



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: ALMADEN ROAD APARTMENTS
DEDICATION OF LAND FOR
FUTURE PARK SITE

DATE: 11-13-07

Approved

Date

11/14/07

COUNCIL DISTRICT: 7

RECOMMENDATION

Adoption of a resolution authorizing the City Manager to execute and accept the Grant Deed dedicating parkland from Almaden Family Housing Partners, LP to the City of San José for future public park purposes.

OUTCOME

Adoption of the resolution will authorize the approval of the dedication of 1.79 acres for parkland purposes to the City of San José in accordance with Ordinance No. 25812 as adopted by the City Council on April 6, 1999. This action will provide for the master planning of the future park site and will allow the City to complete the full build out of a new neighborhood park to serve the Tamien Station area communities.

BACKGROUND

In 1998, the City of San José received a request from an owner/developer to rezone 9.7 acres, approximately 850 feet south of Alma Avenue on the west side of Almaden Road. The zoning for the property was M-1 Manufacturing and the use of the property was Industrial/Manufacturing. The use of the property was in conformance to the zoning that was in existence at the time.

The owner, Green Valley Corporation, and developer, Barry Swenson Builder, proposed a change in zoning from M-1 Manufacturing to A(PD) Planned Development. As a part of the requested zoning change, Barry Swenson Builder also proposed the construction of over 300 multi-family attached residences and a 2.38 acre public park on the existing 9.7 acre site. A staff report dated March 24, 1999 indicates that the developer, at the time the rezoning was being discussed, proposed constructing the housing project in two phases. The first phase of the project would include 225 to 235 units with a 1.79 acre park dedication requirement. The second phase of the project would include an additional 85 to 95 units and a 0.59 acre park extension.

On March 24, 1999, the Planning Commission held a Public Hearing to consider the rezoning of the subject property and the architectural design of the proposed “The Cannery – Almaden Road Apartments - Residential Community in San Jose” project. As a result of that Public Hearing the Planning Commission submitted a memorandum dated March 26, 1999 to the City Council recommending that the Council adopt an ordinance and approve the requested rezoning. In addition to the Planning Commission’s recommendation, the Director of Planning, Building and Code Enforcement recommended approval of the rezoning request.

On April 6, 1999, the City Council held its first public hearing to consider the request for the rezoning of the subject property. The Council voted to accept the recommendations of the Planning Commission and the Director of Planning, Building and Code Enforcement and Ordinance No. 25812 entitled: “Ordinance of the City of San José Rezoning Certain Real Property situated at the West Side of Almaden Road, 850 Feet Southerly of Alma Avenue” was passed for publication. The second reading of the Ordinance occurred during the April 20, 1999 City Council meeting and the Council unanimously adopted Ordinance No. 25812- PDC 98-11-089 with an effective date of May 21, 1999.

Green Valley Corporation transferred the subject property to Almaden Family Housing Partners LP (Almaden Partners) including the development rights of the former developer, Barry Swenson Builder, on July 20, 2001. At the time of the transfer construction of the residential housing units had not been started.

After acquiring title, Almaden Partners began construction on phase one of the project with the intention of building low income housing units. Construction of the low income housing units was completed in 2006. With the completion of construction for phase one, it is necessary to ensure compliance with Ordinance No. 25812 and the terms and conditions defined in File No. PDC98-11-089.

ANALYSIS

Adoption of Ordinance No. 25812 along with the terms and conditions defined in File No. PDC98-11-089 allowed for the rezoning of approximately 850 feet of a southerly portion of Alma Avenue on the west side of Almaden Road. It also provided authority for the construction of residential housing units subject to the requirements of the Parkland Dedication Ordinance (PDO). The Almaden Partners constructed phase one of the project, but built low income housing units on the subject property.

Low income housing units are not subject to the PDO fee requirements under the low income housing voucher program. Additionally, the City does not typically require fees or land dedication from low income housing developers. Therefore, Almaden Partners are not subject to the PDO fee requirement or land dedication. However, Ordinance No. 25812 approved the rezoning as described in File No. PDC98-11-089 and required the dedication of land for a future

public park. Almaden Partners did not contest the rezoning or propose a change in zoning prior to the construction of the residential housing units.

Since the project unfolded in an atypical fashion, there is no formal parkland agreement or irrevocable offer of dedication stipulating that Almaden Partners dedicate a portion of their property for public parkland. Given the current zoning requirements and the fact that Almaden Partners have completed construction of phase one of their project, Almaden Partners have agreed to the dedication of 1.79 acres for a future public park. Almaden Partners has, for phase one, provided a Grant Deed dedicating the 1.79 acre site to the City.

Adoption of a resolution authorizing the City Manager to execute and accept the Grant Deed dedicating parkland from Almaden Family Housing Partners, LP to the City of San José will ensure that the land will be transferred to the City for future public park purposes. Time is of the essence for Almaden Partners as they had their loans reconveyed to dedicate the 1.79 acre park site to the City. However, since the Title Company does not have the documents for recordation, the lenders are considering rescinding the reconveyance if the recordation of the Grant Deed and acceptance do not proceed in a timely manner. A Phase I Environmental Site Assessment Study conducted concluded there was “no evidence of environmental conditions in connection with the subject site.” Review by the City’s Environmental Services Department recommended no further study of the site.

A map showing the subject park site is attached as “Exhibit A.”

EVALUATION AND FOLLOW-UP

The dedication is currently on schedule to be accepted by early January 2008. Staff presented a number of schematic designs to local residents at the first community meeting which occurred on October 30, 2007. Subsequent community meetings will follow to revise design concepts and finalize the master plan for the park.

The design and construction award for this project is expected to be brought to the Council for approval in FY 2008-09, after the community outreach/master planning process has been completed and construction documents have been prepared.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**

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- Criterion 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)**

This memorandum does not meet any of the above listed criteria; however, it will be posted on the City's website for the December 4, 2007 Council Agenda.

COORDINATION

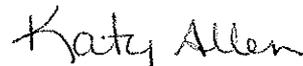
This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Departments of Parks, Recreation, and Neighborhood Services, and Planning, Building, and Code Enforcement.

COST IMPLICATIONS

Construction cost estimates and associated operating and maintenance impacts should be available shortly after the master plan for the park has been completed. It is anticipated that the park will be completed in the summer of 2009. It is anticipated funding for the construction will be appropriated from the Park Trust Fund (Fund 375) and will follow the City's standard construction scheduling procedures.

CEQA

CEQA: Negative Declaration, File No. PDC98-11-089.



KATY ALLEN

Director, Public Works Department

For questions, please contact PHIL PRINCE, DEPUTY DIRECTOR, at (408) 535-8300.

Attachments

