

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adopting Ordinance No. 899 - Authorizing Acquisition of Certain Real Property Located at 709 N 150 th Street, Tax Parcel 182604-9211, for Public Park Purposes by Negotiated Voluntary Purchase, Under Threat of Condemnation, or by Condemnation
DEPARTMENT:	City Manager's Office
PRESENTED BY:	Nathan Daum, Economic Development Program Manager
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The Council-adopted Parks, Recreation, and Open Space (PROS) Plan identified a need of 95 acres citywide to keep up with growth as well as an existing deficit of facilities for active parks and recreation uses in the Westminster Triangle neighborhood. The City collects Park Impact Fees (PIF) from new development to ensure that new growth pays a proportionate share of the cost of system improvements to serve a growing population.

Identified by Council as an opportunity to address the need for additional parkland, the acquisition of property located at 709 N 150th Street under threat of condemnation was discussed at the Council's September 14, 2020 meeting. At this meeting, Council directed staff to bring back this proposed Ordinance for adoption. Tonight, Council is scheduled to adopt proposed Ordinance No. 899 (Attachment A) which would approve the purchase of this property by negotiated voluntary purchase, under threat of condemnation, or by condemnation and authorize the City Manager to take the necessary steps to complete the purchase.

RESOURCE/FINANCIAL IMPACT:

The purchase price for the property located at 709 N 150th Street is \$620,000. Park Impact Fees available for acquisitions currently total \$900,000, with approximately \$269,500 identified for the Paramount Open Space expansion, which will be presented for Council consideration at a later date, leaving funding available for this acquisition. Remaining Park Impact Fees would total approximately \$10,000. These funds would be used for demolition of the existing house and site restoration so it is available for public access, although additional funding may be needed for this purpose.

At a future meeting, the City Council will also be determining whether the City should submit a ballot measure for voter consideration to fund park improvements and/or park property acquisition. If approved by voters, the proceeds from the bond measure could also be used towards the purchase of this property and future park improvements. If Council approves this purchase, design and construction of park improvements, and

funding options, would be determined separately and are not included in this analysis. Upon closing of the sale, costs of land ownership such as vegetation management, noxious weed control, conservation district, and surface water management fees, estimated at approximately \$1,000 per year, would fall to the City. This does not reflect the full cost of park maintenance as facilities for the site have yet to be designed and maintenance costs are therefore unknown.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 899, authorizing the purchase under threat of condemnation of the property at 709 N 150th Street, Tax Parcel 182604-9211, for public park purposes by negotiated voluntary purchase, under threat of condemnation, or by condemnation.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

On July 31, 2017, the City Council, through adoption of Resolution No. 412, approved the update to the Parks, Recreation and Open Space (PROS) Plan after 18 months of Council and community engagement. The PROS Plan cited a citywide population forecast of more than 15,000 new residents by 2035. To maintain the current level of service of park property acreage per 1,000 residents, the PROS Plan estimated parkland needs of 95 acres citywide. One of the top priorities identified in the PROS Plan was managing impacts from future growth through acquisition of park land. PROS Plan Strategic Action Initiative #7 called for ensuring adequate park land for future generations and set a target of adding five acres of new park land by 2023. The staff report for the adoption of the PROS Plan can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport073117-7a.pdf>.

The PROS Plan Initiative 10 directed staff to secure sustainable funding for park improvements identified in the Plan. On July 31, 2017, the City Council also adopted Ordinance No. 786 establishing Park Impact Fees (PIFs) to ensure that new single-family and multifamily construction pays a proportionate share of the cost of system improvements to serve the growing population. The staff report for this Council action can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport073117-8a.pdf>.

While the PROS Plan originally identified improvements to the Westminster Triangle Park as a solution to inadequate park facilities in the neighborhood, it was later determined based on extensive community input that the public safety issues of locating active park uses so close to busy rights-of-way necessitated finding other locations for park improvements in the neighborhood. On February 10, 2020, the City Council adopted Ordinance No. 876, amending SMC 3.70 to modify the system improvements eligible for PIF funding. The expressed intent of the amendment was to provide more opportunities for addressing the shortage of parks and open space within the Westminster Triangle neighborhood and to implement the Shoreline Place Development Agreement approved in September 2019 via Resolution No. 441.

Recognizing there may be opportunities to meet the need for park amenities through the acquisition and development of new property in the Westminster Triangle neighborhood, the amendment allows PIF funding to be used for acquisition and development of new property in the Westminster Triangle neighborhood. In Council's discussion of the amendment, the property located at 709 N 150th Street (Attachment A, Exhibit A) was identified as an opportunity to address the need for additional parkland in this area. The staff report for this Council action can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport021020-7c.pdf>.

On September 14, 2020, the City Council discussed proposed Ordinance No. 899 (Attachment A) to authorize the purchase under threat of condemnation of the property at 709 N 150th Street, Tax Parcel 182604-9211, for public park purposes. Noting that the property owner originally reached out to offer the property for sale to the City, it was

further noted that negotiations have been positive and that mutual agreement as to fair market value has been achieved verbally. Proposed Ordinance No. 899 would add certainty for both parties that the purchase will be completed, preserving all the options including negotiated voluntary purchase, purchase under threat of condemnation, or condemnation if necessary. Council also discussed briefly the options for funding the acquisition, noting that the proposed Ordinance maintains the flexibility of choosing from among those options at a later date. The staff report for the Council discussion on September 14th can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport091420-9a.pdf>.

DISCUSSION

The property located at 709 N 150th Street is a rectangular, 18,000-square-foot corner parcel. This parcel would address the need in the Westminster Triangle neighborhood for a community park that includes more opportunities for gathering and play. Responding to the property owner's expression of interest in a sale to the City, staff subsequently presented an offer to the property owner, subject to Council approval, to purchase the property at the fair market value of \$620,000 identified by independent certified appraisers. The seller responded with a willingness to sell at this price under threat of condemnation.

Funding Options Available to the City

The City has more than one way to pay for this acquisition, including unallocated funds in the City's Park Impact Fee (PIF) Fund. The City Council will determine in a future meeting whether to submit a bond measure for voter consideration for park improvements and acquisitions. And, short-term Bond Anticipation Notes (BAN) are also available for immediate use. The options are presented here to illustrate the financial capacity of the City to execute this proposed property acquisition. However, proposed Ordinance No. 899 does not specify which funding option will be used.

Park Impact Fee (PIF) Option

The City has been collecting Park Impact Fees (PIF) from new development since 2017 to ensure that new growth pays a proportionate share of the cost of system improvements to serve a growing population. PIF funds available for acquisitions currently total approximately \$900,000, with approximately \$270,000 identified for the Paramount Open Space expansion, which will be presented for Council consideration at a later date. This leaves approximately \$10,000 more in PIF funds than needed for this acquisition. The remaining PIF funds could be used, and additional funding may be needed, for demolition of the existing structure and site restoration so it is available for public access. Interim site restoration measures could allow for basic public access and enjoyment until such time that additional PIF collections or other revenues are available to fully develop this new park.

Future Potential Bond Measure Option

The City Council will also be determining in a future meeting whether the City should submit a bond measure for voter consideration to fund park improvements and acquisitions. If Council wished to save the PIF funds for other acquisitions, the proceeds

from a successful bond measure could be used for acquisition and improvement of this park site.

Bond Anticipation Notes (BAN) Option

Earlier this year, the City issued \$25 million in Bond Anticipation Notes (BAN) to purchase a \$17.25 million property for a future Community and Aquatics Center and to support up to \$7.75 million in PROS Plan Property Acquisitions. These short-term notes will need to be repaid in late 2022 using the Park Impact Fees, future bond revenues discussed above, or other revenue.

The annual interest rate on the BAN is 1.92%. PIF funds earn interest in the City's account at a rate of 0.5% which is subject to market fluctuations. That rate is 1.4% lower than the interest rate charged on the BAN. Should the City place a bond proposition on the ballot, the Council could include the repayment of the short-term notes used for recent acquisitions in that proposition.

Estimated Cost of Ownership

Upon closing of the sale, basic costs of land ownership such as vegetation management and King County fees paid by all property owners for noxious weed control, conservation district, and surface water management programs, estimated at approximately \$1,000 per year, would fall to the City. This does not reflect the full cost of park maintenance as facilities for the site have yet to be designed and maintenance costs are therefore unknown.

Proposed Ordinance No. 899 Authorizing Use of Eminent Domain

Proposed Ordinance No. 899 would commit the City to complete the purchase of the property, exercising its powers of eminent domain for public park purposes if need be. If Council adopts proposed Ordinance No. 899, the City would then complete the purchase by negotiated voluntary purchase under threat of condemnation, or by condemnation.

COUNCIL GOALS ADDRESSED

This item addresses Goal #2, Action Step #2:

- *Implement the Parks, Recreation, and Open Space Plan, including priority park improvements and acquisition of additional park properties.*

RESOURCE/FINANCIAL IMPACT:

The purchase price for the property located at 709 N 150th Street is \$620,000. Park Impact Fees available for acquisitions currently total \$900,000, with approximately \$269,500 identified for the Paramount Open Space expansion, which will be presented for Council consideration at a later date, leaving funding available for this acquisition. Remaining Park Impact Fees would total approximately \$10,000. These funds would be used for demolition of the existing house and site restoration so it is available for public access, although additional funding may be needed for this purpose.

At a future meeting, the City Council will also be determining whether the City should submit a ballot measure for voter consideration to fund park improvements and/or park

property acquisition. If approved by voters, the proceeds from the bond measure could also be used towards the purchase of this property and future park improvements. If Council approves this purchase, design and construction of park improvements, and funding options, would be determined separately and are not included in this analysis. Upon closing of the sale, costs of land ownership such as vegetation management, noxious weed control, conservation district, and surface water management fees, estimated at approximately \$1,000 per year, would fall to the City. This does not reflect the full cost of park maintenance as facilities for the site have yet to be designed and maintenance costs are therefore unknown.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 899, authorizing the purchase under threat of condemnation of the property at 709 N 150th Street, Tax Parcel 182604-9211, for public park purposes by negotiated voluntary purchase, under threat of condemnation, or by condemnation.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 899

Attachment A, Exhibit A – Property Depiction and Legal Description

ORDINANCE NO. 899

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING ACQUISITION OF CERTAIN REAL PROPERTY LOCATED AT 709 NORTH 150th STREET, TAX PARCEL 1826049211, BY NEGOTIATED VOLUNTARY PURCHASE, UNDER THREAT OF CONDEMNATION, BY CONDEMNATION, OR BY SETTLING CONDEMNATION LITIGATION, FOR THE PURPOSE OF SECURING ADDITIONAL PUBLIC PARK LAND; FINDING PUBLIC USE AND NECESSITY; AUTHORIZING JUST COMPENSATION FROM THE GENERAL FUND; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 35.67 RCW and Chapter 35.92 RCW, the City has the authority to construct, condemn, purchase, acquire, add to, maintain, conduct, and operate systems of sewerage within and without of its limits; and

WHEREAS, the City’s Parks, Recreation, and Open Space (PROS) Plan, approved by the City Council on July 31, 2017, identified areas in the City in need of additional park and open space, including within the Westminster Triangle Neighborhood, so as to provide all residents within a 15-minute walk to a park with active and passive uses; and

WHEREAS, the City Council finds that acquisition of the property generally depicted and described in Exhibit A, attached hereto (the “Acquired Property”), is necessary for the public use of park lands to meet the recreation needs and provision of services to the community, specifically the Westminster Triangle Neighborhood; and

WHEREAS, just compensation for the Acquired Property can be funded through the City’s General Capital Fund; and

WHEREAS, there have been, and will continue to be, sustained efforts to negotiate with the owners of the Acquired Property, and eminent domain action will be taken judiciously after reasonable efforts to reach a negotiated settlement with the owners; and

WHEREAS, despite on-going efforts to acquire the Acquired Property by negotiation and agreement, in the event that negotiated acquisition of the Acquired Property is not fully successful, it is essential that the City be prepared to initiate condemnation proceedings; and

WHEREAS, the owners of the Acquired Property were given notice according to state statute that this condemnation ordinance was included for discussion by the City Council at the meeting of September 14, 2020, and were afforded an opportunity to comment at that meeting; and

WHEREAS, the City has provided notice of the adoption of this Ordinance in the manner set forth in RCW 8.12.005 and 8.25.290; and

WHEREAS, the City of Shoreline has the power to acquire lands through eminent domain for the purpose of providing utilities; and

WHEREAS, acquisition of the Acquired Property is categorically exempt from SEPA review under WAC 197-11-800(5)(a);

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Condemnation Authorized. The City Manager is hereby authorized to take necessary steps to acquire all necessary property interests in the land located within the City of Shoreline, County of King, State of Washington, depicted and legally described in Exhibit A attached hereto and by this reference incorporated herein (the “Acquired Property”) which is necessary for the public use of the operation of a public park, and is hereby condemned, appropriated and taken for such public use, subject to the making or paying of just compensation to the owners thereof in the manner provided by law.

The City Manager or designee is hereby authorized and directed to execute all documents for the acquisition of all interests in the Acquired Property and bring proceedings in the manner provided for by law to condemn, take, damage, and appropriate the Acquired Property described in this Ordinance pursuant to the powers granted to the City of Shoreline including RCW 35A.64.200 and Chapters 8.12 and 8.25 RCW. This authorization includes the right to condemn all reversionary interests, easements, and options in said Acquired Property.

The City Attorney is authorized to begin and prosecute legal proceedings in the manner provided by the law to purchase, condemn, take, appropriate, and otherwise acquire the land and all other interests and property rights and privileges necessary to carry out the purposes of this Ordinance. The City Attorney is also authorized to make minor amendments to any property descriptions or maps of property or properties generally depicted on the attached Exhibit A as may become necessary to correct scrivener’s errors or to conform the legal description to the precise boundaries of the Acquired Property.

Section 2. Finding of Public Use and Necessity. The Shoreline City Council finds that the acquisition of the Acquired Property is for a public use and purpose, to-wit: to provide additional park land for the citizens of Shoreline. The City Council further finds the property generally depicted in Exhibit A is necessary for the proposed public use and for the benefit of the public. The Whereas clauses set forth above are hereby incorporated into and made part of the Council’s findings.

Section 3. Compensation. Compensation to be paid to the owners of the Acquired Property identified in Section 1, above, and costs and expenses of litigation authorized by this Ordinance, shall be paid from the City’s General Capital Fund.

Section 4. Effective Date and Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper and the Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 28, 2020

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Margaret J. King
City Attorney

Publication Date: _____, 2020
Effective Date: _____, 2020

Attachment A, Exhibit A: Depiction and Legal Description

709 N. 150th Street, Shoreline, WA



Property Legal Description

THE SOUTH 150 FEET OF THE NORTH 180 FEET OF THE WEST FIFTH OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 26 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION, IF ANY, AS DESCRIBED IN KING COUNTY SUPERIOR COURT CASE #99-2-07198-1.

SITUATED IN THE COUNTY OF KING, STATE OF WASHINGTON.