

A RESOLUTION OF THE OF THE CITY OF EUREKA CITY COUNCIL FINDING
THE SURPLUS OF CITY-OWNED LAND FORMERLY KNOWN AS THE 5TH AND
MYRTLE RIGHTS-OF-WAY IS EXEMPT FROM CEQA, AND DECLARING THE LAND
SURPLUS PROPERTY

WHEREAS, as a result of the 5th and R Street realignment, portions of the 5th and Myrtle rights-of-way became unnecessary for public road use; and

WHEREAS, the City of Eureka is proposing to surplus a closed portion of Myrtle Avenue and a closed segment of the 5th Street rights-of-way accepted from Caltrans in 2003, which are currently maintained by Pacific Outfitters as part of their parking lot and as a grassy area and entrance to their parking lot from 5th Street; and

WHEREAS, the Surplus Land Act (California Government Code [CGC] Section 54220 et seq.) requires Local Agencies, including the City, comply with the requirements of the Act before disposing of Surplus Land; and

WHEREAS, pursuant to CGC Section 54221(f)(2), because the parcel is located in the Coastal Zone, a written notice of availability of surplus land for open-space purposes must be sent to the State Resources Agency and to any city or county park or recreation department and any regional park authority having jurisdiction within the area in which the land is situated, and entities interested in purchasing or leasing the surplus land for open-space purposes will then have 60 days to notify the City of their interest, and if a notice of interest is received, the City must negotiate in good faith with the interested entity for a period of not less than 90 days; and

WHEREAS, pursuant to CGC Section 54221(f)(1)(E), no notice to, or negotiation with, housing sponsors is required because the land is comprised of former rights-of-way, and is anticipated to be sold to the owner of the contiguous parcel, Pacific Outfitters; and

WHEREAS, CGC Section 65402(a) requires the location, purpose, and extent of the proposed surplus be submitted to, and reported on by, the Planning Commission as to conformity with the adopted General Plan; and

WHEREAS, City of Eureka Policy and Procedure File 2.01, Sale of City Owned Real Property, requires the Planning Commission's review to determine whether the land is necessary for agency (City's) use; whether the land is of such size and shape to allow development of uses permitted in the zone in which it is located; and whether the disposition of the land is in conformance with CGC Section 65402; and

WHEREAS, on June 12, 2023, following public comment, the Planning Commission of the City of Eureka, by a vote of 5 to 0, adopted Resolution 2023-14, "A Resolution of the Planning Commission of the City of Eureka recommending the City Council determine the City-owned land formerly known as the 5th and Myrtle Rights-of-Way is surplus property"; and

WHEREAS, the decision to declare property surplus, and the subsequent lease or sale of surplus property is a “project” pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the surplus land should be approved subject to the following conditions:

- A. The City shall retain the appropriate utility easement as shown in Exhibits “C” and “D” of the document titled “Right-of-Way Vacation and Public Utilities Easement and Access,” prepared by Kenneth Johnston and dated February 22, 2023.
- B. The City shall first notice the availability of the land for open-space purposes, sending notice to the State Resources Agency and to any city or county park or recreation department and any regional park authority having jurisdiction within the area in which the land is situated.
- C. If the properties are not required by an appropriate agency for open-space purposes, the City Manager shall negotiate the sale of the property to the only adjacent property owner, Boss Development Corporation (AKA Pacific Outfitters).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUREKA, City-owned land formerly known as the 5th and Myrtle Rights-of-Way is declared surplus property on the following basis subject to the conditions listed above:

1. The land does not meet the definition of “agency’s use” in California Government Code Section 54221, and is therefore not necessary for the City’s use.
2. The land is covered by non-buildable City sewer and water easements, rendering it unsuitable for development.
3. The General Plan and Local Coastal Program are silent with regard to the necessity of retaining the land for City public use.
4. Declaring the property surplus does not conflict with, and is supported by, the adopted General Plan and Housing Element, and the Local Coastal Program.
5. The project is exempt from CEQA pursuant to CEQA Guidelines, Categorical Exemption 15312 (Class 12) because although the parcel is located in the Coastal Zone, the property does not have value for wildlife habitat or other environmental purposes, and future discretionary action for development on the site should qualify for a Class 1 (Existing Facilities) or a Class 32 (Infill Development Project) exemption from CEQA.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 1st day of August, 2023 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

Kim Bergel, Mayor of the City of Eureka

Attest:

Pamela J. Powell, City Clerk

Approved as to Administration:

Approved as to form:

Miles Slattery, City Manager

Autumn Luna, City Attorney