



Oversight Board Meeting: September 24, 2015

SUBJECT: Adopt a Resolution Directing the Successor Agency to Transfer Ownership of Certain Real Property (Plaza del Sol) from the Successor Agency to the City of Sunnyvale as a Governmental Purposes Transfer Pursuant to the Dissolution Act.

BACKGROUND

The State of California's passage of AB x1 26 dissolved Redevelopment Agencies and replaced them with Successor Agencies effective February 1, 2012. The City of Sunnyvale elected to be the Successor Agency for the Sunnyvale Redevelopment Agency. On February 1, 2012, properties and assets owned by the former Redevelopment Agency transferred to the Successor Agency. AB x1 26 was later amended by AB1484 in June of 2012, which added responsibilities, deadlines, and penalties to the Successor Agency and sponsoring City related to the dissolution of the former Redevelopment Agency property and assets. AB 1484 provided specific guidance on the disposal of properties. Under AB 1484 the Successor Agency must prepare a Long Range Property Management Plan (LRPMP) outlining the steps for dissolution of properties. However, AB 1484 did not change the provisions of ABx1 26 regarding transfers of properties that are used for governmental purposes.

In accordance with California Health and Safety Code Section 34181(a) the Oversight Board may direct the Successor Agency to: "Dispose of all assets and properties of the former redevelopment agency; provided, however, that the Oversight Board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset." Unlike non-governmental purpose property or assets, the disposition of governmental purpose property can be accomplished prior to the Successor Agency obtaining a finding of completion and prior to the approval of an LRPMP.

SB 107, which has been approved by the legislature and awaits the Governor's signature amends Section 34181(a) to provide that parking facilities and lots dedicated to public parking and that do not generate revenue in excess of the reasonable maintenance costs of the properties are considered governmental use.

EXISTING POLICY

California Health and Safety Code Section 34181(a) established oversight board authority to transfer ownership of certain real property from a successor agency to a city as a Governmental Purposes Transfer pursuant to the Dissolution Act.

DISCUSSION

Staff is recommending that the former Redevelopment Agency owned property located at 200 West Evelyn Street ("the Plaza de Sol Property") which is used for governmental purposes be transferred to the City at this time in accordance with Section 34181(a). (See Attachment 1) The Property in question is primarily used for a public plaza. The Property also contains four levels of subterranean parking which are included within the Downtown Sunnyvale Parking District. The subterranean parking is part of a larger parking structure that occupies the subsurface level of the Property as well as three adjacent parcels in private ownership. The underground garage functions as a single parking structure with two and one-half levels of the portion of the garage on the Property restricted by a perpetual easement for use by the tenants of the office buildings free of charge. The underground parking structure is governed by a Declaration of Covenants, Conditions and Restrictions and Reciprocal Easement Agreement ("CC&Rs") recorded against and benefiting the Property and the adjacent properties that are developed with three office buildings.

All of the parking improvements on the Property were developed by the private owner of the adjacent office buildings. Upon completion of the parking improvements, the private owner deeded to the former Redevelopment Agency the upper level and one-half of the second level of parking improvements, retaining ownership of the lower two levels and one half of the second level of parking improvements. The CC&Rs grant exclusive use of the lower two levels of the parking structure and one half of the second level for the benefit of the privately owned office buildings between 6:00 am and 6:00 pm Monday through Friday, free of charge. The CC&Rs allow for public parking as well as office building parking on the lower two levels of the portion of the garage located on the Property between 6:00 pm and 6:00 am on weekdays and at all times on weekends. Access to the underground parking located on the Property is pursuant to an easement over the privately owned adjacent property.

The CC&Rs grant the parties cross easements for ingress and egress and structural support. Pursuant to the CC&Rs the owner of the office buildings is responsible for the maintenance of the underground parking. The Successor Agency is responsible for the maintenance of the public plaza located on the surface level. Cost of insurance is split between the office building owner and the Successor Agency with the Successor Agency being responsible for 25% of the insurance costs. Prior to dissolution of the Redevelopment Agency, the City paid the insurance costs each year. The CC&Rs also require that the owner of the Successor Agency parcel pay 25% of the replacement costs of the entire parking structure, including the portions located on the privately owned parcels, if the parking structure is destroyed or damaged.

The Property is included in the Downtown Parking District created by the City of Sunnyvale pursuant to Ordinance No. 369. The Downtown Parking District was created in order to pay for the acquisition and development of public parking spaces serving the Downtown Area. Most of the businesses in Downtown Sunnyvale do not have on-site parking. Through the creation of the Parking District and its acquisition and development of parking facilities in the Downtown Area, businesses are allowed to develop without providing on-site parking thereby maximizing the development capacity of the properties. Most of the parking for the retail uses in the Downtown area is provided in public parking lots and garages maintained by the Downtown Parking District.

The Parking District generates revenue from ad valorem property tax assessments that must be used to benefit the properties in the Parking District. The Parking District has issued bonds in order to pay costs associated with the creation and maintenance of parking within the District. The Parking District can also generate income from parking revenues; however, any revenues generated must be used to either pay the bonds issued by the District or for maintenance and operation of the parking facilities within the District. If revenues were generated by the public parking located on the Property it would be required to be used for these purposes, and for no other purposes. In other words the parking spaces cannot be used for income generation over and above the costs of operation and maintenance.

The California Parking District Law of 1951 allows for the discontinuation of public parking spaces but only after a public hearing and after the legislative body determines by a four-fifths vote that the public interest and necessity and the needs of the District no longer require that such property be used as public parking places. It is unlikely that the use of the subterranean levels of the Property as public parking spaces will be discontinued since the parking spaces are relied upon by the various downtown merchants and there are no other potential parking areas.

The surface level public plaza is a public park meeting the requirements for a governmental purpose property. The underground parking structure also meets the requirements for a governmental purpose property providing public parking serving the Downtown merchants. The Parking District Law of 1951 establishes procedures for the creation of parking districts by cities and counties and allows for the use of revenues bonds for the construction of parking facilities recognizing that public parking facilities serve a public purpose and that the creation and maintenance of the public parking facilities are a governmental function. Here the parking provided on the Property is essential for the continued success of the Sunnyvale Downtown. Development of the Downtown was planned to provide parking in lots and structure, thus freeing up Downtown property slated for retail and commercial for more intensive development. Alternative uses for the parking structure are unlikely since to do so would impact

surrounding properties by reducing necessary parking and effect significant changes on the land use planning and development already implemented by the City.

The Property is also not available for future development. The surface level of the property is used for a public plaza and the subsurface levels are restricted not only by the Parking District requirements but also the CC&Rs recorded against the property. The CC&Rs restrict the use of the lower levels of the parking structure on the Property to parking benefiting the adjacent property owners free of charge in perpetuity and to public parking. The parking structure is single structure located under four separate parcels of property, three of which are in private ownership. Any change of use to the public parking portions located on the Property would impact the adjacent privately owned portions of the structure and would be prohibited under the CC&Rs.

The Property has no market value given the public use of the surface level and the fact that the subsurface levels generate no revenues. The parking levels dedicated to the private office uses are provided free of charge in perpetuity in accordance with the CC&Rs. The public parking portions of the parking structure could generate parking fees, but because the Property is within the Downtown Parking District, any such fees can only be used for costs associated with the operation and maintenance of the parking.

Staff is recommending that the Property be transferred now rather than waiting for a Finding of Completion and LRPMP because those actions have been delayed due to disputes related to the due diligence review. (Draft Resolution, Attachment 2) The Successor Agency is charged with expeditiously winding down the affairs of the former redevelopment agency pursuant to Section 34177(h) and in accordance with the direction of the Oversight Board. The transfer of this governmental purpose property will assist in expediting the winding down of the former agency affairs, consistent with the goals of the Dissolution Act. Additionally, the approval of SB 107 provide clear authority to treat the property as a governmental use property since its uses are limited to public parking and a public park, both of which are considered governmental use properties.

FISCAL IMPACT

There is no fiscal impact to the Successor Agency from granting the transfer of ownership of the Property; there is no payment associated with the transfer. Failure to approve the transfer would result in the continued Successor Agency responsibility for insurance costs, replacement costs and Plaza maintenance costs.

PUBLIC CONTACT

Public contact was made by posting the Oversight Board agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Adopt a Resolution directing the Successor Agency to transfer ownership of certain real property (Plaza del Sol) from the Successor Agency to the City of Sunnyvale as a Governmental Purposes Transfer pursuant to the Dissolution Act.
2. Other action as determined by Oversight Board.

RECOMMENDATION

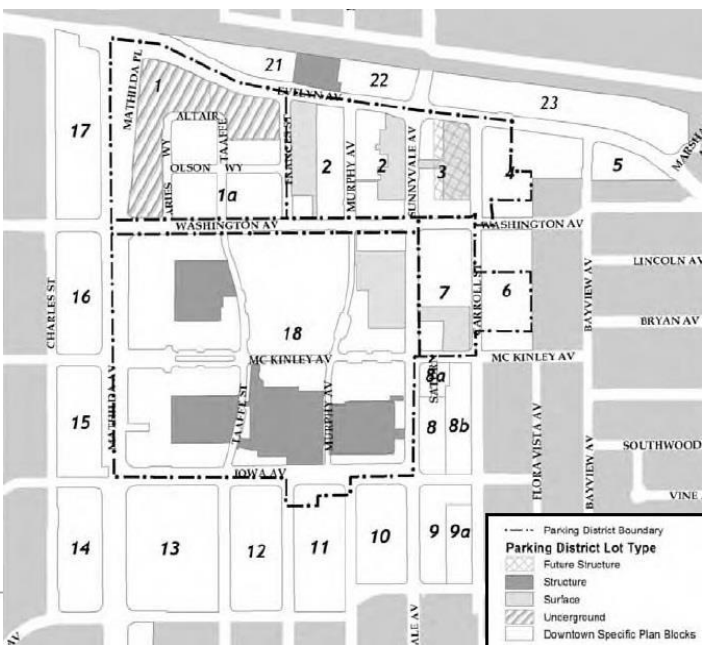
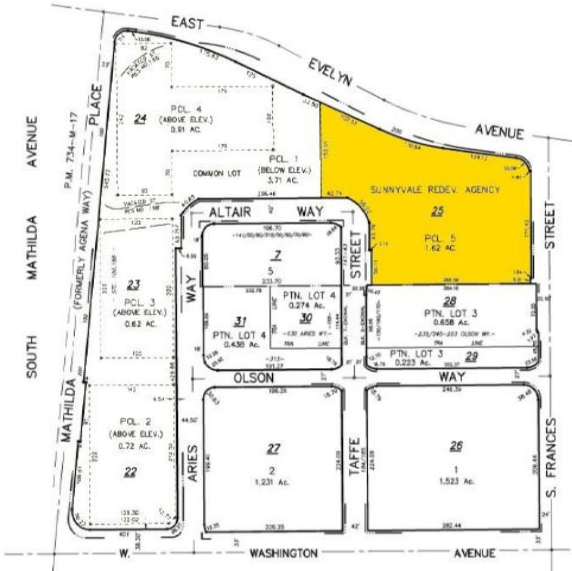
Staff recommends Alternatives 1, Adopt a Resolution directing the Successor Agency to transfer ownership of certain real property (Plaza del Sol) from the Successor Agency to the City of Sunnyvale as a Governmental Purposes Transfer pursuant to the Dissolution Act.

Submitted by:
Brice McQueen, Successor Agency Manager

Attachments

1. Plaza del Sol Property Map
2. Draft Resolution directing the Successor Agency to transfer ownership of certain real property (Plaza del Sol) from the Successor Agency to the City of Sunnyvale as a Governmental Purposes Transfer pursuant to the Dissolution Act.

Plaza de Sol



OVERSIGHT BOARD RESOLUTION NO. 111-15-OB

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE SUNNYVALE REDEVELOPMENT AGENCY DIRECTING THE TRANSFER OF CERTAIN PROPERTY (PLAZA DEL SOL) TO THE CITY OF SUNNYVALE AS A GOVERNMENTAL PURPOSE PROPERTY

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health & Safety Code Sections 33000 *et seq.*); and

WHEREAS, pursuant to Health & Safety Code Section 34173, the City Council of the City of Sunnyvale (the “City Council”) declared that the City of Sunnyvale (the “City”), would act as successor agency (the "Successor Agency") for the dissolved Redevelopment Agency of the City of Sunnyvale (the “Dissolved RDA”) effective February 1, 2012; and

WHEREAS, pursuant to AB 1484 ("AB 1484"), enacted June 27, 2012 to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the “Oversight Board”) with specific duties to approve certain Successor Agency actions pursuant to Health & Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health & Safety Code Section 34181; and

WHEREAS, upon dissolution of the Former RDA on February 1, 2012, the ownership of all Former RDA properties transferred to the Successor Agency pursuant to Health & Safety Code Section 34175(b); and

WHEREAS, certain properties held by the Successor Agency constitute governmental purpose properties pursuant to Health & Safety Code Section 34181(a); and

WHEREAS, the Successor Agency is recommending the transfer of that property located at 200 West Evelyn Street (APN 209-07-025), Sunnyvale, California (the "Plaza del Sol Property"), as more particularly depicted in the attached Exhibit “A”, which is used as a public park and public parking to the City of Sunnyvale as a governmental purpose property in accordance with Health & Safety Code Section 34181(a), which expressly authorizes the transfer to the City of properties that are used for governmental purposes; and

WHEREAS, the Successor Agency has acknowledged that no payment will be made by the City for the benefit of the taxing agencies in consideration of the transfer of the Plaza del Sol Property; and

WHEREAS, the Oversight Board has duly noticed its consideration of the transfer of the Plaza del Sol Property in accordance with Health & Safety Code Section 34181(f); and

WHEREAS, by staff report accompanying this Resolution and incorporated into this Resolution by this reference ("Staff Report") the Oversight Board has been provided with additional information upon which the findings and actions set forth in this Resolution are based.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUNNYVALE SUCCESSOR AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. After consideration of staff presentations, the Staff Report, discussions, public comments and other evidence presented, the Oversight Board hereby finds and determines that the foregoing recitals are true and correct, and, together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

SECTION 2. The requirements of Health & Safety Code Section 34181(f) have been satisfied, in that the Oversight Board has held a public meeting to consider the transfer of the Plaza del Sol Property from the Successor Agency to the City of Sunnyvale, ten (10) days advance public notice of the meeting was provided, and members of the public have been given an opportunity to comment on the transfer of the property.

SECTION 3. The Plaza del Sol Property, located in the City of Sunnyvale, constitutes a "governmental purpose" property within the meaning of Health & Safety Code Section 34181(a).

SECTION 4. The Oversight Board hereby approves and directs the Successor Agency to transfer the Plaza del Sol Property to the City upon the effective date of this Resolution.

SECTION 5. This Resolution shall take effect at the time and in the manner prescribed in Health & Safety Code Sections 34179(h) and 34181(f).

Adopted by the Oversight Board of the Successor Agency to the Redevelopment Agency of the City of Sunnyvale at a regular meeting held on September 24, 2015, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

By _____
Successor Agency Clerk
[SEAL]

Chair

APPROVED AS TO FORM:

Successor Agency Attorney

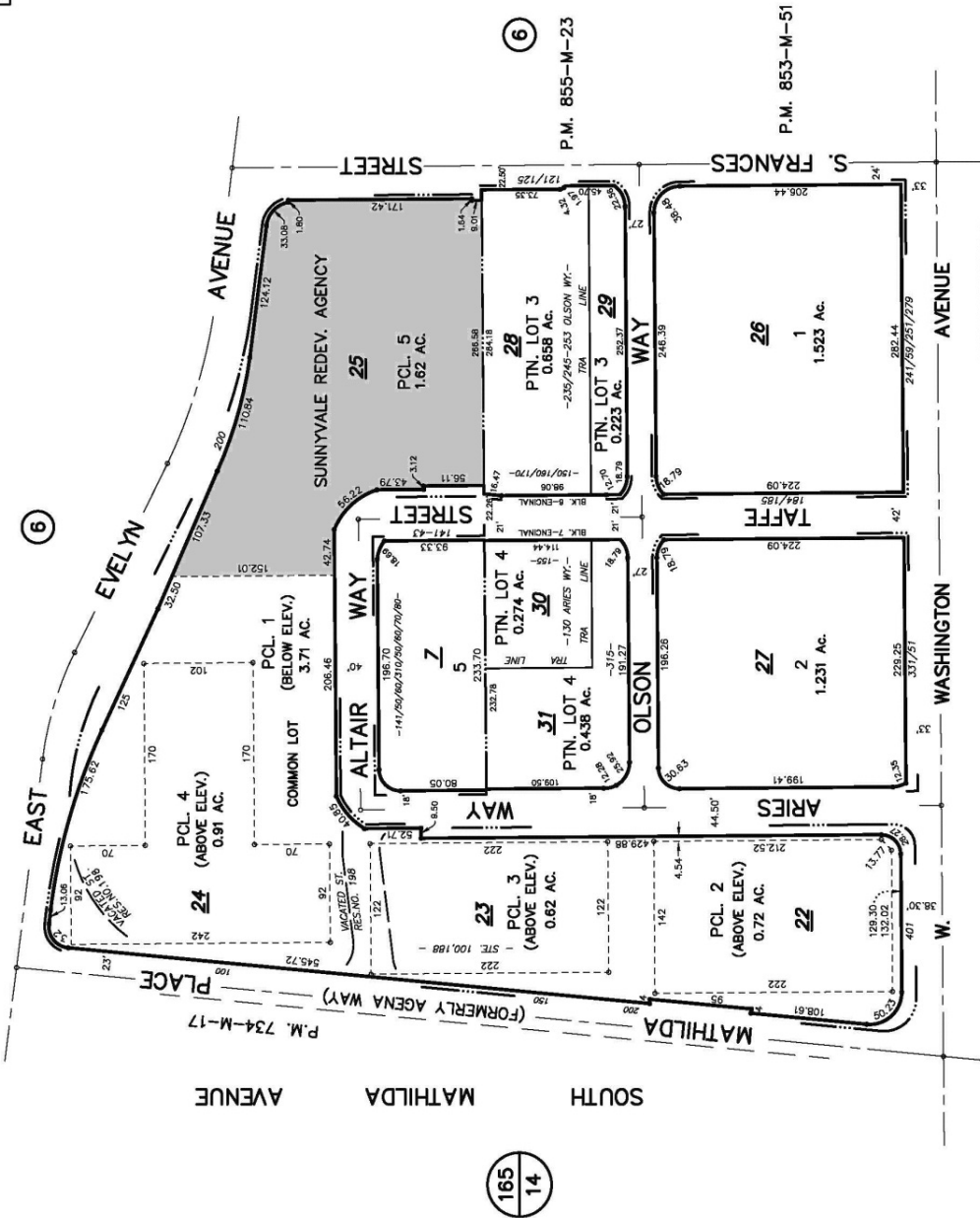
EXHIBIT A

BOOK
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OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA



TRM. DET. MAP 83
LAWRENCE E. STONE — ASSESSOR
Cadastral map for assessment purposes only
Compiled under R. & T. Code, Sec. 327
Effective Roll Year 2015-2016

PTN. WASHINGTON &
FRANCES AVES. VACATED
RESOLUTION No. 8111

TRACT No. 4040-CHILLAN SUBD.
198-M-42

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