



Office of the City Manager

ACTION CALENDAR

February 11, 2020

*(Continued from January 28, 2020)*

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services  
 Subject: Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street

RECOMMENDATION

Adopt a resolution authorizing the sale of the City-owned, former Redevelopment Agency property at 1631 Fifth Street at market rate and authorizing the City Manager to contract with a real estate broker to manage the sale.

POLICY COMMITTEE RECOMMENDATION

On November 21, 2019, the Land Use, Housing & Economic Development Committee adopted the following action: M/S/C (Hahn/Droste) to move the item with a positive recommendation authorizing the sale of 1631 Fifth Street. Vote: All Ayes.

SUMMARY

The City received 1631 Fifth Street from the Berkeley Redevelopment Agency (BRA) at its dissolution. BRA planned to sell prior to the statewide dissolution of redevelopment. The City Council previously approved the market rate sale of these properties as part of the state-mandated Long Range Development Management Plan adoption in 2014.

The site at 1631 Fifth Street is not large enough or zoned densely enough to support the cost-effective construction and operation of affordable housing. Developing this vacant lot would require investment of additional City funds before it could be used as housing. Selling the properties will yield a return on the City's Community Development Block Grant (CDBG) investment that will be applied to the City's priorities for permanent affordable housing via the Housing Trust Fund (HTF).

To maximize the number of interested buyers, staff are requesting Council authorization to select a real estate broker to manage the sale as staff do not typically manage market sales of single family home sites. City land disposition procedures require that the resulting contract for sale be approved by Council via ordinance.

### FISCAL IMPACTS OF RECOMMENDATION

Staff estimate the sale may yield \$300,000 to \$500,000, and that a broker's fee for selling them may be 3% of the sale price, or \$9,000 to \$15,000. The properties have not yet been appraised but will be during the sale process.

The property was acquired with CDBG funds, which restricts revenue from their sales to CDBG-eligible uses. Staff recommend depositing the proceeds in the HTF so they can be used for CDBG-eligible housing activities including acquisition and rehabilitation. Staff will provide an information report following the sales to confirm the total contribution to the HTF.

### CURRENT SITUATION AND ITS EFFECTS

The City owns two properties it received as the Successor Agency to Redevelopment: a 5,000 square foot vacant lot at 1631 Fifth Street and a vacant single family home at 1654 Fifth Street. The former Redevelopment Agency intended to sell both properties, but the process was halted due to redevelopment's dissolution statewide. Neither property has sufficient size or appropriate zoning to develop affordable housing efficiently, and any proposed affordable housing would be small scale and require additional City subsidies. The City also is incurring ongoing maintenance costs and liabilities while it holds the properties.

City staff consulted with legal counsel at Goldfarb & Lipman, LLP and the City Attorney's Office to review the applicability of the Surplus Lands Act to these former redevelopment agency properties. They concluded that process was not required and the properties could be sold at market rate. Staff confirmed the recent revisions to the Surplus Lands Act (AB 1486) do not apply.

Staff are recommending the City contract with a local real estate broker with experience selling small parcels. A private broker will have the expertise to manage sales (including marketing) and reach the broadest pool of Bay Area buyers.

At its July 11, 2018 meeting, the Housing Advisory Commission voted to support the staff recommendation:

Action: M/S/C (Owens/Amezcuca) to recommend to Council to approve the sale of two Successor Agency to Redevelopment properties at 1631 Fifth Street and 1654 Fifth Street at market value and deposit the proceeds in the Housing Trust Fund.

Vote: Ayes: Amezcua, Holman, Johnson, Kesarwani, Lewis, Owens, and Winters.  
Noes: Lord. Abstain: None. Absent: Tregub (excused), Wolfe (excused), and Wright (excused).

The possibility of using either of these properties in the Small Sites program was discussed at the July HAC meeting. An NCLT representative provided input on NCLT's past attempt to develop 1631 Fifth Street and the inability to identify a feasible project, and, considering the additional investment of City funds that would be required for

rehabilitation and development, it was determined that neither site is appropriate for this program.

Staff issued a Request for Proposals to sell the single family home at 1654 Fifth Street to operate as homeless housing, per Council direction on June 11, 2019. Staff is currently working with the Housing Advisory Commission to make a recommendation to Council regarding the proposals received.

1631 Fifth Street was not considered for an RFP as new construction of affordable housing would require significant investments and may not be feasible due to the size of the lot.

On November 21, 2019, the Land Use, Housing & Economic Development Committee recommended the City Council authorize the sale of 1631 Fifth Street.

**BACKGROUND**

Following the dissolution of all California redevelopment agencies, the Berkeley Redevelopment Agency prepared a state-mandated Long Range Development Management Plan (LRDMP) which the City Council, acting as the Successor Agency, adopted in 2014. The LRDMP included the recommendation to sell both sites at market rate. In 2015, for reasons related to redevelopment law and the dissolution process, and acting at the direction of the State Department of Finance, the Redevelopment Agency's Oversight Board removed these two properties from the LRDMP and listed them as housing assets to facilitate their disposition on the market.

**1631 Fifth Street**

The former Redevelopment Agency acquired this site with other acquisitions in this neighborhood between 1969 and 1971 as part of a larger "Neighborhood Development Program". The characteristics of the property are provided in *Figure 1*.

**Figure 1. Property Characteristics**

	<b>1631 Fifth Street</b>
<b>Land Use</b>	Vacant Lot
<b>Lot Area</b>	5,525 sq ft
<b>Acres</b>	0.13
<b>Zoning</b>	MU-R

In 1983, the Redevelopment Agency demolished a residential building at 1631 Fifth Street to build new affordable housing, but abandoned the plans after discovering high levels of lead contamination. The lot has remained vacant since this time. In 1997, the Redevelopment Agency approved the remediation and development of the site, but the

selected developer was unable to execute an agreement and the sale was never completed.

The Redevelopment Agency conducted an RFP for housing at the site in 2008, but the only response was Northern California Land Trust's (NCLT) proposal to move the Kenney Cottage (now at 1281 University Avenue) to the site. This proposal did not come to fruition due to NCLT's bankruptcy, but NCLT did manage a small community garden at the site from 2009 to 2011. Staff confirmed the use of 1631 as a community garden does not make it subject to the limitations of Measure L related to parks and open space.

### **1654 Fifth Street**

In late 2019, staff issued a Request for Proposals to sell the single family home at 1654 Fifth Street to operate as homeless housing, per Council direction on June 11, 2019. Staff is currently working with the Housing Advisory Commission to make a recommendation to Council regarding the proposals received.

### **Administration**

When the Redevelopment Agency dissolved, the Department of Health, Housing and Community Services took over managing its housing assets and other remaining responsibilities on behalf of the Successor Agency, although no staffing was added to handle these responsibilities. Former Redevelopment Agency assets assumed include 13 homebuyer loans, two properties under long-term leases and the two sites designated for sale. HHCS pays the Public Works Department to provide periodic landscaping services for this property. The City will retain these ongoing costs and liabilities as long as it owns the site.

### **ENVIRONMENTAL SUSTAINABILITY**

There are no sustainability effects associated with the recommendation of this report.

### **RATIONALE FOR RECOMMENDATION**

This site has been intended for sale since it was first acquired by the Redevelopment Agency in the late 1960s and early 1970s as part of a neighborhood development initiative. The City Council previously approved the market rate sale of 1631 Fifth Street as part of the LRDMP adoption in 2015.

This site is not large enough or zoned densely enough to support the cost-effective development and operation of affordable housing. Developing the site would require an investment of additional City funds. Selling the property will yield a return on the City's CDBG investment that will be applied to the City's affordable housing priorities via the Housing Trust Fund. In addition to the Berkeley Way development commitment, the HTF recently provided two other proposed developments predevelopment loans — Satellite Affordable Housing Associates' Oxford Apartments and Bay Area Community Land Trust's Stuart Street rehabilitation. The HTF program is also supporting three additional sites via Measure O bond funding: Staff also received HTF inquiries related to other development activities.

A small vacant lot is not a typical government real estate asset, and is better suited for sale by a real estate broker familiar with these types of properties and the local market. Private brokers have the resources and knowledge needed (including marketing) and are likely to reach the broadest pool of Bay Area buyers. The City opted to select a local real estate broker, Korman & Ng, for its most recent small asset sale of 2931 Shasta Road (a former Fire Department house) in 2012.

ALTERNATIVE ACTIONS CONSIDERED

The City could consider:

- Retaining the property for a future determination on its usefulness. Staff are not recommending this option due to the small size and location of 1631 Fifth Street as well as the costs and liabilities associated with holding vacant properties.
- Selling or leasing 1631 Fifth Street to a housing organization for development and operation as affordable housing. Staff are not recommending this option because it would require additional investment of City funds which are needed for developments currently in the pipeline. New construction and operating housing at this scale is not efficient and cannot leverage much (if any) non-City funds. The Redevelopment Agency did not receive viable proposals for previous attempts to develop affordable housing. HHCS received inquiries related to leasing the vacant site for the placement of tiny homes for the homeless or other populations but is recommending the market rate sale with proceeds going in to the Housing Trust Fund in order to expand permanent affordable housing opportunities.

CONTACT PERSON

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Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

DISPOSITION OF CITY-OWNED, FORMER REDEVELOPMENT AGENCY  
PROPERTY AT 1631 FIFTH STREET

WHEREAS, the City acquired the property at 1631 Fifth Street via its role as the Successor Agency to the Redevelopment Agency of the City of Berkeley; and

WHEREAS, the Redevelopment Agency planned to sell the site prior to the redevelopment dissolution legislation; and

WHEREAS, The Successor Agency Oversight Board, acting at the direction of the State Department of Finance, designated 1631 Fifth Street as a housing asset to facilitate their market rate sale; and

WHEREAS, the site's status as a former Redevelopment property enables the City to follow redevelopment law's disposition requirements for market rate returns and exempts the City from the Surplus Land Act (AB 2135 & AB 1486); and

WHEREAS, the property was acquired with Community Development Block Grant (CDBG) funds, which restricts revenue from its sale to CDBG-eligible uses, including the Housing Trust Fund; and

WHEREAS, the General Plan's Housing Element Policy H-2 states the City should aggressively search out, advocate for, and develop additional sources of funds for permanently affordable housing, including housing for people with extremely low incomes and special needs; and

WHEREAS, selling the property at market rate will maximize Housing Trust Fund contributions and provide leverage for permanent affordable housing projects.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the property at 1631 Fifth Street be sold for a purchase price that shall be equal to or greater than the appraised market value of the property.

BE IT FURTHER RESOLVED that the City Manager contract with appropriate real estate professionals to market and sell the property.