



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 08-02-06

Approved

Date

8/7/06

COUNCIL DISTRICT: 4

SUBJECT: FINDING AND DETERMINING THE PUBLIC INTEREST AND NECESSITY FOR CONDEMNING A PORTION OF REAL PROPERTY OWNED BY PIEDMONT AND SIERRA ROAD PLAZA, LLC, FOR PURPOSES OF RELOCATING FIRE STATION 19 TO THE SOUTHWEST CORNER OF PIEDMONT AND SIERRA ROADS AND AUTHORIZING THE ACQUISITION OF THIS PROPERTY BY EMINENT DOMAIN.

RECOMMENDATION

Adoption of a resolution determining that the public interest and necessity require the acquisition of a portion of a parcel currently improved with a vacant commercial building, for purposes of relocating and constructing a new facility for Fire Station 19 at the corner of Piedmont and Sierra Roads, from the owner, Piedmont and Sierra Road Plaza, LLC, A California Limited Liability Company (“Owner”) and located at 1275 Piedmont Road, San Jose, CA 95132 (APN No. 591-14-052) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available.

CEQA: Exempt, PP06-116

OUTCOME

Staff is requesting that the City utilize its power of eminent domain under Sections 1240.010, 1240.110 and 1240.120 of the California Code of Civil Procedure, all of which authorize the City to acquire the proposed property interest from the Owner.

If a Resolution of Necessity is adopted, the City Attorney will then file the necessary documents with the court to commence an eminent domain action. Upon the filing of an eminent domain action, a deposit of probable compensation may be made. A request for an Order for Prejudgment Possession may also be made which would allow the City to take possession of the property before the issue of just compensation is determined.

Approval of the resolution will facilitate land acquisition and will enable the planning, design and construction of Fire Station 19 to begin as scheduled under the Public Safety Bond Program.

EXECUTIVE SUMMARY

The purpose of this memorandum is to recommend adoption of a resolution determining that the public interest and necessity require the acquisition of a portion of a parcel currently improved with a vacant commercial building, for purposes of relocating and constructing a new facility for Fire Station 19 at the corner of Piedmont and Sierra Roads and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available.

BACKGROUND

In March 2002, the voters in San José passed the “Neighborhood Security Bond Act” which approved the issuance of \$159 million in General Obligation Bonds to fund the construction of various Public Safety facilities. The Public Safety Bond Program includes funding for the relocation of six existing fire stations, including Fire Station 19.

The six existing fire stations to be replaced are currently located in either older single-family residential facilities or, in stations that are no longer adequate for continued use as fire stations. The new fire stations will be constructed to essential facility standards and will substantially improve response times for the area served as well as meeting current standards for living and working conditions for the firefighters.

In relocating existing fire stations, the Fire Department’s strategy is to not only improve facilities, but also identify new locations that would improve the overall emergency response performance for the area. For each relocation project, a search area is defined in an effort to locate an appropriate parcel.

ANALYSIS

This report recommends purchase of a 29,453 square foot portion of a 56,628 square foot parcel located at 1275 Piedmont Road as the site for the relocation of Fire Station 19, currently located at 1025 Piedmont Road. This site is located approximately .50 miles from the existing fire station.

Staff used the following criteria in determining prospective sites for the relocation of Fire Station 19:

- Performance efficiency improvement in the delivery of emergency response services to the immediate area and the broader community.
- Adequate size – approximately .63 acre for a corner lot and .75 acre for an interior lot to accommodate a single company fire station with a two-bay apparatus and required parking
- Effective and safe ingress and egress for fire apparatus, especially in responding to emergencies.
- Minimal disruption to the existing area, and compatibility with the church and adjacent residences.

The recommended site effectively meets the above criteria.

This site is situated two miles from the San Jose/Milpitas city limits and will improve service levels in the NE quadrant of the City while eliminating the current overlap of coverage between Fire Stations #2 and #19. The proposed service area complies with the City's stated goal of a four-minute travel time for emergency medical calls. Additionally, this site is on the corner of two main arterials and the intersection already has the necessary traffic controls in place to allow for the necessary ingress and egress to the site.

The selected site is a corner location and part of a larger parcel situated at the southwest corner of Piedmont Road and Sierra Road. The remainder area, consisting of the southerly half of the subject site with frontage on Piedmont Road only, contains approximately 0.62 acres (27,175 square feet) of land area and includes an existing 2,707 square foot single tenant commercial building. The remainder of the subject site, after the acquisition, will have generally equivalent utility in comparison to the site prior to this acquisition. Neither visibility nor accessibility will be diminished. The construction project for Fire Station 19 is scheduled to award in 2007 with expected completion at the end of 2008.

City staff presented the owners' attorney of the property an offer of just compensation in the amount of \$1,550,000. The offer was based upon an appraisal of the property by Carneghi-Blum & Partners, Inc.

Acquisition

City staff determined that acquisition pursuant to the eminent domain process was the only alternative means available to acquire the subject portion of the Owner's property and complete the project in view of the Owner's failure to accept the City's purchase offer.

On May 19, 2006 City staff submitted an initial offer to purchase the subject property by hand-delivery which included the offer itself, a copy of the appraisal report, informational brochure, legal description and plat and preliminary title report, in satisfaction of Government Code section 7267.2. The amount of just compensation as determined by the appraisal was \$1,550,000.

Resolution of Necessity

On August 4, 2006, a notice was sent to Piedmont and Sierra Road Plaza, LLC, A California Limited Liability Company, the owner of record, notifying it that a hearing is scheduled on August 22, 2006 before the City Council to consider the adoption of a Resolution of Necessity determining the following issues:

- 1. Whether the public interest and necessity require the proposed project**

The proposed relocation of Fire Station 19 serves the public interest and is necessary to more efficiently and effectively deliver emergency services to residents and visitors within an area bounded by Landis Ave. to the north, the foothills and various access roadways to the east, Cropley Ave. to the south, and Paris Way and Stonewood Lane to the west. Furthermore, the relocation of Station 19 will eliminate emergency service coverage overlap between Station 2's and Station 19's first due district without reducing response time performance in the overlap areas, improving the resource coverage efficiency. Finally, the relocation of Station 19's will permit the future relocation of Station 23 to support increased residential and commercial development adopted in the Revised North San Jose Development Policy. Verification of emergency response performance improvement was completed using the Fire Department's resource deployment software and through physical verification.

2. Whether the proposed project is planned and located in a manner that would be most compatible with the greatest public good and the least private injury.

The Piedmont and Sierra Road site is located on the southwest corner of a controlled intersection and is adjacent to an existing sound wall, which separates a residential community to the west from the previous commercial use of the property. The corner location of the property permits the most efficient use of the site with respect to ingress and egress driveways from the station garage facility or "bays." In the absence of the corner location, site square footage requirements would be greater to accommodate apparatus turning radiuses. Furthermore, the site adjacency to a pre-existing signalized intersection significantly improves the public and responder safety when the apparatus responds from the station. And lastly, Station 19's relocation to the intersection of north/south and east/west thoroughfares (e.g., Piedmont and Sierra) significantly improves response efficiency. The existing Fire Station 19 is poorly located and as a result sub-optimizes the response coverage of Engine 19. The proposed relocation of the fire station will substantially improve response times and performance within the northeast area of Engine 19's first due area, as well as improve the efficiency of Engine 19's coverage overlap between Engine 19 and Engine 2 located on Alum Rock Avenue. Furthermore, Station 19's relocation will enable the relocation of Station 23 in consideration with future anticipated increases in residential and commercial development. The proposed site is optimally located to achieve performance improvements needed to bring this station district in compliance with adopted service level objectives referenced in the Fire Department's 2000 Strategic Plan. Alternative sites do not result in improved coverage in underserved areas, and are otherwise less compatible with the greatest public good and the least private injury for the reasons set forth under Policy Alternative #2, below. This site is the best site as it provides the greatest public good and the least private injury.

3. Whether the property sought to be acquired is necessary for the project.

The location of the proposed site is uniquely suited for the relocation of Station 19 for the reasons stated in items #1 and #2. Furthermore, the site is 2.0 miles from Landis Ave. to the north, which is also the Urban Service Area (USA) boundary of the City and 2.0 miles from the eastern USA boundary. A 2.0 mile travel radius equates to a four minute travel time,

which is the maximum distance a resource can respond and still meet the service level objective of an eight minute emergency response time for 90% of service requests. Relocation of Station 19 to Sierra and Piedmont will permit further optimization of Station 19 resource coverage with the future relocation of Station 23.

4. Whether the offer required by Section 7267.2 of the Government Code has been made to the owners of record.

A title report issued by Financial Title Company on May 20, 2006 shows the owner of record of the subject property to be Piedmont and Sierra Road Plaza, LLC, A California Limited Liability Company.

An appraisal report was commissioned by the City from Carneghi-Blum & Partners, Inc. and completed on May 10, 2006. In satisfaction of Government Code section 7267.2 an offer to purchase specifying a total compensation amount of \$1,550,000, together with a copy of the appraisal report containing a legal description and plat map, a preliminary title report and an informational brochure was hand-delivered to Piedmont and Sierra Road Plaza, LLC via the property owners' attorney on May 19, 2006. On Monday, May 22, 2006, the property owners' attorney left a voice message for staff that the property owners declined the City's offer to purchase and requested that a need and necessity hearing be convened as soon as possible.

A notice of the August 22, 2006 Council hearing was sent to the Owner on August 4, 2006.

POLICY ALTERNATIVES

Alternative # 1: Don't relocate Fire Station 19

Pros: No cost

Cons: Service level and coverage area will not be improved

Reason for not recommending: By not relocating Station 19, resource coverage is not optimized and Station 23 cannot be relocated without creating a reduction in service levels in the northeast corner of Station 23's service area.

Alternative # 2: Select an alternative site in the immediate area

Pros: Potential for willing seller

Cons: Other sites identified in the immediate area that are necessary to optimize response coverage currently have ongoing business operations (e.g., retail and gasoline sales). Existing underground storage tanks and other improvements will require removal and demolition. Other potential sites further west and north of the proposed site, would require traffic signal installation and relocation cost reimbursement for the businesses and would be less compatible with existing land use (e.g., residential use).

Reason for not recommending: Sites further removed from the intersection of Sierra and Piedmont Roads do not provide the safety of a controlled intersection for fire equipment ingress and egress from the station and may require significant grading and/or demolition of existing structures and

potential clean-up of hazardous materials that will significantly increase the cost of site preparation and would likely require relocation and loss of business disruptions. Staff canvassed the surrounding area immediately adjacent to the proposed site for alternative sites that met the criteria cited above. No alternative sites sufficiently met the established criteria for further evaluation for the reasons set forth above.

Alternative # 3: Continue to negotiate with the property owner

Pros: Potential for acquiring the subject property without eminent domain

Cons: There is no guarantee that an agreement on terms to acquire the subject property could be accomplished between the City and the property owner.

Reason for not recommending: The property owner has requested a public interest and necessity hearing to advance the recommended acquisition process and therefore future negotiations would be futile.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the criteria, public outreach consisted of letters signed by the Fire Chief mailed to property and residents within a 500-foot radius of the current location of Station 19 and proposed location of Station 19. The letters provided a brief explanation of the benefits of relocating the fire station. This memo is also posted on the City's website for the August 22, 2006 Council Agenda.

COORDINATION

Preparation of this memorandum has been coordinated with the Fire Department, Planning, Building and Code Enforcement Department, the City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with the March 2002 voter approved "Neighborhood Security Bond Act" which approved the issuance of \$159 million in General Obligation Bonds to fund the construction of

various Public Safety facilities. This project is also consistent with the Council-approved Budget Strategy to continue with capital improvement projects that keep money flowing to our economy.

COST SUMMARY/IMPLICATIONS

The total funding for fire station land acquisition costs is \$3,221,000 in the Adopted 2006-2007 Capital Budget. Of this amount, \$1,550,000 was assumed for the purchase of land for Fire Station 19. With closing and related staff costs, the estimated cost is \$1,676,975. Cost implications associated with the Relocation of Fire Station 19 Project will be discussed in future Council memoranda concerning those improvements.

1. COST OF PROJECT:

Total Budget Estimate for Fire Station 19 Land Costs	\$1,550,000
Amount of Recommendation in this Acquisition: (This amount includes escrow and closing costs estimated at \$31,000 and staff costs including appraisal, title report fees and environmental site assessment estimated at \$95,975.	\$1,676,975
Estimated amount of remaining acquisitions: No additional land acquisitions are necessary for Fire Station 19, and will be used for remaining land acquisition like Fire Station 37.	\$1,500,000
Estimated Balance for Land Acquisition:	\$ 44,025

2. SOURCE OF FUNDING: 475-Land Acquisition-Fire Station

3. FISCAL IMPACT: N/A-One time cost

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2006-2007 Proposed Budget Page	Last Budget Action (Date, Ord. No.)
475	4548	Land Acquisition-Fire Station	\$3,221,000	\$1,676,975	V-761	NA

HONORABLE MAYOR AND CITY COUNCIL

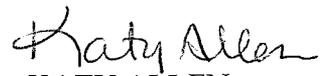
08-02-06

Subject: Public Interest and Necessity for Relocating Fire Station No. 19

Page 8

CEQA

CEQA: Exempt, PP06-116



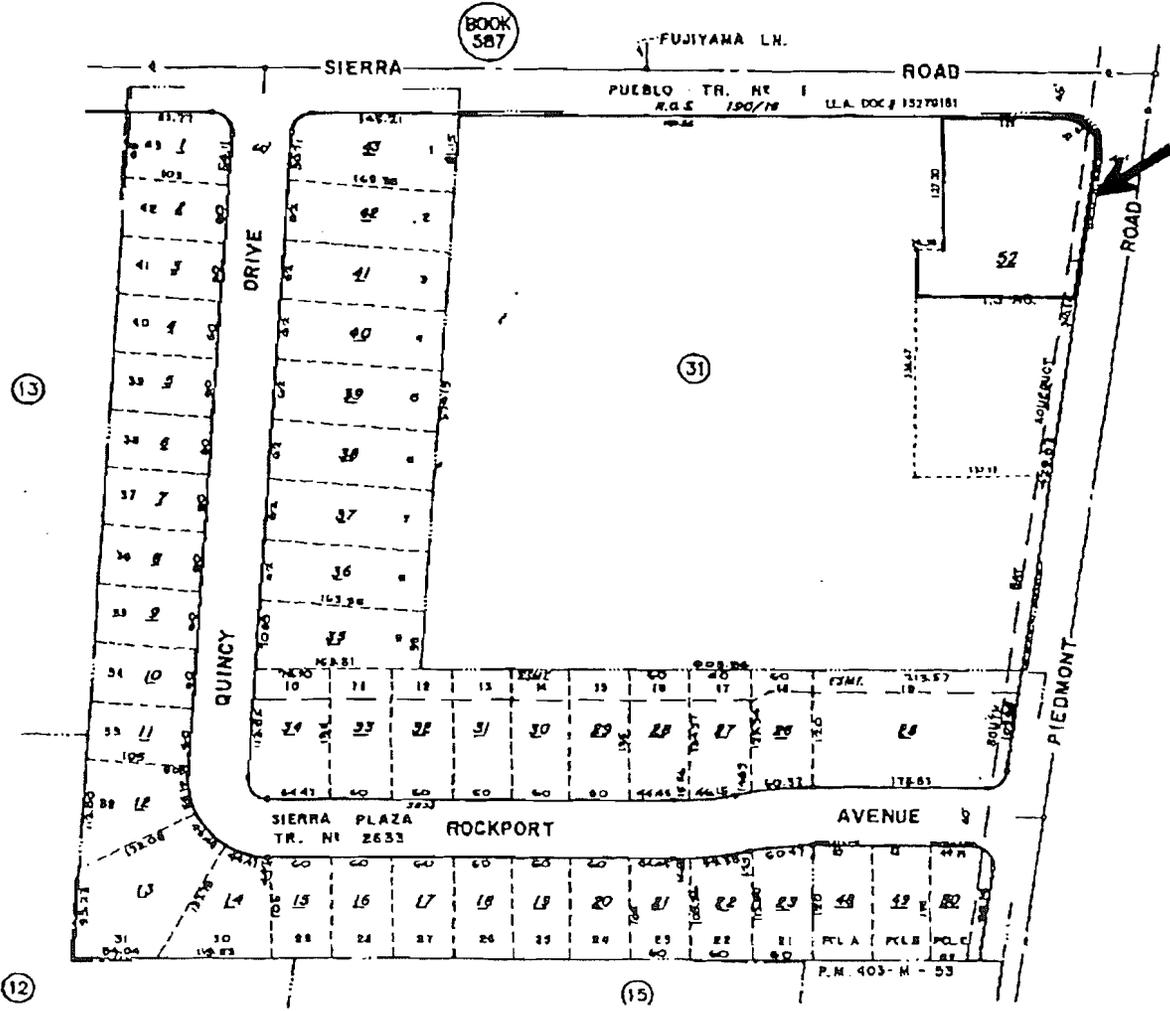
KATY ALLEN

Director, Public Works Department

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, at (408) 535-8300.

NS:bi

Attachment



BOOK
595

LAWRENCE C. STONE - ASSessor
 Located map by assessment purposes only
 Complies with R. & T. Code Sec. 517
 Effective Fall Year 1974-2000

"THE INFORMATION ON THIS PLAT IS PROVIDED FOR YOUR CONVENIENCE AS A GUIDE TO THE GENERAL LOCATION OF THE SUBJECT PROPERTY. THE ACCURACY OF THIS PLAT IS NOT GUARANTEED, NOR IS IT A PART OF ANY POLICY, REPORT OR GUARANTEE TO WHICH IT MAY BE ATTACHED."