

CITY OF YUBA CITY
STAFF REPORT

Date: November 1, 2022
To: Honorable Mayor & Members of the City Council;
From: Administration Department
Presentation By: Diana Langley, City Manager

Summary

Subject: Declaration of Surplus Land - City Properties
Recommendation: Adopt a Resolution declaring certain City-owned properties to be surplus land and direct the City Manager to follow the procedures set forth in the Surplus Land Act for the sale of such properties
Fiscal Impact: The City will ultimately receive proceeds from the sale of the surplus land

Purpose:

Declare certain City-owned properties as surplus land pursuant to the Surplus Land Act (Gov. Code §§ 54220-54232), and to offer such Surplus Land for sale.

Council's Strategic Goal:

This item supports Council's goal of fiscal responsibility as the disposition of the properties will allow them to be developed in the future, thereby increasing the property values and property taxes.

Background:

The Surplus Land Act (Act) governs the disposition of land owned by the City that is determined to be no longer necessary for the City's use. In 2019, Governor Newsom signed into law AB 1486, which significantly expanded the procedural requirements under the Act which a local agency must adhere to prior to selling or leasing properties it owns to a private party (and in some cases, another governmental agency). The legislation is intended to address California's shortage of affordable housing and impacts existing practices, adds new reporting requirements, and subjects agencies to penalties for non-compliance in certain circumstances. AB 1486 went into effect January 1, 2020.

The procedural requirements for disposal of Surplus Land under the Act pursuant to AB 1486 are as follows:

1. Surplus land is now defined to mean essentially all land owned by a city, successor agency, housing authority, joint powers authority, and other local agencies. Prior to any sale or lease of property, a local agency must formally declare land as either "surplus land" or "exempt surplus land" pursuant to a resolution and supported by written findings. The definition of "exempt surplus land" includes properties that are less than 5,000 sq. ft. in area, land that a local agency

exchanges for another property necessary for the agency's use, land transferred to another local, state, or federal agency (for that agency's use), land that is subject to recorded covenants (not imposed by the agency) that would make housing a prohibited use, among other factors. If the land has been declared as exempt, the agency need not comply with the following procedural requirements, however, the agency must send the resolution to the Department of Housing and Community Development ("HCD") prior to disposition.

2. Prior to selling or leasing any surplus land or even entering into negotiations for the sale/lease of surplus land with a prospective transferee, a local agency must first offer the property for sale or lease to a "housing sponsor" for affordable housing development by issuing a notice of availability (NOA). The term "housing sponsor" generally means an affordable housing developer (who has registered with HCD).
3. In addition to sending a NOA to housing sponsors for surplus land, a local agency must also send a NOA to any park or recreation department or regional park authority with jurisdiction over the area, school districts (if the land is suitable for school facilities), and the State Resources Agency (SRA), for purposes of park, recreation, or school facility development.
4. Any responding entity to the NOA (i.e., a housing sponsor, park or recreational department, school district or SRA) (Responding Entity) must notify the agency of its interest in purchasing or leasing the land within 60 days following receipt of the NOA.
5. If the price and terms cannot be agreed upon between the local agency and a Responding Entity within 90 days, the agency may then go forward to sell or lease the surplus land to a third party. However, the agency will still have to provide the HCD a description of the NOA sent and negotiations conducted with any Responding Entity.
6. In negotiations with any housing sponsor, the local agency must negotiate in good faith and cannot include deal terms that would reduce or disallow residential use of the site, even if it is not zoned for residential use (i.e., the housing sponsor must be able to pursue entitlements of the site for residential use). However, the Act does not subvert a City Council's land use discretionary authority; ultimately, the City Council may deny a zone change or entitlement request in its discretion. In addition, the agency is not required to sell or lease the land for less than its fair market value.
7. Note that the housing sponsor need not propose a development of the surplus land for 100% affordable units; the Act requires that they simply will agree to make available at least 25% of the total number of units developed on the property at an affordable housing cost or affordable rent.
8. If no housing sponsors respond to the NOA or if negotiations terminate and the land is later sold or leased to a market rate developer who builds more than 10 residential units, the Act requires that 15% must be sold or rented at an affordable cost or affordable rent to lower income individuals
9. The Act requires that the HCD must review the description submitted by the local agency pursuant to Section 5 and submit written findings to the agency within 30 days as to whether any process violations have occurred. If HCD does not respond within the 30-day time period, the local agency is not subject to any penalty under the Act. (These provisions take effect January 1, 2021 – so it is likely that the HCD will not provide such findings.)
10. Any violations of the Act are subject to harsh penalties; between 30 percent and 50 percent of the final sale price for the property. The HCD, Attorney General, and any beneficially interested entity may bring an action to enforce the Act.

Analysis:

Staff is requesting that the City Council formally designate and declare two City-owned properties, APN's 52-401-009 and 53-220-030, as "surplus land" as shown on Attachments 1 and 2. Attachment 2 reflects the two City-owned surplus properties that are the subject of this recommended action, as well as Successor Agency-owned parcels that were recently deemed to be surplus. With Council's

approval to designate the City-owned properties as surplus, staff will initiate the process to dispose of all of the properties in compliance with the Surplus Land Act.

Fiscal Impact:

The City will ultimately receive proceeds from the sale of the surplus land.

Alternatives:

Do not proceed with declaring any of the surplus land properties as surplus.

Recommendation:

Adopt a Resolution declaring certain City-owned properties to be Surplus Land and direct the City Manager to follow the procedures set forth in the Surplus Land Act for the sale of such properties.

Attachments:

1. Attachment 1 - Surplus Property List
2. Attachment 2 - Surplus Property Map
3. Attachment 3 - Resolution Surplus Properties 11-1-22

Prepared By:
Diana Langley
City Manager

Submitted By:
Diana Langley
City Manager

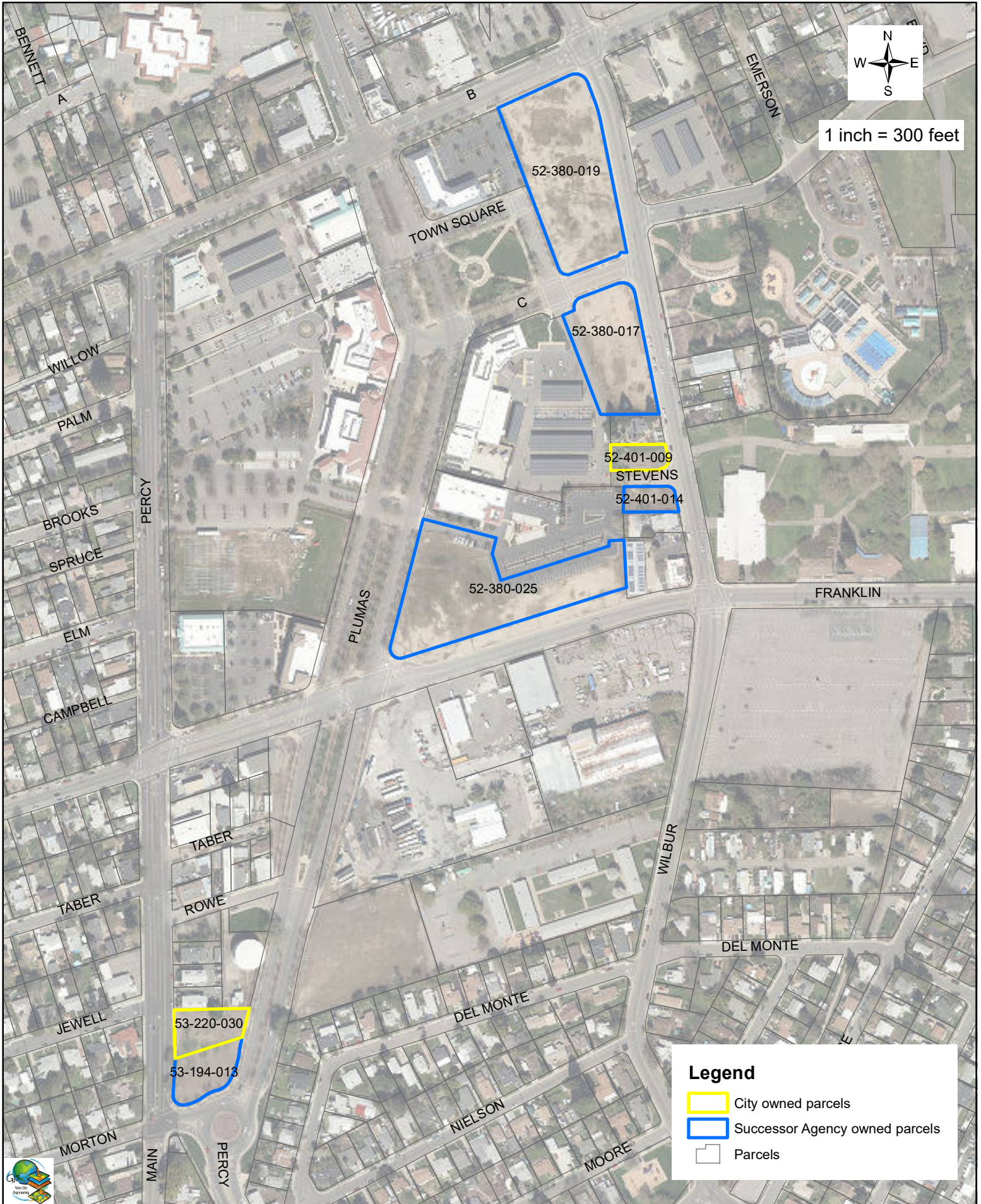
ATTACHMENT 1

City-Owned Real Properties

APN	Location	Acreage	Zoning	GP Designation	Environmental Status	Current Owner
52-401-009	356 Wilbur Avenue	0.19	C-O (SP)	Office & Office Park	Unknown - Nothing noted in Geotracker	City of Yuba City
53-220-030	265 Percy Avenue	0.42	C-O (SP)	Office & Office Park	Unknown - Nothing noted in Geotracker	City of Yuba City

ATTACHMENT 2

VICINITY MAP



ATTACHMENT 3

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
DECLARING CERTAIN CITY-OWNED REAL PROPERTIES TO BE SURPLUS LAND AND
DIRECTING THE CITY MANAGER TO FOLLOW THE PROCEDURES SET FORTH IN THE
SURPLUS LAND ACT FOR THE SALE OF SUCH PROPERTIES**

WHEREAS, under the Surplus Land Act, Government Code section 54220 *et seq.*, as amended on January 1, 2020 (the "Act"), surplus land is defined as "land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use"; and

WHEREAS, under the Act, real property owned by a local agency, must be declared as "surplus land" or "exempt surplus land" as supported by written findings prior to the local agency taking any action to dispose of it; and

WHEREAS, the Act authorizes the to sell surplus real properties in the manner proscribed therein; and

WHEREAS, the City of Yuba City (the "City") owns certain real properties (i) identified in Exhibit A attached hereto, consisting of vacant and undeveloped land (the "Surplus Properties"); and

WHEREAS, there is no present or contemplated use for these properties and therefore, they are surplus to the needs of the City as they are not intended to be used for any governmental purpose or operations; and

WHEREAS, the City has determined it would be in the best interest of the City to dispose of the Properties; and

WHEREAS, the City now desires to declare the Surplus Properties as surplus land under the Act and to offer and initiate the sale of such properties in accordance with the procedures under the Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YUBA CITY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council finds the above recitals are true and correct and incorporated herein by this reference.

Section 2. The City Council hereby finds and declares the Surplus Properties as surplus land under the Act, based on the written findings set forth below:

(a) The Surplus Properties have been determined to be no longer needed by the City for any governmental purpose.

(b) The City has no current or future plans to use the Surplus Properties for any agency/City work or operations or any other governmental purposes.

(c) Therefore, the Surplus Properties are not necessary for the agency's use and qualify as surplus land under the Act.

Section 4. The City Council hereby authorizes and directs the City Manager or his designee to send written notices of availability (“NOA”) and offer the Surplus Properties for sale to each of the public agencies and entities listed in Government Code section 54222, and to negotiate the terms of a proposed sale of the Surplus Properties with any such agency or entity that responds to the NOA, and to otherwise follow the procedures of the Act, as applicable to a proposed sale of the Surplus Property.

Section 5. In the event that none of the public agencies or entities listed in Government Code section 54222 offer to purchase one or more of the Properties, or if the City and a public agency or entity listed in Government Code section 54222 does not reach an agreement on the terms and conditions of purchase/sale, the City intends to offer the Properties for sale to the general public in compliance with the requirements and procedures under the Act.

Section 6. Any proposed agreement(s) for the sale of the Surplus Properties shall ultimately be subject to the approval of the City Council.

Section 7. The disposal of the Surplus Properties is exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to California Code of Regulation, Title 14, section 15312. However, if development was proposed on such properties by a subsequent buyer, then that development would be reviewed under CEQA.

Section 8. This resolution shall be effective on upon its adoption. The City Clerk shall certify the adoption of this Resolution.

The foregoing resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 1st day of November 2022.

AYES:

NOES:

ABSENT:

Dave Shaw, Mayor

ATTEST:

Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

Attachment(s):

Exhibit A – City-Owned Real Properties to be declared as Surplus

Exhibit A

City-Owned Real Properties to be Declared as Surplus

APN	Location	Acreage	Zoning	GP Designation
52-401-009	356 Wilbur Avenue	0.19	C-O (SP)	Office & Office Park
53-220-030	265 Percy Avenue	0.42	C-O (SP)	Office & Office Park