



CITY COUNCIL AGENDA REPORT

MEETING DATE: 5/26/2020

DEPARTMENT: City Manager

SUBJECT:

PROCEDURAL, POLICY, AND LEGAL CONSIDERATIONS REGARDING
POSSIBLE DEVELOPMENT OF NORMANDALE PARK SITE

RECOMMENDED ACTION(S):

Exercise City Council discretion to provide direction regarding the future use of the Normandale Park site.

EXECUTIVE SUMMARY:

At the March 3, 2020 City Council meeting, the City Council provided consensus to agendize and discuss a proposed plan for the Normandale park site during the Budget Workshop. Since 1999, the City has owned a 10.713 acre parcel commonly known as the Normandale park site ("Site"). The property is not currently, nor has it ever been, used for park and recreation purposes. The Municipal Park Abandonment Law of 1939 provides the City with a legal path forward for selling the Site. However, any development of the Site will likely require substantial time, effort, and expense on behalf of the City to "clean-up" title with respect to easements as well as covenants, conditions, and restrictions that currently burden the property.

BACKGROUND:

The City owns a 10.713 acre parcel commonly known as the Normandale park site. The subdivision adjacent to the Site was approved by the County of Orange in the late 1980s. As a condition of approving the developer's tract map, the County required the dedication of the Site. Tract Map 12929 contained the following dedication:

"Pursuant to Section 7050 of the Government Code, we hereby make an irrevocable offer of dedication to the County of Orange over Lot 20 for Park and Recreation Purposes together with the right to grant easements for public utilities or other essential purposes."

The Board of Supervisors did not accept the offer of dedication for the Site when it approved the Final Map. The offer remained open until the County or its successor accepted the dedication. (Gov. Code, § 7050.)

After the tract was developed and the lots were sold, title and residual obligations to maintain the Site passed to the Normandale Community Association – the HOA established for the Normandale subdivision. On August 31, 1999, the County quitclaimed its interest in the irrevocable offer for the Site to the City. Shortly thereafter, on September 7, 1999, the Lake Forest City Council accepted the dedication of the Site by approval of Resolution No. 99-36.

The City initially prepared plans to develop the Site into a park. However, those plans were never finalized. To this day, the Site remains vacant and unimproved. No City funds have been used for grading, constructing, landscaping, or other improvement of the property.

Graphic 1: Normandale Park (Lot 20) Aerial



As shown in Graphic 1, the Normandale Park site has frontage along Regency Lane and extends northward toward the southern edge of the City's Sports Park. The Normandale Park slopes upward from Regency Lane and is approximately 50 feet higher at the northern property, adjacent to the City's Sports Park.

DISCUSSION:

With the addition of Portola Park, the City has 31 passive and active parks. Whiting Ranch Wilderness Park and Heritage Hill Historical Park, owned by the County of Orange, are also located within Lake Forest. In addition, the Whispering Hills and Normandale park sites are available for potential park improvements provided funding is identified.

The City has three general options for the Normandale park site: do nothing and allow it to remain in its current state, develop it for park and recreational purposes, or sell the land. Understanding that the first two options are also before the Council but do not require analysis, the balance of this report addresses the process by which the City could sell the Site, as well as legal, practical, and policy considerations associated with the same.

Sale under the Municipal Park Abandonment Law

The Municipal Park Abandonment Law of 1939 (“MPAL”) establishes the procedure for selling parkland that has not been used for park purposes. (Gov. Code, §§ 38501 et seq.) The MPAL applies to land that has been dedicated for park purposes by the recording of a plat or map in the office of the county recorder, but that has never been used or developed as a park. (Gov. Code, § 38501(a).) This is precisely the situation presented by the Site. The Site was offered for dedication as a condition of approval in Tract Map 12929 and, although the City accepted the Site, it was never developed or used as a park.

In order to avail itself of the MPAL procedure, the City Council must be able to make the following findings:

- 1) The park site to be disposed of has not been used by the public for park purposes;
- 2) No consideration has been paid for the land except by the City; and
- 3) No public funds have been expended to improve the land as a park. (Gov. Code, § 38501.)

Information provided to our office indicates that the City has a legitimate basis to make these findings. Assuming these findings can be made, the major steps in the MPAL process are as follows:

- 1) Adopt a Resolution of Intention. The MPAL procedure begins with the adoption of a resolution by the City Council that: indicates the City’s intention to abandon and sell the site, describes the portion of the site

- that is proposed to be abandoned, and sets a public hearing for the final action that is at least 30 days after the adoption of the resolution. (Gov. Code, § 38503.)
- 2) Publish the Resolution of Intention. The Resolution of Intention must be published in a newspaper of general circulation once a week for three successive weeks. (Gov. Code, § 38504.) Additionally, a minimum of four copies of the Resolution of Intention must be “conspicuously posted not more than 100 feet apart along the boundaries of the park.” (*Ibid.*)
 - 3) Hold a Public Hearing & Adopt Resolution. A public hearing must be held at the time and date noticed in the Resolution of Intention. At the hearing, the City Council must hear and consider objections to the abandonment and disposition of the park site. (Gov. Code, § 38505.) The City Council possesses the express authority to overrule any objections raised at the hearing and may adopt a resolution approving the abandonment and authorizing the sale of the property on terms the Council deems “most advantageous to the City.” (Gov. Code, §§ 38506, 38508.)
 - 4) Sale of the Property. The MPAL empowers the City Council to determine when, at what price, and on what terms the park site or any portion thereof will be sold. (Gov. Code, § 38508.) The property can be sold in one block or in lots or parcels, for cash or on credit. (*Ibid.*) In selling the property, the City may employ any “legal or other assistants” the City deems necessary to “sell the land for the best advantage of the city.” (Gov. Code, § 38507.)
 - 5) Execution of the Deed. When authorized by a majority vote of the City Council, the mayor and the City Clerk must sign, acknowledge, and deliver a deed to the land or part thereof sold by the City. (Gov. Code, § 38509.) The deed, when signed, acknowledged, and delivered conveys title to the land described therein. (*Ibid.*)

Legal, Practical, and Policy Considerations

While the MPAL creates a fairly straight-forward process for the City to follow in selling the Site, there are additional policy and legal considerations at play that should be analyzed before proceeding.

First, development of the Site may require substantial time, effort, and expense on the part of the City to clean-up title restrictions governing the use of the property. Numerous entities hold easement rights over the property. For example, the “El Toro Company” holds an easement for ingress, egress, utility,

and incidental purposes over the property. The Los Alisos Water District (now part of the Irvine Ranch Water District) holds an easement for, among other things, sewer and water transmission and sewer facilities purposes. Southern California Edison holds an easement for underground electrical lines and other related infrastructure.

The Site is also subject to certain Covenants, Conditions, Restrictions and easements of the Normandale Community Association. Removing the CC&Rs from title may require the City to either reach an agreement with the HOA or pursue an eminent domain action.

Conclusion

There is a clear legal path forward for disposing of the Site under the MPAL, and the facts and the law appear to support the City if it elects to pursue this route. However, there are potential points of complication in the process, including easements and CC&Rs that potentially encumber the Site. If the City were to choose to proceed with a sale of the Site, development of the property would likely require substantial time, effort, and expense by the City to clean-up title (perhaps including an eminent domain action) with respect to the easements and CC&Rs that currently burden the property.

FISCAL IMPACT:

Fiscal impact is dependent upon City Council action

ATTACHMENTS:

None.

Submitted By: Matthew Richardson, City Attorney
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