



## Legislation Details (With Text)

**File #:** 19-565      **Version:** 1      **Name:**  
**Type:** Public Hearing/General Business      **Status:** Agenda Ready  
**File created:** 4/30/2019      **In control:** City Council and Authorities Concurrent  
**On agenda:** 6/25/2019      **Final action:**  
**Title:** Action on the Sale of City Property consisting of Portions of Fremont Street and Sherman Street at 575 Benton Street and a Resolution Ordering the Vacation of Said Public Right-of-Way with the Reservation of a Public Utility Easement (Not to be Heard prior to 7:00 PM)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Site Map, 2. Conditions of Sale, 3. Process for the Sale of City Property, 4. Published Notice of Intent to Sell, 5. Resolution, 6. POST MEETING MATERIAL, 7. RESOLUTION

Date	Ver.	Action By	Action	Result
6/25/2019	1	City Council and Authorities Concurrent	Adopted	Pass

### REPORT TO COUNCIL

#### SUBJECT

Action on the Sale of City Property consisting of Portions of Fremont Street and Sherman Street at 575 Benton Street and a Resolution Ordering the Vacation of Said Public Right-of-Way with the Reservation of a Public Utility Easement (Not to be Heard prior to 7:00 PM)

#### BACKGROUND

On July 17, 2018, Prometheus Real Estate Group received City approvals to rezone and redevelop the property at 575 Benton Street and the surrounding properties. The City Council approved a rezoning, vesting Tentative Parcel Map, and Development Agreement. The project is located on the blocks north of Benton Street between The Alameda and the El Camino Real (Attachment 1) and is a residential/mixed use development comprised of 355 apartment units, approximately 22,073 square feet of retail space, 2,080 square feet of commercial space, a parking garage, 1,601 square feet of leasing office space, a pet spa area, bike amenity space and a roof deck with a 4,341 square-foot club room/fitness center. As part of the Council Approved Development Agreement, the City agreed to sell portions of Fremont Street and Sherman Street that are being incorporated as part of the project.

The project includes the vacation of portions of Fremont Street and Sherman Street as these areas are proposed to be incorporated into the overall site plan. The site plan shows the construction of a portion of the new buildings and private courtyard over these streets (Attachment 1). Staff reviewed this proposal and did not find any concerns with the proposed vacation of the portions of Fremont Street and Sherman Street as these streets primarily serve the project site, and tentatively agreed to the proposal contingent upon approval of the street vacation by the City Council. Additionally, on June 13, 2018, the Planning Commission found that the proposed vacation of portions of Fremont

Street and Sherman Street is consistent with the General Plan. Of note, is that the City owns fee title to the streets proposed for vacation and the City's proposed sale of this property is subject to City Charter Section 714 as discussed below.

## **DISCUSSION**

Per the Council Approved Development Agreement, Prometheus is requesting that the City vacate the subject portions of Fremont Street and Sherman Street (approximately 1.324 acres or 57,693 square feet) and has made an offer to purchase fee title of the areas proposed for vacation.

Street Vacation: As mentioned previously, staff has reviewed the proposal to vacate the subject portions of Fremont Street and Sherman Street and did not find any concerns with the proposal as these streets primarily serve the project site. As there are existing utilities in these streets that have not been relocated yet, the City will reserve a Public Utility Easement, which would extinguish upon recordation of the Parcel Map for the project. The Conditions of Sale (Attachment 2) requires the buyer to relocate all the existing utilities within the subject portions of Fremont Street and Sherman Street prior to recordation of said Parcel Map.

Process for Sale of City Property (Attachment 3): Pursuant to City Charter Section 714, in order to sell City property that has a valuation greater than \$500, the City must do the following:

1. Publish notice of intention to sell in an official newspaper once a week for two weeks preceding the date of such sale;
2. The notice shall describe the property, the price offered for said property, and the time and place when and where the sale will be consummated;
3. At the time fixed for said consummation of sale (Council meeting), the City Council shall call for further bids to said property, and if any increased bid is received from a responsible bidder in at least five percent in excess of the original price offer for the same property, the City Council may do the following:
  - a. Accept the highest bid,
  - b. Order a new sale, or
  - c. Withdraw the property from sale.

The date and time for the consummation of the sale is during the June 25, 2019 City Council Meeting, during which time the City will invite bids from the public that exceed Prometheus's offer for the Property.

Staff published a notice of intent to sell and vacate the subject portions of Fremont Street and Sherman Street in the Santa Clara Weekly on June 5, 2019, and June 12, 2019 (Attachment 4). Additionally, on June 6, 2019, staff also posted three notices of the public hearing at the project site.

Purchase Price: The City and Prometheus followed a process outlined in the Development Agreement to determine the final purchase price of the property. Property appraisals were prepared by both the City and Prometheus regarding the value of the portions of Fremont Street and Sherman Street proposed for sale. The City's consultant concluded that the free and clear property should be valued at \$170 per square foot, while the appraiser hired by Prometheus concluded that the property should be valued at \$160 per square foot. The average of the two results in a property valuation of \$165 per square foot, or \$9,519,345 total.

Due to the significant level of public utilities that would be required to be relocated out of the area

proposed for vacation, the value of the relocation costs (\$8,600,997) was deducted from the final average appraised value. This results in a final value of \$918,348. Subsequently, Prometheus has made an offer of \$920,000 cash plus \$8,600,000 for utility relocation (total of \$9,520,000) for the purchase of the property and based on the rigorous process by which staff and Prometheus determined the final purchase price, staff recommends that the City Council approve the sale of the property for \$920,000 cash plus \$8,600,000 for utility relocation (total of \$9,520,000).

### **ENVIRONMENTAL REVIEW**

The potential environmental impacts of the project were addressed in the Final Environmental Impact Report (EIR) certified by Council on February 23, 2016 and Addendum No. 1 to the EIR was approved by Council on July 17, 2018.

### **FISCAL IMPACT**

Based on the average of the appraised values in the developer's appraisal and the City's appraisal, the estimated fair market value of the subject portions of Fremont Street and Sherman Street is \$920,000 plus \$8,600,000 for utility relocation (total of \$9,520,000) due to significant utility encumbrances within these streets. Prometheus offered to purchase the property for \$920,000 cash plus \$8,600,000 for utility relocation (total of \$9,520,000). Upon completion of the sale transaction, staff recommends that the proceeds be deposited into the General Fund Land Sale Reserve. This is consistent with City Council policy that proceeds from the sale of City property be deposited into this reserve. A separate budget amendment will be brought forward later, after the completion of the sale transaction.

### **COORDINATION**

This report has been coordinated with the City Attorney's Office and the Community Development Department.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

Staff published a notice of intent to sell and vacate the subject portions of Fremont Street and Sherman Street pursuant to City Charter Section 714 and California Streets and Highways Code Section 8323 and to set June 25, 2019 as the date to accept bids for the consummation of the sale. Staff published said notice in the Santa Clara Weekly on June 5, 2019 and June 12, 2019. On June 6, 2019, staff also posted three notices of the public hearing along the subject streets.

### **ALTERNATIVES**

1. Approve the sale of the public portions of Fremont Street and Sherman Street as described in the proposed Resolution (Attachment 5);
2. Authorize the City Manager to negotiate and execute any and all documents necessary to complete the transaction with the successful bidder;
3. Adopt the proposed Resolution ordering the vacation of portions of Fremont Street and Sherman

Street with reservation of a Public Utility Easement at 575 Benton Street and surrounding properties [Vicinity of APN 230-07-053, -002, -010, -013, -029, -034, -038, -046, and -060 (2018-19); SC 18,820] (Attachment 5); and

4. Authorize the recordation thereof;

5. Do not Approve the sale of the public portions of Fremont Street and Sherman Street as described in the proposed Resolution

### **RECOMMENDATION**

Alternatives 1,2,3 and 4:

1. Approve the sale of the public portions of Fremont Street and Sherman Street as described in the proposed Resolution (Attachment 5);

2. Authorize the City Manager to negotiate and execute any and all documents necessary to complete the transaction with the successful bidder;

3. Adopt the proposed Resolution ordering the vacation of portions of Fremont Street and Sherman Street with reservation of a Public Utility Easement at 575 Benton Street and surrounding properties [Vicinity of APN 230-07-053, -002, -010, -013, -029, -034, -038, -046, and -060 (2018-19); SC 18,820] (Attachment 5); and

4. Authorize the recordation thereof.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Site Map

2. Conditions of Sale

3. Process for the Sale of City Property

4. Published Notice of Intent to Sell

5. Resolution