

**Subject: RES #717 – Declaring Certain Real Property Surplus and Directing the sale of the Same**

**Proposed Council Action:**

1. Hold a Public Hearing,
2. Deliberate,
3. If desired, declare the parcel of real property as “surplus” and direct its sale.

**Dept. Origin:** Mayor’s Office  
**Prepared by:** Jennifer Robertson, City Attorney  
**For Agenda of:** September 15, 2020  
**Exhibits:** Resolution No. 717 & Public Hearing Notice

	Initial & Date
<b>Concurred by Mayor:</b>	_____
<b>Approved/form by City Atty:</b>	<u>9-10-20/JSR</u>
<b>Approved by Planning Director:</b>	_____
<b>Approved by Department Head:</b>	_____

**INFORMATION / BACKGROUND**

The City of Ruston a parcel of undeveloped real property within its borders which are currently not in use. This parcel is:

Address: 5405 N. Commercial Street, Ruston WA 98407  
 Parcel No.: 4002050050  
 Zoning: Residential (RES Zone)  
 Improvement: Vacant land – undeveloped

The Mayor and Planning Director do not anticipate any city use for either of these parcels and recommend that the Council consider declaring both of these properties “surplus” and directing their sale on the open market for fair market value.

Under Washington law, the City has the right to sell surplus property.<sup>1</sup> The process for sale of surplus real property is as follows:

1. Hold a public hearing.

The Council is required to hold a public hearing on whether the property should be declared surplus. This is required for property valued at \$50,000 or more<sup>2</sup> and for any property of any value that was purchased by a city utilities department.<sup>3</sup>

<sup>1</sup> RCW 35A.11.010.

<sup>2</sup> RCW 39.33.020.

<sup>3</sup> RCW 35.94.040.

While not utility property, this real estate is valued at more than \$50,000, therefore a public hearing is required. The City has complied with the State law requirements<sup>4</sup> for noticing the public hearing by publishing notice of the public hearing a minimum of 10 days (and no more than 25 days) prior to the hearing in the City's Official Newspaper. Such notice included the information required by State statute. A copy of the Public Hearing Notice is attached to this Agenda Bill. In addition to publishing notice, the City also sent press releases about the public hearing to the Tacoma News Tribune and Tacoma Weekly and posted copies of the Notice on the Announcement Board at City Hall, at the Mary Joyce Community Center and on the City of Ruston Website.

2. Consider whether the property should be declared "surplus".

After the public hearing, the Council should consider whether the property is no longer needed by the City for governmental purposes and may be sold. If the City Council determines that the property is not needed, passage of Resolution No. 717 declaring it surplus would be the next step.

3. Consider how the property, and under what conditions, the property may be sold.

Resolution No. 717 also outlines how this property will be sold. The Council has authority to direct the method of sale (i.e. auction, take bids, listed for sale, post on website of its availability, etc.) as well as the person whom is delegated to oversee and implement the sale. *However*, the property must be sold for "fair market value" to ensure that the price accepted does not amount to a prohibited "gift of public funds."<sup>5</sup>

Resolution No. 717 directs the Mayor to (1) obtain an appraisal of the property;<sup>6</sup> (2) place the property on the open market (including hiring a listing agent if desired); and (3) bring any offers to Council for consideration<sup>7</sup> for discussion prior to acceptance.

In addition, the City Council can add provisions to the Resolution to have additional land use control over the development and that term can be part of the offering. However, any additional requirements on the property may affect its value and will need to be considered by the appraiser in informing the City as to the fair market value of the property.

The Planning Director recommends that the City put the following conditions on the sale of this parcel which will make the development more consistent with the City's vision for residential areas:

5405 N. Commercial Street, Ruston WA 98407

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<sup>4</sup> RCW 39.33.020.

<sup>5</sup> Article VIII, Section 7, Washington Constitution.

<sup>6</sup> Appraisals are exempt from the Public Records Act, if releasing such documents would hinder the City from obtaining the best price. RCW 42.56.260. This exemption is time-limited to the sales period or 3 years, whichever is shorter.

<sup>7</sup> Consideration of offers for selling or purchasing property are permitted to occur in Executive Session. RCW 42.30.110(1)(c).

The City should require that any home developed on this lot have a front porch of a minimum depth of 8-feet which is at least as half as wide as the overall width of the main structure.

This property should also not be permitted to develop a garage in the front of the lot. Although this parcel is not a corner lot and doesn't have alley access, due to the topography and width of the lot (the lot is approximately 65' wide which is 20' wider than the code minimum of 45'), there is ample room to provide a driveway along one side of the home to a rear yard detached or attached front, or side-loaded, garage. Due to the lot sloping down from the street, it is well suited to a daylight basement level flat-roof side-loaded garage with patio space above at the main floor level.

In addition, the Council could require that the lot or lots be developed within a certain timeline, i.e. the lots shall be developed within 24 months of closing.

The Council should give direction if it desires to place these requirements onto the lot are part of the sale.

### **FISCAL CONSIDERATION**

Declaring this parcel of property surplus and selling it will take unproductive property in the City, allow it be sold and developed, and will bring revenue into the City based on both the sale, the Real Estate Excise Tax, and any tax or other revenue that is generated by the development of this parcel. Considering the impacts of COVID19 on the City budget and the real estate market, this could be a good time to sell this parcel.

### **RECOMMENDATION / MOTION**

Hold Public Hearing, deliberate and consider adopting Resolution No. 717.

MOTION 1: I move to open the public hearing.

➔ Take Testimony.

MOTION 2: I move to close the public hearing.

MOTION 3: I move adoption of Resolution No. 717 declaring a parcel of real property as "surplus", directing the sale of this parcel, authorizing the Mayor to implement this Resolution, including obtaining an appraisal, placing the property onto the open market with conditions of sale as outlined herein, and authoring the Mayor to finalize the sale, after consulting with the Council.

## Public Notice

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# Notice of Public Hearing

## Surplus and Disposal of Real Property

The City Council of the City of Ruston will hold a Public Hearing during the regular meeting of September 15, 2020 at 7:00 PM, or as soon thereafter as possible, to consider the surplus and disposal of City property.

The parcel of real property being considered at this hearing as surplus is:

Address: 5405 N. Commercial Street, Ruston WA 98407  
Parcel No.: 4002050050  
Zoning: Residential (RES Zone)  
Improvement: Vacant land – undeveloped

The City proposes to sell this parcel on the open market for fair market value.

All members of the public may provide testimony during the public hearing or they may submit written comments prior to the public hearing. The City Council meets at Mary Joyce Community Center at 5219 N. Shirley Street, Ruston WA 98407, however due to COVID19, this meeting may be held virtually under the Governor's order. Written comments may be submitted prior to the hearing to the City Clerk at 5117 N. Winnifred Street, Ruston WA 98407 or [townclerk@rustonwa.org](mailto:townclerk@rustonwa.org)

For residents with disabilities who are requesting translators or adaptive equipment for communication purposes, or needing any other accommodation, the City requests notification as soon as possible as to the type of service or equipment needed.

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Cc: Members of the City Council  
Mayor Bruce Hopkins  
Official Newspaper  
Tacoma News Tribune  
Tacoma Weekly

Posted: City Hall  
Mary Joyce Community Center  
City Website

**RESOLUTION NO. 717**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RUSTON, DECLARING ONE PARCEL OF REAL PROPERTY AS “SURPLUS”, DIRECTING THE SALE OF THIS PARCEL, AUTHORIZING THE MAYOR TO IMPLEMENT THIS RESOLUTION, INCLUDING OBTAINING AN APPRAISAL, PLACING THE PROPERTY ONTO THE OPEN MARKET WITH CONDITIONS OF SALE AS OUTLINED HEREIN, AND AUTHORIZING THE MAYOR TO FINALIZE THE SALE, AFTER CONSULTING WITH THE COUNCIL.**

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WHEREAS, the City of Ruston owns a parcel of undeveloped real property within its borders which is currently not in use. This parcel is:

Address: 5405 N. Commercial Street, Ruston WA 98407

Parcel No.: 4002050050

Zoning: Residential (RES Zone)

Improvement: Vacant land – undeveloped; and

WHEREAS, this parcel was not purchased by the City for utility property; and

WHEREAS, the Mayor and Planning Director do not anticipate any city use for this parcel and recommend that the Council consider declaring this property “surplus” and directing its sale on the open market for fair market value or greater; and

WHEREAS, under Washington law (RCW 35A.11.010), the City has the right to sell surplus property; and

WHEREAS, the City has complied with the State law requirement to allow the sale of surplus real property by holding a duly noticed public hearing on September 15, 2020; and

WHEREAS, notice of the public hearing was published a minimum of 10 days (and no more than 25 days) prior to the hearing in the City’s Official Newspaper and included the information required by State statute; and

WHEREAS, in addition to publishing notice in its official newspaper, the City also sent press releases about the public hearing to the Tacoma News Tribune and Tacoma Weekly and posted copies of the Notice on the Announcement Board at City Hall, at the Mary Joyce Community Center and on the City of Ruston Website; and

WHEREAS, after holding the public hearing and considering the public interest and welfare of the City of Ruston, the City Council has determined that the parcel of real property described in this Resolution is not needed by the City at the present time and no future need or use is anticipated; and

WHEREAS, after considering the input of the City Planning Director, the City Council deems it in the public interest to require certain development conditions and timeline as part of the sale as described in this Resolution; and

WHEREAS, the City Council deems it in the public’s best interest to authorize the Mayor to implement this resolution and to undertake the sale of this parcel on behalf of the City as described in this Resolution; **NOW, THEREFORE,**

**THE CITY COUNCIL OF THE CITY OF RUSTON HEREBY RESOLVES AS FOLLOWS:**

**Section 1. Property Declared Surplus.** The City Council hereby declares the following parcel of real property as “surplus” to the City’s needs.

Address: 5405 N. Commercial Street, Ruston WA 98407

Parcel No.: 4002050050

Zoning: Residential (RES Zone)

Improvement: Vacant land – undeveloped

**Section 2. Mayor Authorized to Sell the Surplus Real Property with Conditions.** The

Mayor of Ruston is hereby authorized to take any and all appropriate acts to sell the property described above, including:

- a. Obtaining an appraisal of the property to establish fair market value.
- b. Placing the property onto the market and market it for sale. This authority includes the authority to hire a listing agent, if desired.
- c. As part of the marketing of the property, the following conditions of sale shall be required of any purchaser:

5405 N. Commercial Street, Ruston WA 98407

1. The City shall require that any home developed on this lot have a front porch of a minimum depth of 8-feet which is at least as half as wide as the overall width of the main structure.
  2. This property shall not be permitted to develop a garage in the front of the lot.
  3. The City shall also require that the lot be developed within 24 months of closing.
- d. The Mayor shall keep the Councilmembers informed as to the status of the property, including sharing any offers to purchase.
  - e. The Mayor is authorized to take any other actions necessary to sell the two parcels of real property and to maximize the price thereof. In no case shall the properties be sold for less than the appraised valuation.

PASSED by the City Council of the City of Ruston, signed by the Mayor and attested by the City Clerk in authentication of such passage on this 15<sup>th</sup> day of September, 2020.

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Bruce Hopkins, Mayor

ATTEST:

\_\_\_\_\_  
Judy Grams, City Clerk

FILED WITH THE CITY CLERK: \_\_\_\_\_

PASSED BY THE CITY COUNCIL: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

RESOLUTION NO: 717