisition.

Design and construction of a 2.4-acre park are estimated to cost between \$7.0 million and \$9.0 million. San Rafael Avenue Park, Design and Construction, Project 24-36, is currently funded with \$6.0 million from the Park Land Dedication Fund and has sufficient balance to address any needed property work. After expending the Park Land funds, there will be approximately \$1.9 million remaining in uncommitted Park Land funds for the Stierlin Park Planning Area. Additional

funding may be available from future Stierlin Park Planning Area park in-lieu fees and/or Capital Improvement Program funding sources. If the City Council approves the recommended acquisition, staff will begin the park development process by December 2024, which will include community engagement.

### **LEVINE ACT**

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a “license, permit, or other entitlement for use” if the official has received a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant in the proceeding within the last 12 months. A city official is similarly prohibited from accepting, soliciting, or directing a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant to any proceeding involving a license, permit, or other entitlement for use for 12 months after a final decision is rendered in said proceeding.

Please refer to the “X” in the checklist below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

#### **SUBJECT TO THE LEVINE ACT**

- Land development entitlements
- Other permit, license, or entitlement for use
- Contract or franchise

#### **EXEMPT FROM THE LEVINE ACT**

- Competitively bid contract
- Labor or personal employment contract
- General policy and legislative actions

For more information about the Levine Act, please see the Fair Political Practices Commission website: [www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html).

### **ALTERNATIVES**

1. Do not approve the acquisition of the property.
2. Authorize a different amount for the purchase of the property.
3. Appropriate project funding from another source than the Park Land Dedication Fund.
4. Provide other direction.

**PUBLIC NOTICING**

Agenda posting, and a copy of this report was sent to the property owner and the property owners' broker.

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ALM/LL/6/CAM  
930-10-08-24CR  
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Attachment: 1. Park Land Dedication Fund Commitment