



CITY COUNCIL AGENDA REPORT

MEETING DATE: JULY 3, 2007

ITEM NUMBER:

SUBJECT: CITY OWNED PROPERTY AT 523 HAMILTON STREET

DATE: JUNE 25, 2007

FROM: PUBLIC SERVICES DEPARTMENT, ADMINISTRATIVE DIVISION

PRESENTATION BY: WILLIAM J. MORRIS - DIRECTOR OF PUBLIC SERVICES

FOR FURTHER INFORMATION CONTACT: WILLIAM J. MORRIS AT (714) 754-5343

RECOMMENDATION:

If City Council is interested in the possible sale of City-owned property at 523 Hamilton Street, the following may be considered:

1. Direct staff to enter into preliminary sale discussions/negotiations with the adjoining property owner/developer to the south and east of the property (Red Mountain Retail Group).
2. Provide to staff any specific discussion/negotiation instructions. Possible instructions may include:
 - Making sale contingent upon incorporation of the lot into a larger development
 - Guaranteed consolidation of lots in the area in the event that the proposed larger development does not occur
 - Incorporation of lot at 515 Hamilton Avenue (currently automotive repair) into larger development
 - Possible accommodation of existing community garden users until grading and/or building permits are received
 - Other possible sale requirements/conditions
3. Direct staff concerning preliminary discussions with current users of the Community Garden on possible termination and/or relocation of the use at this site in the future.
4. Direct staff to return to City Council in the near future with an update on discussions/negotiations with the adjacent property owner, at which time further direction may be given, and/or action may be taken.

BACKGROUND:

The property at the southeast corner of Hamilton Street and Charle Street (523 Hamilton Street) was purchased by the City in 1975 (Grant Deed-Attachment 1) using "Open Space Bonds," with the intent to develop recreational/open space/park site. However, the property has remained vacant and undeveloped for a number of years due to its inadequate size for the intended purpose.

The lot at 523 Hamilton Street is approximately 20,260 square feet (135' by 150') in size (Map-Attachment 2), and is currently being utilized as a Community Garden site. Approximately 42-15' by 15' garden plots/parcels are allocated to the public (City residents have priority) on a first come-first serve rental basis. It currently costs \$30 per year for residents (\$60 for non residents, if space allows) to "rent" one of the plots from the City. Currently, all garden spaces at this location are "rented," and there is a waiting list of approximately eight people (five residents and three non-residents).

For Council's information, staff has developed a history of the Charle/Hamilton site (Attachment 3).

A private development proposal has been submitted to consolidate and develop certain properties in the area near and immediately adjacent to the City site. This proposed development would include the property immediately to the south of 523 Hamilton Street, as well as property at the southwest corner of Harbor Boulevard and Hamilton Street with through-lot access to Charle Street. At the April 17, 2007, meeting, Council approved a rezoning of these properties to "Planned Development Commercial" (Ordinance 07-7, Rezone Petition R-07-01). The staff report and zoning map is attached for Council's information (Attachment 4).

A request has been received to investigate the possibility of selling the City property at 523 Hamilton Street, at fair market value, to the developer who is currently proposing to consolidate other properties in the area. This additional "consolidation" may allow for a higher quality of development to be built, on a larger combined site. Inclusion of the City's property into this development may also provide an additional incentive for the developer to acquire the site at 515 Hamilton Street to allow full redevelopment of the entire south side of Hamilton Street, between Harbor Boulevard and Charle Street.

ANALYSIS

If City Council were to consider the sale of 523 Hamilton Street to the adjacent land owner/developer, a number of items would need to be accomplished. The following is a general/partial list of work items to be addressed:

- Preliminary negotiations with the potential buyer
- New Public Hearing(s) for consideration of selling the property
- Possible offering of the property to other Government Agencies
- Appraisals
- Bidding process and/or sale negotiations
- Purchase Agreement, including any desired conditions (see Recommendation #2)
- Escrow
- Possible rezoning of the property (currently C2-General Business District) to PDC (Planned Development Commercial)

- Termination of existing rental agreements at the Community Garden. All existing rental leases have a term of one year beginning on January 1 of each year. The Community Garden rental “agreement” (Attachment 5) allows for a 30-day termination notice at any time by the City.

Also, City Council may want to consider the disposition of any revenue derived from the sale of this property.

Staff estimates that it would take a minimum of six to eight months to complete the process for sale/rezone of the property at 523 Hamilton Street, assuming sale negotiations progress normally.

ALTERNATIVES CONSIDERED:

The existing property at 523 Hamilton Street is currently not included in the City’s parkland acreage. However, retention of this property would assist the City in meeting its General Plan goals for providing recreational/open space acreage and facilities based on the City’s population, especially in an area of the community which is deficient in parkland. If the Council elects to retain the property, it may wish to direct staff to take steps to include this property in the City’s parkland or open space acreage on the City’s General Plan. Another alternative would be to utilize the revenues for the sale of this lot for the purchase of another property elsewhere in the City, or specifically in the same vicinity, to be able to meet the General Plan designated goal for recreation/open space acreage. This goal could also be met through a land swap transaction based on equal market value.

FISCAL REVIEW:

At this time, staff does not have an estimate of the revenue that may be derived from the sale of this property. As indicated above, and if directed by Council, an appraisal of the property would be required for any possible sale to proceed. Also at this time, staff has not made any determination as to the costs of processing the property for sale, to include appraisals, public notifications, escrow, etc.

The City’s 1974 Open Space Bond Issue, which was used to purchase this property, has been retired. This was a general obligation bond, and, as determined in 1999 by the City Attorney, the proceeds from the sale of the property would not have any restrictions placed on its reallocation to other City programs, operations, or projects.

LEGAL REVIEW:

Legal questions surrounding the City’s ability to sell the property at 523 Hamilton Street were addressed by the City Attorney’s office in 1999 (Attachment 6). As was previously determined at that time, any funds generated by the sale of this property could be used by the City “for any purpose as otherwise authorized by law.”

The City Attorney’s office has re-reviewed the original analysis performed on the possible sale of the property, and has determined that the opinion is still valid today.

In cases where government property has been declared surplus, the normal protocol for sale of surplus government property is to provide for an open (auction) or closed (sealed envelope) bidding process. This property has not been declared surplus, and thus may be sold directly if desired by the City Council following a public hearing. If the property was directed for a negotiated sale to a certain party or entity, such as an adjoining property

owner/developer, certain provisions would need to be followed, as directed by the City Attorney's office. A separate memo in this regard has been provided to the City Council.

CONCLUSION:

Staff is providing existing information to City Council on the City-owned property at 523 Hamilton Street (currently a Community Garden), and requesting further direction, if any, on possible sale of the property for private development.

WILLIAM J. MORRIS

Director of Public Services

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ATTACHMENTS: 1- [Grant Deed for 523 Hamilton Street](#)
2- [Map of Charle Street/Hamilton Street Site](#)
3- [History of Charle Street/Hamilton Street Site](#)
4- [Staff Report and Zoning Map for Rezone Petition R-07-01](#)
5- [Community Garden Rental Agreement](#)
6- [Opinion Letter from City Attorney's Representative Dated January 14, 1999](#)