

FAIRVIEW PARK ENCROACHMENTS

**PROPOSED PROGRAM OF EVENTS TO TAKE PLACE
FOR POSSIBLE SALE OF PROPERTY
TO SWAN DRIVE PROPERTY OWNERS**

December 23, 2003

BACKGROUND

City Council has requested staff to explore the possible sale of existing parkland in Fairview Park that is north of the Orange County Flood Control District's Fairview Channel Flood Control Facility and west of Placentia Avenue (Property). The potential buyers of the Property are the property owners (HOA) on the south side of Swan Drive that back up to the Property.

GENERAL APPROACH AND CONDITIONS

In order to reach a position at which City Council can make a final decision on the sale of the Property, a number of investigations, discussions, and determinations must be made. Staff recommends the following conditions for performing this work:

- The City will conduct discussions and/or negotiations only with a legally empowered representative or representatives of the property owners group (Homeowners Association, or HOA) on Swan Drive. The City will not entertain discussions and/or negotiations with individual property owners and/or groups of property owners not represented by the above-mentioned HOA.
- The HOA must represent all of the affected property owners on Swan Drive, and must be authorized to enter into agreements necessary to facilitate the sale of the Property.
- The Property must be sold in its entirety.

SCHEDULE OF MILESTONE EVENTS

The following schedule and sequence of events has been developed to provide for the most efficient and expeditious method of determining the feasibility of sale of the Property, if so determined by City Council. The indication in **BOLD** signifies that funding is required for the item, and indicates the staff recommendation on who is responsible for the funding. Estimated funding costs and project timelines are indicated in Attachment 1.

1. Meet with the affected homeowners (Homeowners) on Swan Drive to inform them of City Council direction of September 2, 2003, and to go over the sequence of milestone events to occur.
2. City staff notifies the County of the City's intent to sell the Property, and requests formal approval to allow sale of the Property to the homeowners.
3. City staff contacts all known Easement Holders within the Property to request input and acceptance of the possible sale of the Property by the City.

4. County and Easement Holders approve and/or take no exception to sale of the Property. Possible conditions may be placed by the County and by the Easement Holders on the sale of the Property.
5. Homeowners draw up and approve documents establishing a Homeowner's Association (HOA) and appointing representatives to work with City staff on possible sale of the Property. **(HOA)**
6. City Attorney reviews HOA documents to confirm the validity of the organization and the ability of the HOA representatives to negotiate with the City for the Property. **(HOA)**
7. City Attorney drafts an agreement between City and HOA to delineate how costs are to be allocated and how to pay for title report(s), appraisal services, and land subdivision. Where HOA is designated to pay, the City suggests the following options: 1) allowing payment "up front," 2) agreeing to pay at the time of title transfer, or 3) providing an assessment on the property tax bill for that year. Agreement also designates who will pay actual costs if one of the parties withdraws from the process at some point. **(HOA)**
8. City Council and HOA approve Title Report, Appraisal Services, and Land Subdivision Funding Agreement.
9. City hires a title company to prepare a title report on the Property. **(HOA)**
10. City staff determines which area(s) of the Property were purchased with Park Bond Funds, if any. (Note: if it is determined that certain areas of the Property were purchased with these bonds, special procedures must be set up before the sale of these areas can be accomplished. This sequence list does not address these special procedures.)
11. City hires an appraiser to advise Council on different methods of appraising the Property for possible sale to homeowners. **(HOA)**
12. Staff submits a report to City Council requesting a determination on the following items, in order for the formal appraisal and possible sale of the property to proceed:
 - A. City Council must determine that:
 - The land to be abandoned is not necessary for park purposes;
 - The land to be abandoned has not been used for park purposes;
 - Only City money has been used to purchase the land, and;
 - No public funds have been used to improve the land as a park.
 - B. City Council determines what conditions, covenants, and restrictions (CC&R's), if any, are to be imposed on any sale of the Property, such as zoning, land use, building limitations, setbacks, etc.
 - C. City Council determines how the Property is to be appraised for possible sale based on appraiser's report. Alternatives may include:
 - Appraisal of entire property as one lot, and proportioning cost to individual homeowners;
 - Appraisal of each individual lot to be sold to each homeowner;
 - Determine fair market value of replacement property that could be purchased in another area of the city to replace the Property, if sold, and establish that as the sale price;
 - Other methods as suggested by the appraiser.
13. Based on Council action, HOA formally notifies City in writing of willingness to continue with the possible purchase of the Property in accordance with the selected appraisal methodology, with any CC&R's as determined by City Council, and with any conditions

imposed on the sale by the Easement Holders (Item # 12 above) or the County (Item # 13 above).

14. Appraiser is directed to prepare a formal Appraisal Report of the properties using the selected method and with any restrictions (see Item No. 12-B above). **(HOA)**
15. City Council approves Appraisal Report and directs staff to make formal offer of sale to the HOA.
16. HOA formally notifies City in writing of willingness to purchase Property in accordance with the final Appraisal Report, with any CC&R's (Item # 12 above) as determined by City Council, and with any conditions imposed on the sale by the Easement Holders (Item # 8 above) or the County (Item # 8 above).
17. Purchase Agreement (Agreement) is drawn up by City Attorney, and approved by the City Council and HOA, agreeing to the terms and conditions of sale of the Property. **(HOA reimburses City for actual costs in developing the agreement)**
18. A land surveyor or civil engineer is hired to prepare subdivision map and/or grant deeds for the parcels to be sold. **(HOA)**
19. The subdivision document(s) are completed and submitted for review/approval by all applicable public entities/agencies prior to execution. **(HOA)**
20. HOA deposits fees and good faith securities, as provided for in the Purchase Agreement, into an escrow account. The City selects the escrow company. **(HOA and/or City as determined in the Purchase Agreement).**
21. A lot consolidation process is completed to combine the new property with the adjacent single-family residential parcel, creating a larger single lot for each affected property. **(HOA)**
22. The remaining purchase funds are deposited, the property is transferred, and escrow is closed. **(HOA)**

Note: The forgoing schedule is not meant to be an all-inclusive document, covering all things necessary to provide for the sale of the Property. Other steps may be added or eliminated during the process as the need arises. In addition, steps may be taken out of the proposed sequence to expedite the process, or to accommodate additional direction as provided by City Council.

WJM