

**RESOLUTION NO. 2023-xx**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA  
RECOMMENDING THE CITY COUNCIL DETERMINE THE CITY-OWNED LAND  
FORMERLY KNOWN AS THE 5<sup>TH</sup> AND MYRTLE RIGHTS-OF-WAY IS SURPLUS  
PROPERTY**

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

**WHEREAS**, in 2003, the City accepted the right-of-way from Caltrans, but the property has not been vacated; and

**WHEREAS**, the City of Eureka is proposing to vacate and surplus the two portions of right-of-way; one is the “parking lot” portion and is approximately 9,050 square feet, and the second is the “triangular” piece which is roughly 1,175 sf; 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**, CGC 65402(a) requires the location, purpose, and extent of the land 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 201, 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 §65402; and

**WHEREAS**, pursuant to CGC 54221(c)(1), the definition of “agency’s use” for the purposes of surplus land includes, but is not limited to, land which is being used, or is planned to be used pursuant to a written plan adopted by the local agency’s governing board, or is disposed of, to support [...] agency work or operations, including, but not limited to, utility sites, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants; 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). CEQA Guidelines, Section 15312 can exempt the sale of surplus land unless the project is located in an area of Statewide, Regional or Local Significance, has significant values for wildlife habitat or other environmental purposes, is of a size, shape or inaccessibility which is incapable of independent development or use, or would not qualify for an exemption under any other class of categorical exemption under the CEQA Guidelines; and

**WHEREAS**, the Planning Commission of the City of Eureka has reviewed the subject application in accordance with California Government Code §65402, and after due consideration of all

testimony, evidence, and reports offered at the public hearing, does hereby find and report the following facts:

1. The land does not meet the definition of “agency’s use” in California Government Code 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. The project is exempt from CEQA pursuant to CEQA Guidelines, Categorical Exemption 15312 (Class 12) because the land is not located within an area of Statewide, Regional, or Area wide significance, has no wildlife habitat value, and future discretionary action for development on the site should qualify for a Class 1 (New Construction or Conversion of Small Structures) or a Class 32 (Infill Development Project) exemption from CEQA.
5. The Planning Commission recommends the City Council determine the property is surplus land pursuant to City of Eureka Policy and Procedure File 2.01 for the “Sale of City-Owned Real Property,” and California Government Code §65402.

**WHEREAS**, in the opinion of the Planning Commission of the City of Eureka, the proposed application to surplus land should be approved subject to the following condition:

- A. The City retain the appropriate utility easement as shown on Attachment 2, Right-of-Way Vacation and Public Utilities Easement and Access (C and D) of the Planning Commission Staff Report.

**NOW THEREFORE, BE IT RESOLVED** the Planning Commission of the City of Eureka does hereby recommend the City Council surplus the vacated 5<sup>th</sup> and Myrtle rights-of-way as proposed, subject to the condition listed above.

**PASSED, APPROVED AND ADOPTED** by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 12<sup>th</sup> day of June, 2023 by the following vote:

AYES: COMMISSIONER  
NOES: COMMISSIONER  
ABSENT: COMMISSIONER  
ABSTAIN: COMMISSIONER

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Meredith Maier, Chair, Planning Commission

*Attest:*

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Cristin Kenyon, Executive Secretary