

CC 3-04-2024

Item No. 2

Conference with real property
negotiators pursuant to
Government Code §
54956.8, 10301 Byrne Avenue

Written Communications

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#); [City Attorney's Office](#); [Cupertino City Manager's Office](#)
Subject: City Council Closed Session Agenda Item #2 Byrne 3/4/2024
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Dear City Council and others,
Regarding City Council Closed Session Agenda Item #2 Byrne 3/4/2024.

The Byrne property was purchased in order for the City to obtain a sliver of land to protect public safety.

The property map has now been redrawn.

The City is right to find a new owner (it could have been rented out all of this time and sadly the City reneged on its offer to rent it back to the previous occupant).

Especially given the City's financial situation, **our City needs to maximize the sale price.** I am concerned that the City is considering offers that **might not represent true market value.**

I am also concerned that the **proposed purchasers might choose to flip the property**, when they realize that it is harder to renovate or rebuild than anticipated.

If the City chooses to accept either offer, can the purchase contract **stipulate that Cupertino receives 75% of profit if the property is sold within 5 years?**

The property is difficult/expensive to remodel and expensive to build new as compared with other properties.

A non-profit would be best off with a property on flat-land that is close to public transportation and amenities.

At the same time, the property has amazing views, is a short walk to parkland, and is close to schools, which significantly raises its market value.

Property Challenges for Remodeling and Building New:

1. Bringing the property up to ADA (and even current building standards) would be a significant challenge.
2. Among other issues, the interior stairs are narrow and steep and don't meet current building codes (let alone ADA).
3. The downstairs bathroom is on an antiquated septic system. To connect to the sewer, an ejector pump would be required because the effluent is below grade. The ejector pump (and therefore the bathroom) would not be functional during a power outage, unless there's a significant power backup system. A holding tank for the sewage ejection system has limited capacity (best not to flush during a power outage and definitely no bathing). It is unknown as to how much of the house is on City sewer and the condition of the septic system. It is unknown as to whether any effluent uses neither.
4. There is a crumbling retaining and structural wall underneath the house. There had been five children, the eldest moved out when the first came along. To make room for the growing family, room underneath the home was made, likely without permits and certainly not to modern standards. The access to the underpinning is challenging and is

accessed through living space. The upper floor would need to be shored up, the wall would need to be removed, followed by excavation for new piers, rebar, and then concrete. This would require a soils and civil engineer for the planning and a lot of manual labor due to poor access.

5. Because the home is on a hillside, there is little usable yard.
6. Parking is a challenge. Presently there is one parking space onsite. There is no parking on San Fernando and very little on Byrne (the frontage is narrow and made worse because it is a corner lot).
7. Building new is also a challenge because of the hillside and the local soils. An expensive pier and grade-beam foundation would most likely be required.
8. Having more than one parking space onsite would be expensive.
9. With the new sidewalk work on Byrne, the grade was brought up – and that means the grade would need to be brought up for a new home. Soils would need to be brought in and compacted. It is possible that onsite soils from excavation for new living space could be used, but that would need to be determined by a soils engineer.
10. New construction would also require an extensive drainage plan.
11. And there's more.

My main concern is that the City **maximize the sale of the property.**

If the property is not put on the open market, then we will never know its true market value.

I am concerned that the potential purchasers will decide that this property does not meet their needs and flip the property.

What can the City do to protect itself and guarantee that it receives market rate?

Is it possible to **stipulate that Cupertino receives 75% of profit if the property is sold within 5 years?**

Thanks,
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