



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT

3015 H Street • Eureka CA 95501
Phone: (707) 445-7541 • Fax: (707) 268-3792

Hearing Date: October 3, 2019

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **COUNTY OF HUMBOLDT General Plan Conformance Review**
Case Number PLN-2019-15821
Assessor's Parcel Number 015-111-008
2769 Lucas Street, Eureka Area

Table of Contents

Page

Agenda Item Transmittal	2
Executive Summary	3
Record of Action	6
Maps	
Location Map	7
Aerial Map	8
Zoning Map	9
Site Map and Exhibit A	10
Attachments	
Attachment 1: Staff Analysis of the Evidence Supporting the Required Findings	12
Attachment 2: Application requesting General Plan Conformance Review	15
Attachment 3: California Government Code Section 65402	16

Please contact Michelle Nielsen, Senior Planner, at (707) 268-3708 or email at mnielsen@co.humboldt.ca.us if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
October 3, 2019	General Plan Conformance	Michelle Nielsen

Project Description: A General Plan Conformance review for the County of Humboldt's disposal of APN 015-111-008. The site is currently undeveloped and is located within a forested, greenway gulch area known as "Third Slough.". The subject parcel has frontage on Lucas Street, a County maintained paved road. The parcel is in the Humboldt Community Services District water and sewer service area.

Project Location: The project is located in Humboldt County, in the Eureka area, on the north side of Lucas Street, approximately 250 feet west from the intersection of Myrtle Avenue and Lucas Street, on the property known as 2769 Lucas Street.

Present Plan Land Use Designations: Residential Medium Density, Slope Stability: Relatively Stable (0), and Low and Moderate Instability (1 and 2).

Present Zoning: Apartment Professional with combining zones for Special Building Site specifying a 6,000 square foot minimum parcel size, Greenway and Open Space, and Qualified (R-4-B-1/GO, Q).

Case Number: PLN-2019-15821

Assessor's Parcel Number: 015-111-008

Applicant/Owner

County of Humboldt, Dept. of Public Works
Attn: Tom DeAge
1106 2nd Street
Eureka, CA 95501

Agent

None

Environmental Review: General Plan conformance review pursuant to Government Code Section 65402(a) is not a project pursuant to the California Environmental Quality Act.

Major Issues: None

State Appeal Status: Project is NOT appealable to the California Coastal Commission

**COUNTY OF HUMBOLDT
GENERAL PLAN CONFORMANCE REVIEW**

Case No. 2019-PLN-15821
Assessor's Parcel Number 015-111-008

A report on conformance with the general plan is required under California Government Code Section 65402 when a local agency acts to acquire or dispose of real property or intends to construct a new public building or structure. The applicable code is included as Attachment 3 to this staff report.

Executive Summary: A General Plan Conformance review for the County of Humboldt's proposed disposal of APN 015-111-008, a 6.4 acre parcel of land located in the Eureka area. The parcel is largely vacant and undeveloped except for a structure located on the adjoining parcel to the east that encroaches over the property line. The encroachment is being addressed as part of the disposal process. The parcel has been used for camping by individuals experiencing homelessness. Also, illegal dumping has occurred on the property.

The property is located within an undeveloped, redwood forested, greenway gulch area known as "Third Slough." This gulch is one of three that run north to south through central Eureka. The Slough Greenway is approximately 1.5 miles in length, an average of 900 feet wide and connects to Eureka Slough to the north. The undeveloped property contains both redwood forest and wetland habitat. The Third Slough provides a low gradient drainage to Humboldt Bay. An ephemeral creek that is fed by a Lucas Street storm water culvert provides drainage for the site. The 2008 Feasibility Study prepared for the property identified the main challenge to developing the site are the wetlands and steep slopes present on the site.¹ Because of this, the parcel has two accessible developable pieces of land, with a gully separating them. The 1985 partial topographical survey prepared for parcel indicates a 25% slope break line for the entire parcel. Areas below that line are considered too steep for development at a reasonable cost or are considered to be wetland areas (Lucas Street Feasibility Study, p.7). The parcel's southerly property line abuts Lucas Street, a County-maintained paved road with a painted centerline stripe. The parcel is within the water and sewer service area of the Humboldt Community Services District, which has adequate capacity to serve future development on the property.

The subject parcel was purchased by the County in April 1916 for the purpose to expand of the old County Hospital, thus making the land General Fund Property. In 1962, the County sold a portion of the parcel to the Eureka Boys Club, which left the approximately 6.4 acre subject parcel. Later in 1962, the Board declared its intent to sell the parcel and it was queued up to be sold to the Eureka Boys Club for expansion of their facilities in June 1962. This sale was later rescinded because the offer to purchase was withdrawn. June 25, 1985 Board declared the parcel as surplus. As part of the 1985 surplus declaration, the parcel was to be evaluated to determine if it should be sold as is, or be developed and then sold. The next Board action occurred on January 23, 2018, when by a 4/5 vote, the Board authorized selling the subject parcel, and earmarked the sale proceeds to go to a trust fund for an affordable housing project.²

The subject parcel is in the Eureka Community Planning area and is planned and zoned for multifamily residential uses. Approximately 4.8 acres of the parcel are constrained due to wetlands, leaving 1.58 developable acres and a realistic capacity of 16 dwelling units over the entire parcel of land. Sixteen dwelling units is the development potential for the parcel identified in the 2019 Housing Element. The referenced feasibility study also explored a range of potential housing projects, and identified a preferred course of action for the development of approximately 20-32 affordable efficiency units and 2-4 first-time homebuyer homes.

¹ The feasibility study was paid for by Community Development Block Grant (CDBG) State program monies.

² The Housing Trust Fund and Homelessness Solutions Committee, the recipient for the earmarked sale proceeds, was established by the Board of Supervisors on February 27, 2018, by Resolution 18-14.

There are a number of regulations that essentially dictate the subject parcel be developed with a multifamily residential development. To begin with, the principally permitted uses of the Apartment Professional (R-4) zoning district are modified by the Qualified combining zone established by Ordinance No. 2472, adopted in February 2012. Only two family and multiple dwellings, and dwelling groups are principally permitted uses; other uses require a Use Permit. The subject parcel was included in the 2014 Housing Element Affordable Land Inventory, and again in the 2019 Housing Element Affordable Land Inventory. Since the adoption of Ordinance No. 2472, State housing law further limits the ability of jurisdictions to reduce density or allow development at a lower residential density than projected in the inventory. Jurisdictions are obligated to maintain an adequate inventory for its unmet RHNA share for moderate- and low-income households. [Reference Government Code Sections 65584 and 65863.] Written findings supported by substantial evidence must be made for all actions that reduce density or allow density reductions from the Housing Element density. The written findings that must be made are:

1. The reduction is consistent with the adopted general plan, including the housing element.
2. The remaining sites identified in the housing element are adequate to meet the requirements of Gov't Code Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Gov't Code Section 65584. The finding shall include a quantification of the remaining unmet need for the jurisdiction's share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level. The finding shall include a quantification of the remaining unmet need for the jurisdiction's share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.

Housing law dictates that jurisdictions evaluate all housing projects conformance with the identified density not only on a transactional basis but on a cumulative basis. Also, the policies and implementation measures compel the County to facilitate and partner with housing development proponents and actively seek financial incentives for affordable housing projects.

Additionally, because the parcel has been identified to accommodate housing for lower income households in two or more consecutive housing elements and has not received approval for development, it is subject to the provisions of Government Code 65583.2(c). This section requires jurisdictions to allow by-right approval for housing developments that include 20 percent or more of the housing units affordable to lower income households on subject parcels. The Humboldt County Zoning Regulations do not differentiate between market rate and affordable multifamily development.³ In other words, the County's Zoning Regulations already allow by-right approval for low income households.

Sale of the property is also governed by Government Code Section 54233. This section essentially requires that the successor-in-interest develop a portion of the housing units for affordable housing. More specifically, an entity that uses the property for the development of 10 or more residential units, no less 15 percent of the housing units are to be developed at affordable housing cost (for purchase) or affordable rent, to lower income households as defined in Health and Safe Code Sections 50052.3 and 50053, respectively. Further, the affordability requirements are to be contained in an enforceable covenant or restriction recorded against the property.

While the parcel has affordable housing development potential, State Constitution Article XXXIV prohibits jurisdictions from developing, owning, or managing a "low rent housing project" unless approved by a

³ Nonetheless, Housing Element implementation measure H-IM73 is for the amendment of the Zoning Regulations to enumerate housing development affordable to lower income households is a by-right approval in accordance with Government Code Section 65583.2(c) pursuant to technical input from State Housing and Community Development ("HCD").

majority of voters as part of a general or special election.⁴ In other words, while the property has development potential and appropriate zoning for affordable housing, absent an Article XXXIV initiative or referendum approved by a majority of voters, the County cannot develop, own, or operate housing on the parcel. At this time the County does not have a voter-approved Article XXXIV that would enable the County to undertake development of the property for housing. The 2019 Housing Element includes housing program H-IM26 that compels the County to undertake an Article XXXIV initiative should the State or local initiatives or referendums fail to progress or pass. As of this writing, Senate Constitution Amendment SCA-1 for the repeal of Article XXXIV is continuing to progress through the 2019 legislative session.

To summarize the regulatory context:

- Future development of the property is subject to the provisions of Gov't Code Section 65863 which requires ministerial and discretionary housing projects to meet the identified Housing Element density;
- Government Code Section 54233 requires a percentage of units be set aside for housing that is affordable lower income households; and
- The Qualified (Q) combining zone limits the principally permitted uses to two-family, multiple dwellings, and dwelling groups with all other uses are subject to a Use Permit.

When evaluated altogether, the parcel's regulatory context assures the parcel will be developed with multifamily housing and that a portion of the units will be affordable to low income households, and will be consistent with the 2019 Housing Element. Disposal of the property will not alter these requirements.

⁴ "Low rent housing project" shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise (Article XXXIV, Section 1).

**RECORD OF ACTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

**Case Number 2019-PLN-15821
Assessor's Parcel Number: 015-111-008**

County of Humboldt, Eureka area. A General Plan Conformance review for the County of Humboldt's proposed disposal of declared surplus property being a parcel of land approximately 6.4 acres in size known as APN 015-111-008.

Recommendation

- ☒ Find project to be in conformance with the General Plan based on findings in the staff report.
- ☐ Adopt finding that project does not conform with the General Plan for the reasons specified in the staff report.

Record of Action

- ☐ Adopt Planning Division's recommendation.
- ☐ Adopt Planning Division's recommendation with revisions as made by the Planning Commission.

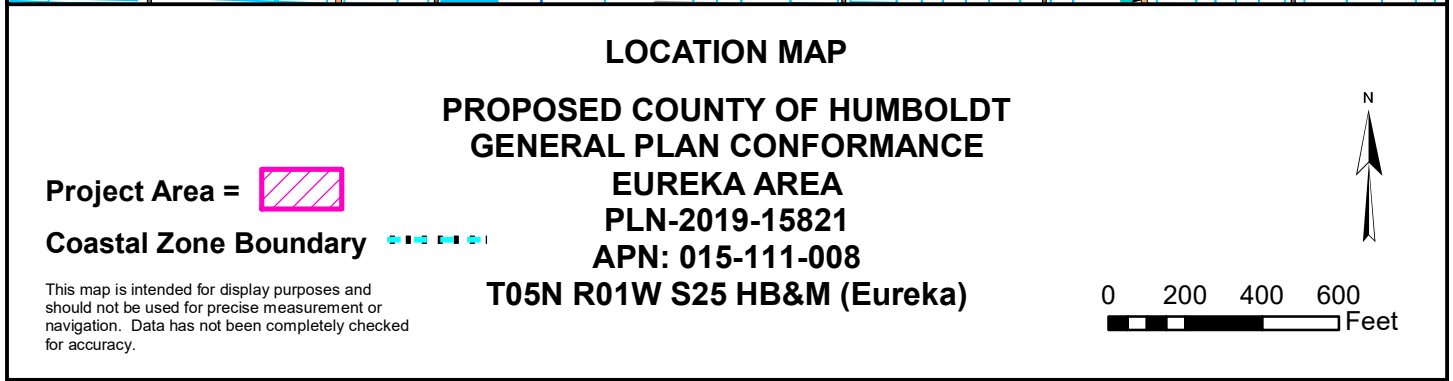
Adopted after review and consideration of all the evidence on October 3, 2019.

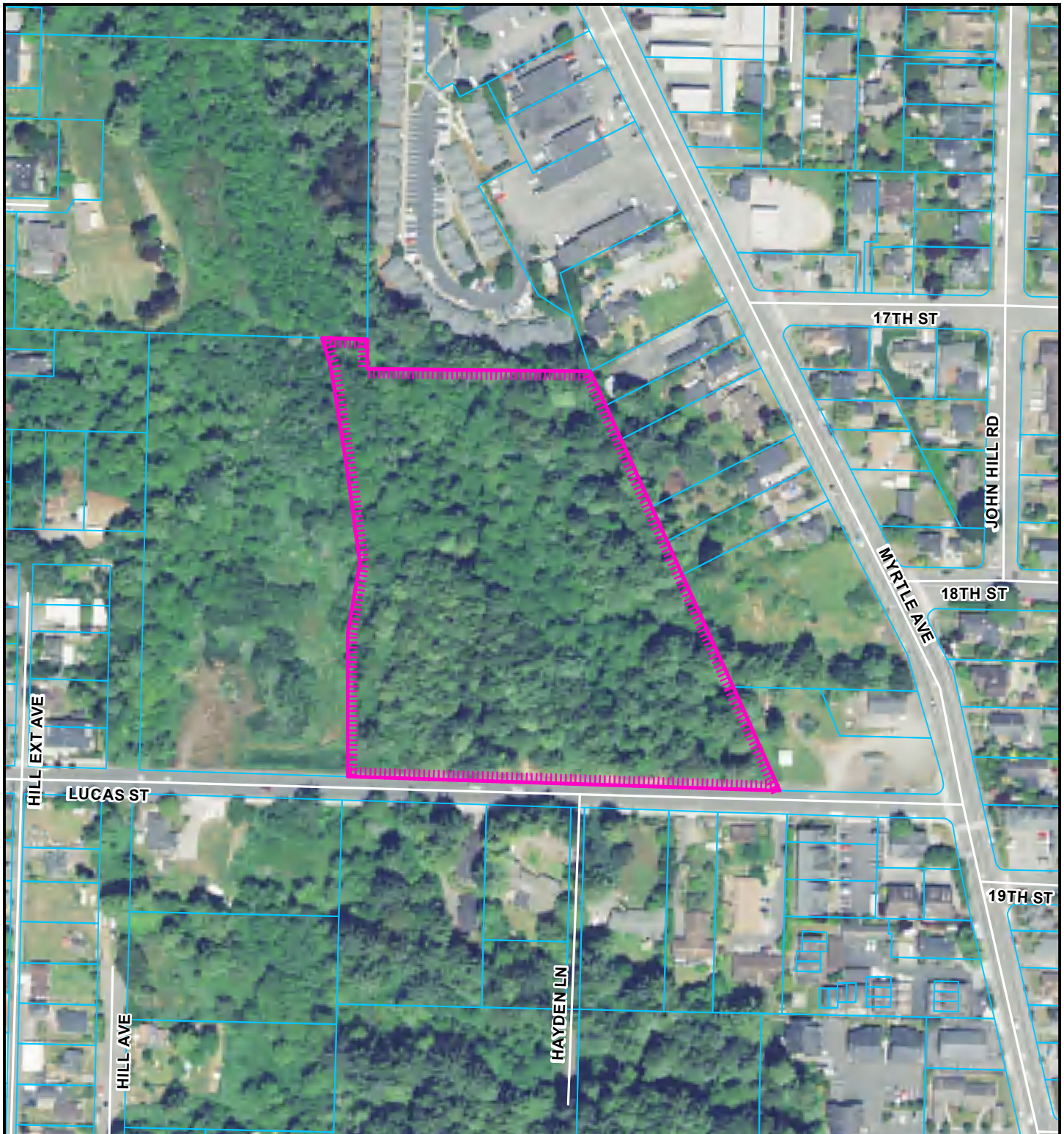
The motion was made by Commissioner _____ and seconded by Commissioner _____.

AYES: Commissioners:
NOES: Commissioners:
ABSTAIN: Commissioners:
ABSENT: Commissioners:
DECISION:

I, John H. Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

John H. Ford, Director
Planning and Building Department





AERIAL MAP

PROPOSED COUNTY OF HUMBOLDT GENERAL PLAN CONFORMANCE

EUREKA AREA

PLN-2019-15821


APN: 015-111-008

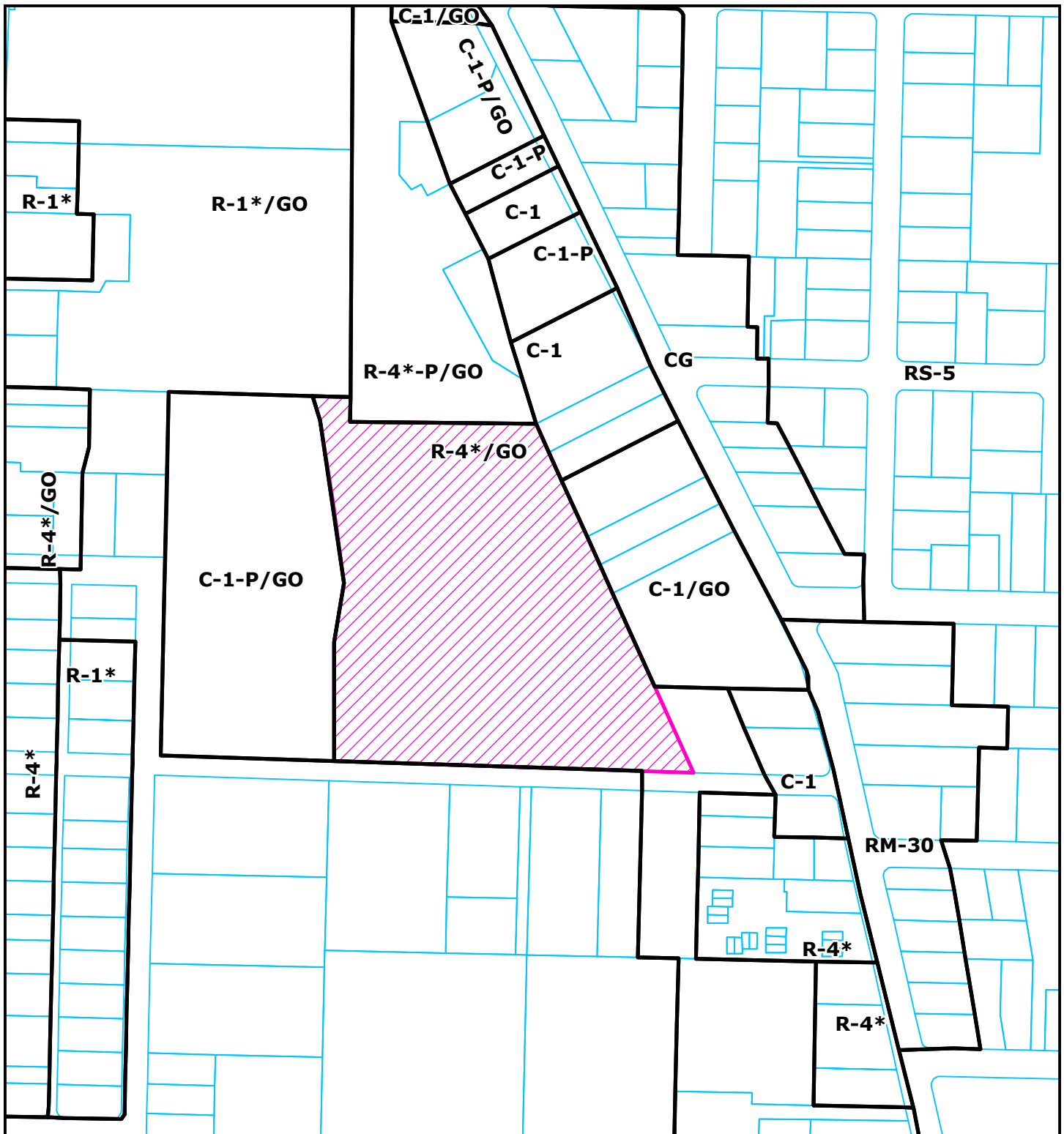
T05N R01W S25 HB&M (Eureka)

Project Area = 

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



0 50 100 150 200 250
 Feet



ZONING MAP

PROPOSED COUNTY OF HUMBOLDT GENERAL PLAN CONFORMANCE

EUREKA AREA

PLN-2019-15821

APN: 015-111-008

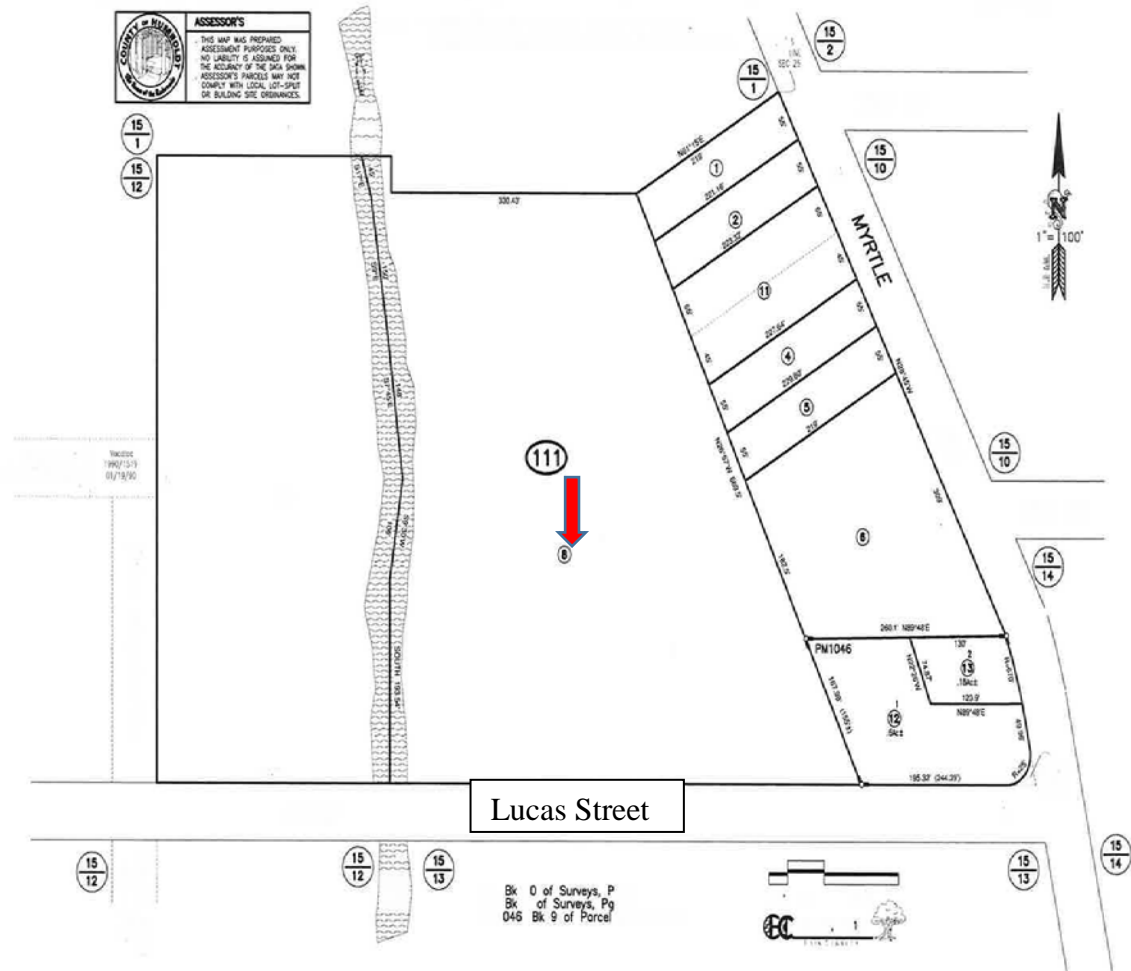
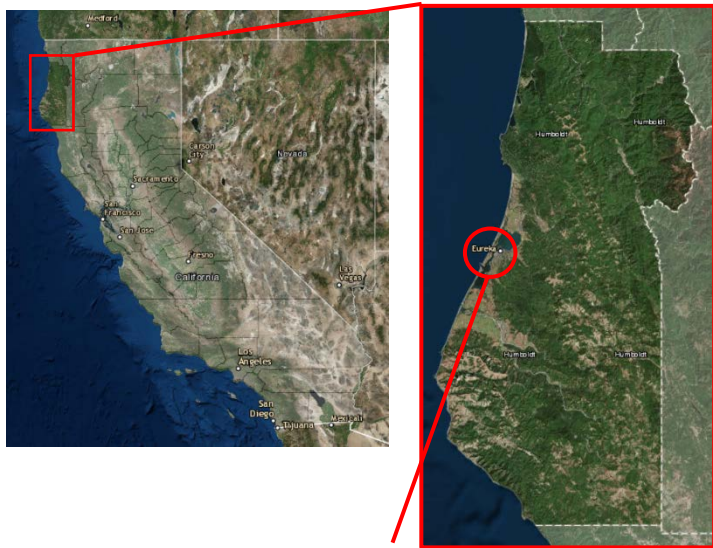
T05N R01W S25 HB&M (Eureka)

Project Area = 

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



0 100 200 300
Feet



Assessor Parcel Number 015-111-008 is located at 2769 Lucas Street in the unincorporated area of Eureka. It is undeveloped and was purchased by the county on April 11, 1916. On June 25, 1985, the Humboldt County Board of Supervisors declared the property to be surplus.

The property consists of approximately 6.4 acres. It is redwood forested, with a small ephemeral creek, and a greenway gulch area known as "Third Sough." The gulch is one of three similar geographic features that run north to south through central Eureka. The slough greenway is approximately 1.5 miles in length, an average of 900 feet in width and connects to the larger, Eureka Slough to the north. The property is approximately 0.75 miles south from Eureka Slough, through the gulch.

The property is located within a mixed-use residential, commercial area of Eureka and zoned as R-4. A portion of the property can be developed for housing.

Legal Description:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF HUMBOLDT, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

The parcel of land described in the deed from H.H. Woodcock and Netti C. Woodcock, husband and wife, to the County of Humboldt dated April 11, 1916 and recorded in Book 134 of Deeds at page 133, Humboldt County Records, excepting therefrom the parcel of land described in the deed from the County of Humboldt to Eureka Boys Club, Inc. by deed dated February 27, 1962 and recorded in Book 677 of Official Records at page 57, Humboldt County Records.

ATTACHMENT 1

STAFF ANALYSIS OF THE EVIDENCE SUPPORTING THE REQUIRED FINDINGS

Staff believes that the Planning Commission can find that the proposed project is consistent with the 2017 Humboldt County General Plan based on the following:

- A. All applicable goals, policies, standards, and implementation measures of the General Plan remain in full force.
- B. The parcel lies within the service jurisdiction of the Humboldt Community Services District and the Humboldt Bay Fire Protection District.
- C. The applicant will be responsible for obtaining all necessary Federal, State, and local permits, including necessary Building Permits from Humboldt County Planning and Building Department as applicable.
- D. Building permit applications must demonstrate conformance with the parcel's density as identified in the 2019 Housing Element in conformance with the 2019 Housing Element and State law.

The following table identifies the evidence which supports finding that the County of Humboldt's disposal of APN 015-111-008 is in conformance with all applicable policies and standards in the 2017 General Plan.

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Land Use Chapter 4 Residential Medium (RM) Density (GP) §4.8.1	The Residential Medium Density designation is used in areas with full urban services and where common-walled units and apartments are appropriate, including duplexes, townhouses, and apartments and manufactured home park developments. Design review can be used to ensure compatibility with neighborhood character.	The subject parcel is designated RM, and is undeveloped. Residential multifamily development, regardless of household income of occupants, is an allowed by-right use in the RM land use designation. The property's southerly property line abuts Lucas Street, a public road improved to better than a category 4 road. The parcel is in the Humboldt Community Services District service area, which has adequate water and sewer capacity to serve future multifamily development on the subject property.
Community Infrastructure and Services Chapter 5	Goals and Policies contained in this chapter relate to adequate public infrastructure and services as a foundation for growth and area essential for community health, safety and quality of life.	The subject parcel has direct access to a publicly maintained road, and is located within the service area of a provider with adequate capacity to serve future development. Future development would need to demonstrate conformance with the MS-4 regulations as part of the building permit application. The parcel is within the service area of Humboldt Bay Fire Protection District.

<p>Housing Element</p> <p>Chapter 8</p>	<p>Policies, Standards, and Implementation Measures for achieving target residential densities, incentivizing affordable housing production, promoting infill development, providing an adequate supply.</p>	<p>As discussed above, the subject parcel is included in the Affordable Land Inventory. This parcel is available for affordable residential development based on the realistic capacity (aka development potential) and zoning, and has a development potential of 16 units. The Qualified combining zone that applies to the parcel implements the Housing Element by restricting the principally permitted uses to two-family, multiple dwellings, and dwelling groups; all other uses are subject to a Use Permit. Future by-right development is subject to meeting 16 dwelling unit potential identified in the 2019 Housing Element inventory per Gov't Code §§ 65584 and 65863. When evaluated altogether, the parcel's regulatory context assures the parcel will be developed with multifamily housing and that a portion of the units will be affordable to low income households, and will be consistent with the 2019 Housing Element.</p>
<p>Conservation and Open Space</p> <p>Chapter 10</p> <p>Biological Resources Section 10.3</p> <p>Cultural Resources Section 10.6</p>	<p>Goals and Policies contained in this Chapter guides the use and protection of all the natural resources and open space assets of the county.</p> <p>Goals and Policies contained in this Section relate to the protection of cultural heritage, including historic, prehistoric, and archaeological resources.</p>	<p>There are mapped sensitive habitats on the subject parcel. These constraints were accounted for in the assessment of realistic development potential. Future ministerial applications must demonstrate avoidance and incorporate best management practices to minimize direct and indirect impacts to these resources.</p> <p>The disposal of the parcel would not impact any cultural resources. Should prehistoric, and archaeological resources be encountered during ground disturbance activities, State and Federal law obligates parties to stop activity, establish a buffer, and consult with the local tribes and archeologists. There are no historic structures present on the site.</p>

Safety Element	Goals and Policies contained in this Chapter identify hazards and hazard risk reduction policies to guide local decisions related to airport, geologic, flooding, and fire hazards.	The parcel is not located in an area subject to restrictions associated with a proximate airport.
Chapter 14		
Airport Safety		The site's seismic safety and slope stability ratings reflect the presence of the gulch area and slopes greater than 25 percent as discussed above. The slope stability ratings range from relatively stable, and low and moderate instability, i.e., "0", "1" and "2" The parcel is not within the Alquist-Priolo Fault Hazard Zone.
Geologic and Seismic	The principal airport/airspace/land use compatibility issues at most airports are noise, airspace, safety.	
Flooding		
Fire Hazards		The site is outside areas subject to flooding and tsunami hazards. The site is within the Humboldt Bay Fire Protection District.

Recommendation

Planning Staff recommends the Planning Commission find the proposed disposal of the declared surplus parcel to be in conformance with the General Plan.



Attachment 2

PLANNING APPLICATION FORM

Humboldt County Planning Department

Current Planning Division 3015 H Street Eureka, CA 95501-4484

Phone (707) 445-7541 Fax (707) 268-3792

INSTRUCTIONS:

1. Applicant/Agent complete Sections I, II and III below.
2. It is recommended that the Applicant/Agent schedule an Application Assistance meeting with the Assigned Planner. Meeting with the Assigned Planner will answer questions regarding application submittal requirements and help avoid processing delays. A small fee is required for this meeting.
3. Applicant/Agent needs to submit all items marked on the reverse side of this form.

SECTION I

APPLICANT (Project will be processed under Business name, if applicable.)

Business Name: County of Humboldt Public Works

Contact Person: Tom deAge

Mailing Address: 1106 Second St

City, St, Zip: Eureka CA 95501

Telephone: (707) 268-2667 Alt. Tel: _____

Email: tdeage1@co.humboldt.ca.us

AGENT (Communications from Department will be directed to agent)

Business Name: County of Humboldt Public Works

Contact Person: Tom deAge

Mailing Address: 1106 Second St

City, St, Zip: Eureka CA 95501

Telephone: (707) 268-2667 Alt. Tel: _____

Email: tdeage1@co.humboldt.ca.us

OWNER(S) OF RECORD (If different from applicant)

Owner's Name: County of Humboldt

Mailing Address: 1106 Second Street

City, St, Zip: Eureka CA 95501

Telephone: (707) 268-2667 Alt. Tel: _____

Owner's Name: _____

Mailing Address: _____

City, St, Zip: _____

Telephone: _____ Alt. Tel: _____

LOCATION OF PROJECT

Site Address: 2769 Lucas Street

Community Area: Eureka

Assessor's Parcel No(s): 015-111-008

Parcel Size (acres or sq. ft.): 6.74 acres

Is the proposed building or structure designed to be used for designing, producing, launching, maintaining, or storing nuclear weapons or the components of nuclear weapons? ☐ YES ☒ NO

SECTION II

PROJECT DESCRIPTION

Describe the proposed project (attach additional sheets as necessary):

The county purchased the subject parcel in 1916 for Ten Dollars (\$10) from the General Fund Land Account to provide expansion of the general hospital. Due to cost restraints, the parcel was never developed. In 1985, the Board of Supervisors declared the subject parcel surplus so as to accomplish various studies and reports to determine future use of the subject parcel. Various Housing Feasibility Studies and Environmental Site Assessments were performed between 2004 and 2009 on the subject parcel, with the scenario of affordable housing being the only feasible use. However, the results of these studies did not take into account the prohibitive construction costs as a result of construction in the given terrain, wetlands, green belt areas of the subject parcel, and was therefore abandoned.

On January 23, 2018, the Board made a final determination to transfer a hundred thousand dollars (\$100,000) from the proceeds of the sales as a contribution to a City of Eureka affordable housing project. The remaining proceeds will be used to pay for labor and fees associated with the sale, and a one-time deposit into the General Fund.

We, therefore request the sell of the subject lands be categorically exempt from environmental review.

SECTION III

OWNER'S AUTHORIZATION & ACKNOWLEDGEMENT

I hereby authorize the County of Humboldt to process this application for a development permit and further authorize the County of Humboldt and employees of the California Department of Fish and Wildlife to enter upon the property described above as reasonably necessary to evaluate the project. I also acknowledge that processing of applications that are not complete or do not contain truthful and accurate information will be delayed and may result in denial or revocation of approvals.

Tom deAge
Applicant Signature

9.10.19
Date

If the applicant is not the owner of record: I authorize the applicant/agent to file this application for a development permit and to represent me in all matters concerning the application.

Owner of Record Signature

Date

Owner of Record Signature

Date

ATTACHMENT 3

GOVERNMENT CODE SECTION 65402

- (a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body. If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonment for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonment for street widening, or alignment projects are of a minor nature.
- (b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.
- (c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency. Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.