



Office of the City Manager

CONSENT CALENDAR

November 15, 2005

To: Honorable Mayor and  
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Marc Seleznow, Director, Parks Recreation & Waterfront

Subject: Purchase of Property for the Codornices Creek Project

RECOMMENDATION

Adopt first reading of an Ordinance authorizing purchase from Alameda County of tax-defaulted real property [Assessor's Parcel Number (APN) 060-2385-10] required for the Lower Codornices Creek Restoration and Site Improvement Project for an amount not to exceed \$2,200.

FISCAL IMPACTS OF RECOMMENDATION

This is an abandoned parcel with back taxes owed to the County in the amount of \$1,647.54. The County will allow the parcel to be acquired by the City of Berkeley for public use for the cost of back taxes owed, plus closing costs. The total cost of this acquisition will not exceed \$2,200. Funding is available from the project budget for the Lower Codornices Creek Project (Budget Code #450-5801-450-7010).

CURRENT SITUATION AND ITS EFFECTS

This parcel is a small sliver of land that lies in the middle of the creek between Fifth and Sixth Streets in the City of Berkeley. Control of the parcel is required in order for the project to proceed. Since the parcel is abandoned, there is no mechanism by which the City of Berkeley can obtain an easement. The most cost-effective method is for the City to acquire the parcel through a purchase. Prior to initiating the purchase process, Alameda County requires an approving resolution from the City of Berkeley.

BACKGROUND

The City of Berkeley has joined with the City of Albany and the University of California in preparing a restoration plan for Lower Codornices Creek located between San Pablo Avenue west to the Southern Pacific Railroad. With the City of Albany as project lead, The Waterways Restoration Institute, a consulting group that specializes in creek restoration work, has prepared the plans that will provide for a floodplain area, a pedestrian/bicycle trail along the creek, and creek habitat restoration measures. The project is currently in the process of obtaining all permits and authorizations necessary for construction to start in the Spring of 2006.

RATIONALE FOR RECOMENDATION

Property rights to the parcel are required in order for the project to proceed.

CONTACT PERSON

Marc Seleznow Director of Parks Recreation and Waterfront Department, 981-6700

Deborah Chernin, Senior Planner, 981-6715

Attachments:

- 1: Ordinance
- 2: Agreement to Purchase Tax-Defaulted Property  
Exhibit A: Real Property

ORDINANCE NO. -N.S.

AUTHORIZING PURCHASE OF PROPERTY FOR  
THE LOWER CODORNICES CREEK PROJECT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1.

The Council finds as follows:

- a. In order to accomplish the goal of restoration and maintenance to lower Codornices Creek and provide a walking and bike trail to its residents, the City Council has authorized the Lower Codornices Creek Restoration and Site Improvement Project.
- b. It is necessary to acquire abandoned assessor's parcel 060-2385-010 from the County of Alameda in order to accomplish the Lower Codornices Creek Restoration and Site Improvement Project.

Section 2.

The City Council further finds as follows:

The City of Berkeley has joined with the City of Albany and the University of California in preparing a restoration plan for Lower Codornices Creek located between San Pablo Avenue west to the Southern Pacific Railroad. With the City of Albany as project lead, The Waterways Restoration Institute, a consulting group that specializes in creek restoration work, has prepared the plans that will provide for a floodplain area, a pedestrian/bicycle trail along the creek, and creek habitat restoration measures. The project is in the process of obtaining all permits and authorizations necessary for construction to start in the Spring of 2006.

Section 3.

- a. That the City Manager is hereby authorized to execute an agreement attached herein as Attachment "A" to purchase tax defaulted property known as assessor's parcel 060-2385-010 for back taxes currently at \$1,647.54 plus closing costs not to exceed a total cost of \$2,200.00.
- b.

Section 4.

That an allocation of \$2,200 in Budget Code #450-5801-450-3038 is available to fund the purchase of the property and all related escrow fees and closing costs.

Section 5.

Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

## Attachment 2

### AGREEMENT TO PURCHASE TAX-DEFAULTED PROPERTY

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between the **Board of Supervisors of Alameda County**, State of California, and the **City of Berkeley** ("Purchaser"), pursuant to the provisions of Division 1, Part 6, Chapter 8, of the Revenue and Taxation Code.

The real property situated within said county, hereinafter set forth and described in this agreement is Tax-Defaulted and is subject to the power of sale by the Tax Collector of said County for the nonpayment of taxes, pursuant to provisions of law.

#### TERMS AND CONDITIONS

It is mutually agreed as follows:

- 1) that as provided by Revenue and Taxation Code §3800, the cost of giving notice of this agreement shall be paid by the PURCHASER and is not included in the amount for the real property, and
- 2) that the PURCHASER agrees to pay the sum of \$1,647.54 for the real property described in Exhibit "A" within 30 days after the date this agreement becomes effective. Upon payment of said sum to the Tax Collector shall execute and deliver a deed conveying title to said property to PURCHASER.
- 3) That the PURCHASER agrees to use the parcel for public purpose under the following intent:

Recontour the existing creek for conservation purposes and flood control as well as granting public access.
- 4) That, if said PURCHASER is a Taxing Agency as defined in Revenue and Taxation Code §121 or any other agency that receives its revenue share under the provisions of Division 1, Part 8, Chapter 3 of the Revenue and Taxation Code, it will not share in the distribution of the payment required by the Agreement as defines by §3791 and §3720 of the Revenue and Taxation Code.

If all of any portion of any individual parcel listed in Exhibit "A" is redeemed prior to the effective date of this agreement, this agreement shall be null and void as to that individual parcel. This agreement shall also become null and void and the right of redemption restored upon the PURCHASER'S failure to comply with the terms and conditions of this agreement.

**The undersigned hereby agrees to the Terms and Conditions of this Agreement and are duly authorized to sign for said agencies.**

ATTEST:

\_\_\_\_\_  
(Purchaser)

By \_\_\_\_\_

(Seal)

ATTEST:

BOARD OF SUPERVISORS

\_\_\_\_\_  
Clerk of the Board of Supervisors

By \_\_\_\_\_

By \_\_\_\_\_  
Deputy

By \_\_\_\_\_  
Chairman

Pursuant to the provisions of Section 3775 of the Revenue and Taxation Code, the governing body of the City of Berkeley hereby agrees to the sale price as provided in this agreement.

ATTEST: CITY OF BERKELEY

\_\_\_\_\_  
Deputy

By \_\_\_\_\_  
City Manager (Seal)

This agreement was submitted to me before final execution by the Board of Supervisors and I have compared the same with the records of Alameda County relating to the real property described therein.

\_\_\_\_\_  
Alameda County Tax Collector

Pursuant to the provisions of Section 3795 of the Revenue and Taxation Code, the Controller approves the foregoing agreement this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

STEVE WESTLY, CALIFORNIA STATE CONTROLLER

By: \_\_\_\_\_

**Exhibit "A"**

<u>Description</u>	<u>First Year Delinquent</u>	<u>Default Number</u>	<u>Purchase Price</u>
60-2385-10	1971/1972	280425	\$1,647.54

## Project Location

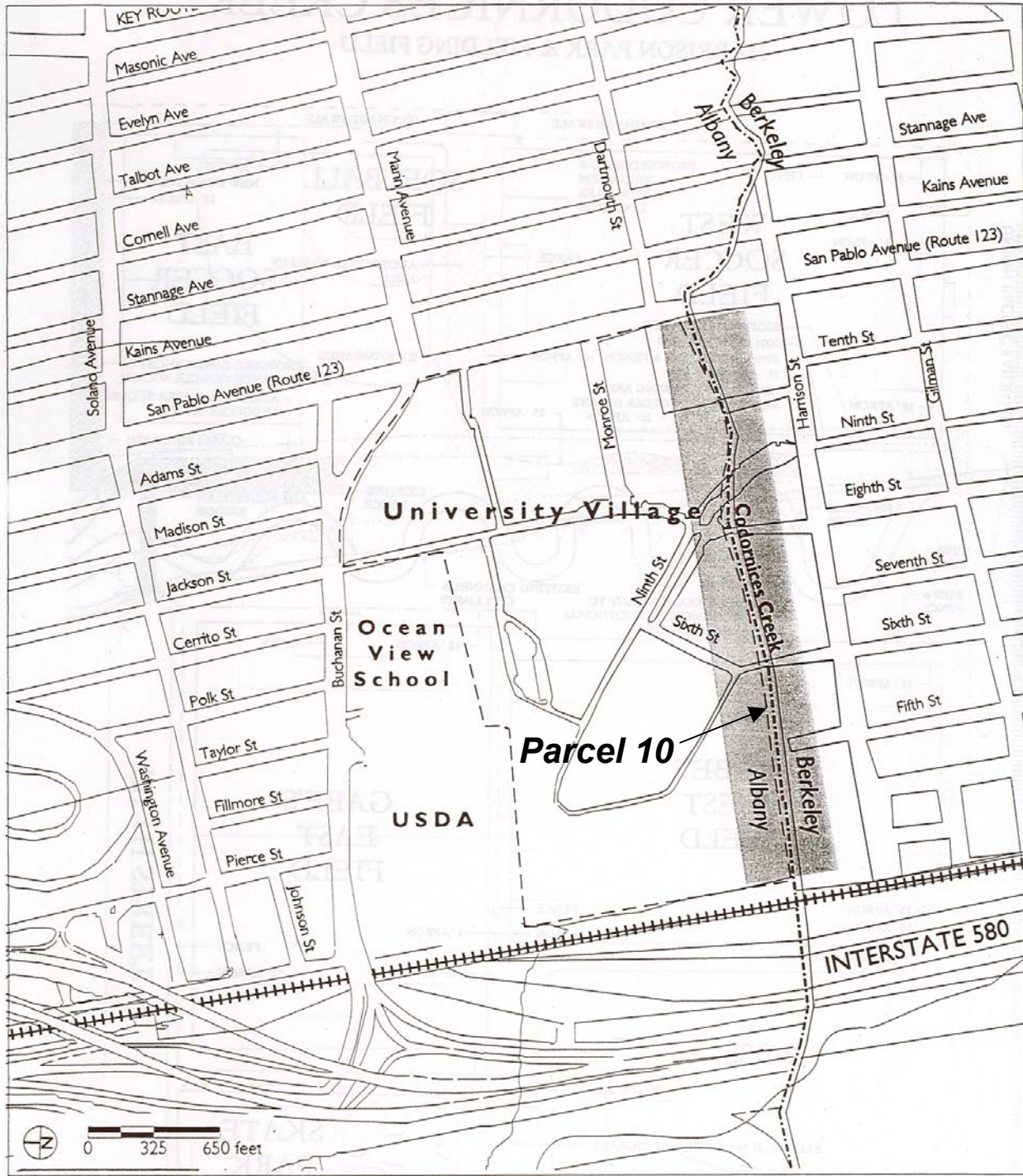


FIGURE 2

- Proposed Project Area
- University Village Boundaries
- Albany/Berkeley City Limits
- Union Pacific Railroad

### LOCAL LOCATION

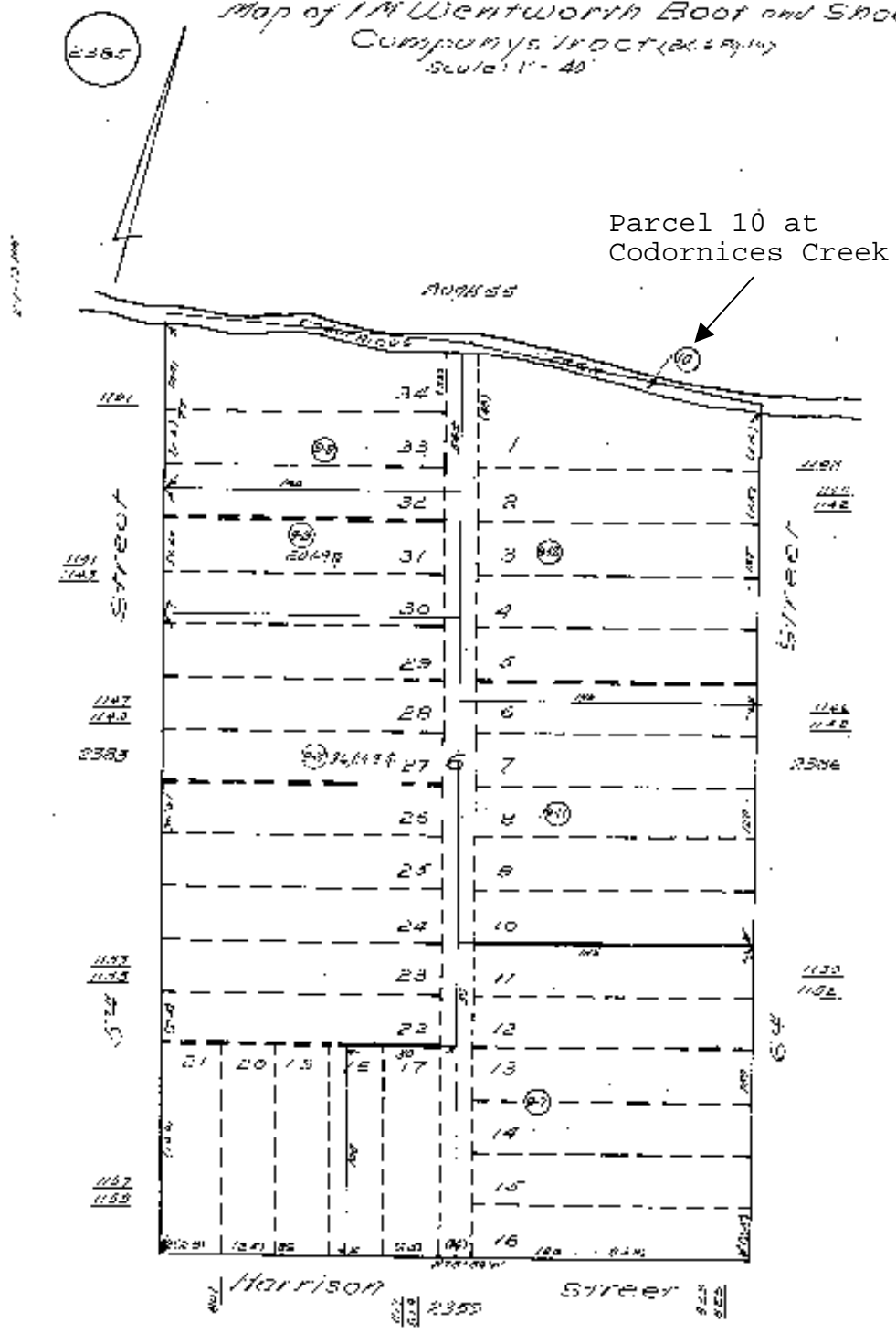
CODORNICES CREEK IMPROVEMENTS PLAN  
DRAFT INITIAL STUDY

Assessor's Parcel

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ASSESSOR'S MAP 60

Map of I M Wentworth Boot and Shoe  
Company's Tract (see pg 10)  
Scale: 1" = 40'



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**Parcel 10**

Code Area No.13-000

**ASSESSOR'S MAP 60**

*Map of I.M. Wentworth Boot and Shoe  
Company's Tract (BK. 6 Pg. 16)  
Scale: 1" = 40'*

2385

2-1-79 BM

**Parcel 10 at  
Codornices Creek**

BOOK 55

