



## CITY OF MILPITAS AGENDA REPORT (AR)

<b>Item Title:</b>	Receive staff presentation and provide direction on guiding principles for three City-owned parcels at 1432–1488 South Main Street; direct staff to bring back a recommended approach that aligns with the adopted guiding principles
<b>Category:</b>	Community Development
<b>Meeting Date:</b>	9/28/2021
<b>Staff Contact:</b>	Sharon Goei, Director of Building Safety and Housing, 408-586-3260 Adam Marcus, Housing Manager, 408-586-3244
<b>Recommendations:</b>	<ol style="list-style-type: none"> <li>1. Receive staff presentation and provide direction on guiding principles for three City-owned parcels at 1432–1488 South Main Street.</li> <li>2. Direct staff to bring back a recommended approach that aligns with the adopted guiding principles.</li> </ol>

**Background:**

The September 28, 2021 Special City Council meeting will consider the possible development or disposition of three parcels of land owned by the Milpitas Housing Authority and the City of Milpitas. For the purposes of this item, we will refer to these parcels as follows:

<b>Parcel</b>	<b>Address</b>	<b>Ownership Entity</b>
Parcel 1	1432-1446 South Main Street	Milpitas Housing Authority
Parcel 2	1452-1466 South Main Street	City of Milpitas
Parcel 3	1474-1488 South Main Street	City of Milpitas

The parcel located at 1432-1446 South Main Street (“Parcel 1”) was transferred to the City of Milpitas Housing Authority by the former Milpitas Redevelopment Agency as a former redevelopment agency housing asset. The parcels located at 1452-1466 South Main Street (“Parcel 2”) and 11474-1488 South Main Street (“Parcel 3”) are owned by the City of Milpitas itself.

These parcels were acquired around the time that the Milpitas Redevelopment Agency (RDA) (along with all other redevelopment agencies across the State) was under threat of dissolution. Many cities, including Milpitas, were acquiring properties in an effort to continue redevelopment activities in the event that the redevelopment agencies were dissolved.

All three parcels were transferred to the Housing Authority as “housing assets” after dissolution of the RDA. The stated intent was to build affordable and market rate housing. Following dissolution of the RDA, the County of Santa Clara and Santa Clara County Office of Education (“SCCOE”) sued the City of Milpitas, Milpitas Economic Development Corporation (“MEDC”), Milpitas Successor Agency and Milpitas Housing Authority, asserting that these parcels (along with others) should have remained with the Successor Agency to be disposed of in accordance with the Dissolution Law, with the proceeds to be disbursed for the benefit of the other taxing entities.

The City, MEDC, Successor Agency and Housing Authority entered into a settlement agreement with the County and SCCOE on June 17, 2014. As part of the settlement, the County and SCCOE acknowledged that Parcel 1 was a “housing asset”, as it was acquired with low-moderate income funds and should remain with the Housing Authority. As part of the settlement agreement, the City paid for Parcels 2 and 3 with General Fund money, and the parties agreed those two parcels were not subject to the restrictions of the Dissolution Law or the Community Redevelopment Law. The Housing Authority subsequently transferred Parcels 2 and 3 to the City, since they were paid for with City funds. The City therefore owns Parcels 2 and 3, free and clear of any RDA related restrictions.

Parcel 1 is considered a “housing asset,” and is therefore subject to the requirements of the Dissolution Law applicable to housing assets (set forth at Health and Safety Code Sections 34176 and 34176.1), and the applicable provisions of the Community Redevelopment Law. The Milpitas Housing Authority must either initiate activities on Parcel 1 that are consistent with the development of the property for housing that is affordable to lower income households prior to August 31, 2022 or sell the parcel and deposit the sales proceeds in the Low and Moderate Income Housing Asset Fund (LMIHAF), to be used for future development of affordable housing elsewhere in the City.

Developing all three parcels together may unlock additional benefits for the City, and it comes with challenges as well. City staff will need to prepare a Request for Proposals (RFP) and a Notice of Availability (NOA) and begin this process in late 2021. This memorandum analyzes key constraints and opportunities in developing these parcels and suggests potential guiding principles for the RFP and NOA.

## **Analysis:**

### **Legal constraints**

As noted above, Parcel 1 can be sold with proceeds going to build low-income housing or it must be developed with affordable housing for lower income households following state law. It is possible that some of the units may need to be extremely low-income (ELI) as the Housing Authority must spend at least 30% of the overall Low and Moderate Income Housing Asset Fund on ELI housing.

If the City chooses to develop or dispose of Parcels 2 and 3, that will trigger provisions under the California Surplus Land Act (SLA) which requires cities to provide opportunities for development of affordable housing on any government land that is going to be offered for sale or lease, unless specifically exempted from the SLA. The SLA requires the City to first solicit affordable housing proposals and negotiate in good faith before exploring other options. If the City does not agree on the price or deal terms of any affordable or mixed-income housing proposals within a 90-day negotiation period, it can then seek proposals for market rate housing so long as 15% or more of units are set aside as deed restricted low-income housing.

The City and Housing Authority have some flexibility in determining how to dispose of the parcels, but they must ensure compliance with the applicable provisions of Community Redevelopment Law for the disposition of Parcel 1, and the Surplus Lands Act for Parcels 2 and 3.

### **Tenants and Neighborhood Context**

The parcels are currently leased by several small businesses that provide automobile repair, locksmith, plumbing, cat boarding, food pantry, and other services. The City has retained a consultant to study possible relocation options. One of the buildings on Parcel 3 is currently vacant. The site is adjacent to The Pines single-family neighborhood as well as several existing and proposed multifamily housing developments (Senior Lifestyles/Westmont Phase I and II, Mil on Main, Ilara Apartments, and others). These parcels are within walking distance to a VTA Light Rail station, the Great Mall, and the Milpitas Transit Station.

### **Key City Policies**

Transit-Oriented Development: Currently these parcels are part of the Midtown Specific Plan. The City intends to transfer these parcels into the TASP/Metro Specific Plan in the coming months. The overall goal for the TASP/Metro Specific Plan is to: “Help create a vibrant transit-oriented community that includes housing, retail,

entertainment, commercial and park spaces, and a safe and attractive pedestrian and bicycle network.” Once this transfer occurs, staff is considering changes that would increase the allowable density for these parcels from 41-60 units per gross acre under the Midtown Specific Plan to 70-120 units per gross acre under the TASP/Metro Specific Plan. Neighborhood serving commercial is currently allowed and would still be allowed under the TASP/Metro Specific Plan.

Housing: Another relevant City policy comes from the Housing Element which is the City’s 8-year housing plan and a chapter in the General Plan. One Housing Element goal is to “support the development of a diverse range of housing types, including rental and ownership units, housing affordable to all economic segments of the community, and housing for individuals with special housing needs.” Development of this site as multifamily housing would also help the City meet its future Regional Housing Needs Allocation.

Economic Development: The General Plan also includes economic development goals that may relate to these parcels. Goal ED-3 seeks to “encourage new development in key opportunity areas that provide high-quality work environments and competitive business locations.”

**Pathways of Development/Disposition**

Staff identified two key pathways for development and/or disposition of these parcels. These pathways were created to help address the different legal and timing constraints on the parcels as well as the opportunities that might result if they are combined in one master-planned site. The City hired Raimi + Associates to conduct a site study on the potential housing capacity on the parcels under several scenarios. The site study also considered the type of construction of the buildings, parking, circulation, and open space.

Pathway 1: This strategy would separate Parcel 1 from the other two parcels. Parcel 1 could be sold and proceeds would go into the Housing Authority Fund. Once sold, Parcel 1 would no longer have an affordability restriction. If the City were to lease Parcel 1 separate from Parcels 2 and 3, it would have to be developed as 100% affordable housing for lower income households. The site study found that Parcel 1 could yield approximately 90 housing units on 0.99 acres under the proposed TASP/Metro Specific Plan. Parcels 2 and 3 together could yield an additional 160-170 units depending if open space park and ground floor commercial are included. Taken together, Pathway 1 could yield a total of approximately 250-260 housing units.

Pathway 2: This strategy would combine Parcels 1, 2 and 3 for a larger mixed-income housing project and possibly a small amount of ground floor commercial and open space. The site study found that when Parcels 1, 2 and 3 were combined, the housing unit yield would be approximately 260-270 housing units under the proposed TASP/Metro Specific Plan. This is only slightly more than Pathway 1. The inclusion of commercial and park space has a greater impact on housing yield than separating or combining the parcels.

The following table compares the estimated unit yield between pathways:

	<b>Parcel 1</b>	<b>Parcels 2 + 3</b>	<b>Total Units</b>
Pathway 1 (Separated)	90 units	160-170 units	250-260 units
Pathway 2 (Combined)	N/A	N/A	260-270 units

**Feedback from the Community Development Roundtable**

On September 16, 2021, the City hosted a Community Development Roundtable discussion with affordable and market rate housing developers and other real estate professionals to gather input on these parcels. The meeting was well attended and included representatives from Core Companies, Senior Lifestyles, Pacific Communities, James Sullivan Land Development, Jamboree Housing, BRIDGE Housing, Eden Housing, MidPen Housing, Charities Housing, and SV@Home. Several developers stated that combining the sites would be ideal. They said a larger site allows developers room to creatively design open space, parking, to move parcel boundaries, and to achieve economies of scale by doing only one entitlement process, sharing parking, and sharing emergency access. One developer said developing Parcel 1 separately as affordable

housing would be easier to finance with tax-credits while others thought it would be more efficient to master plan a larger site with two developer partners (one for 100% affordable and the other for a mixed-income project). Some noted that the City would need to take the timeline for Parcel 1 into consideration in order to determine best path forward.

The group also noted that for-profit developers may be less interested in a project with a ground lease, but affordable developers are experienced with ground leases. One attendee asked if the City was considering housing for first time homebuyers. Another noted that leased land was not compatible with homeownership projects. One attendee was concerned about locating housing on Parcel 1 adjacent to auto uses (Caliber Collision). Developers asked the City to set priorities for the site and partner with them to develop creative solutions.

### **Other Considerations**

Land Lease versus Land Sale: There are pros and cons to leasing or selling these parcels. A lease provides the city with long-term control over the land, allows the City to collect rent and ensure affordability for 55 years and often longer. Land leases are not compatible with homeownership housing and there may be fewer for-profit developers that are interested in developing on leased land.

Urban Park Space: A large amount of housing has been developed in the Metro Specific Plan area, but green space is still insufficient. City staff has identified the south Main Street parcels as a potential site for a small urban park of plaza. If the City Council agrees to include a small park, the City's consultants recommend placing it on Parcels 2 and 3 near ground floor retail and adjacent to a new east/west street connecting with Costa Street.

Environmental Clean Up: The City contracted with Padre Associates to complete a phase 1 environmental assessment. The study reviewed historic records of past uses of the site and surveyed the existing tenants for indicators of possible environmental pollution. The report recommended a phase 2 study and soil samples as there used to be a gas station on Parcel 3 and because surface contamination was observed. It is not yet clear how costly the clean-up might be but the higher the cost, the lower the value of the land if the City decides to sell any of the parcels.

Roads and Emergency Access: Dense development requires additional access points for emergency services. To facilitate dense development and maximize the developable space on these parcels, it will be important to extend Costa Street from Cedar Way north to Parcel 1. In addition, a new east/west street would likely be needed along the southern edge of Parcel 3.

### **Proposed Guiding Principles for Development/Disposition of Parcels**

Staff proposes the following principles to guide the development of a Request for Proposals and the Notice of Availability. Staff is seeking Council direction on the following proposed guiding principles.

#### **Parcel 1**

- Dispose of parcel in accordance with legal requirements (RDA Law)
- Develop higher density housing per planned land use in Metro Plan (parcels will be incorporated into Metro Area)
- Develop 100% affordable housing either on parcel or use funds to support other affordable housing projects if parcel is sold (for lower income households at 80% Area Median Income and below)
- Allow flexibility for affordable units to be rental or ownership units
- Leverage Parcels 2 + 3 for amenities and infrastructure

#### **Parcels 2+3**

- Retain land ownership through ground lease
- Develop parcels in accordance with legal requirements (Surplus Land Act)
- Dispose/develop parcels to maximize the City's return on investment

- Create a mix of higher density affordable and market rate housing
- Provide new neighborhood serving ground floor retail/services
- Provide new urban park or plaza

**Next Steps**

After City Council receives staff presentation and provides direction on guiding principles at this Special Meeting, City staff will schedule a community meeting to gather additional input. In the fall, staff will bring back a recommended approach that aligns with the adopted guiding principles for the development or disposition of the parcels. Once this approach is approved by Council, staff will move forward in accordance with Council direction.

**Fiscal Impact:**

There is no fiscal impact other than staff resources at this time. When staff returns with an approach to develop or dispose of one or more of these parcels, a fiscal analysis will be included.

**California Environmental Quality Act:**

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

**Recommendations:**

1. Receive staff presentation and provide direction on guiding principles for three City-owned parcels at 1432–1488 South Main Street.
2. Direct staff to bring back a recommended approach that aligns with the adopted guiding principles.

**Attachment:**

Location Map