

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 22-**

**CALLAHAN VARIANCE
PROJECT NUMBER PLN-2022-17770
ASSESSOR PARCEL NUMBER 513-181-010**

MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING THE CALLAHAN VARIANCE

WHEREAS, the owner submitted an application and evidence in support of approving the Variance request; and

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the Planning Division, the Lead Department pursuant to Section 202 of Resolution No. 77-29 of the Humboldt County Board of Supervisors, has determined that the project qualifies for use of the Class 3 exemption found in Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines; and

WHEREAS, a public notice was sent via mail to all owners and occupants of property within 300 feet of the boundaries of the project; and

WHEREAS, on November 3, 2022 a public hearing was held before the Humboldt County Planning Commission during which the Planning Commission reviewed, considered, and discussed the application and reviewed and considered all evidence and testimony presented at the hearing; and

NOW, THEREFORE, be it resolved, determined, and ordered that the Planning Commission makes the following findings:

PROJECT DESCRIPTION

- 1. FINDING:** A variance is being sought to allow a reduced building setback for a proposed new residence. The request seeks to reduce the setback to 5 feet from the eastern property line where a setback of 20 or 30 feet would ordinarily be required. A vegetation management easement will be granted over the adjoining parcel to allow for the maintenance of defensible space around the structure in the event of wildland fire. The parcel is currently developed with a well and septic system and an assortment of accessory structures. The project is categorically exempt from environmental review pursuant to the Class 3 exemption found in Section 15303(a) (New Construction of Small Structures) of the CEQA Guidelines. The project is located in Humboldt County, in the Westhaven area, on the North side of Driver Road, approximately 0.3 miles North from the intersection of Moonstone Cross and Driver Road, on the property known as 1107 Driver Road.

EVIDENCE: a) Project File: PLN-2022-17770

CEQA

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has considered the project and finds the proposed subdivision is exempt from the provisions of CEQA per Section 15303(a) (New Construction of Small Structures) of Article 19 (Categorical Exemptions) of the CEQA Guidelines.

EVIDENCE: a) The Class 3 exemption covers the construction and location of limited numbers of new small facilities or structures. In rural areas this includes one single-family residence or a second dwelling unit in a residential zone. The project involves a variance to enable development of new residence on a property that is currently developed with an assortment of accessory structures. The residence will be replacing a prior home that had fallen into disrepair and was demolished in 2020. A project can be disqualified from using a Categorical Exemption if any of the exceptions listed in 15300.2 apply. However, none of these exceptions apply to the proposed project.

312-1.1.2 Legal Lot Requirement

- 3. FINDING:** The lot that was created in compliance with all applicable state and local subdivision regulations.

EVIDENCE: A Mobile Home Use Permit was approved in 1972 and a building permit for an electrical service upgrade was issued in 2014. The current shape and size of the parcel matches the shape/size evident in the earliest Assessor Map books.

Variances - §312-3.2

- 4. FINDING:** Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

EVIDENCE: a) The subject property is 2.78 acres in size and host to numerous accessory structures. Because the parcel includes the Special Building Site (B-5) Combining Zone and is over 2.5 acres in size, a side yard setback of 30 feet is required. Parcels with the B-5 zoning that under 2.5 acres in size enjoy a side-yard setback of only 5 feet. The base zoning district (Residential Suburban – RS) requires side yard setbacks of only 5 feet, regardless of parcel size. The site of the proposed home was previously host to an earlier residence constructed in roughly the same location in the 1940's. By 2020, the residence had fallen into disrepair and was dismantled in 2020. But for the fact that demolition occurred under the volition of the current owner, the structure would be eligible for repair, one for one structural alterations, as well as replacement in the event it was damaged by casualty. Enlargement may also be permitted provided it doesn't worsen the nonconformance. Because the property is over 1-acre in size and located within a State Responsibility Area for Fire Protection, a 30-foot setback would ordinarily be required from all property lines. A vegetation management easement will be granted over the adjoining parcel to allow for the maintenance of defensible

space around the structure in the event of wildland fire. This type of approach provides the same practical effect as it provides a minimum of 30-feet of defensible space around the structure. These factors represent special circumstances which make the situation unique. Execution of the fuel modification easement has been included as a Condition of Approval and will ensure that the reduced setback will not result in increased fire risk and the home will appear to be in keeping with the established development pattern and standards.

- 5. FINDING:** Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

EVIDENCE: a) A review of development in the vicinity reveals that the neighboring parcel to the west hosts a structure which appears to be located approximately 5 feet from the westerly property line associated with the side yard setback.

- 6. FINDING:** A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

EVIDENCE a) The variance would only affect the required setback –the proposed residential use is principally permitted in the Residential Suburban zone.

FINDINGS APPLICABLE TO ALL PERMITS

- 7. FINDING:** The proposed development is in conformance with the County General Plan.

EVIDENCE: a) The proposed development is consistent with the Residential Estates (RE) land use designation. The project will result in new residential development. The RE designation (Chapter 4.8, 1 Land Use Designations) is used for areas or rural communities with limited public services that are suitable for residential use. Single family units on individual lots are the dominant use, but the development of an Accessory Dwelling Unit or Guest House is also allowed. The Density Range is 1 unit per 2.5-5 acres. As the proposal will result in replacement of an existing residence with a new one, no change in density will result. Therefore, the project is in conformance with the County General Plan (Chapter 4, Land Use Element).

b) Clustering policies are explicitly encouraged to assist in buffering adjacent resource production or open space uses. The project seeks permission to reduce setback to enable siting of the home closer to the front of the property. This is in keeping with the policies of the plan and will help ensure the maximum amount of open space is preserved.

- 8. FINDING:** The proposed development is consistent with the purposes of the existing Residential Suburban (RS) zone in which the site is located.

EVIDENCE: a) The property zoning designation of Residential Suburban with Special Building Site Combining Zone (RS-B-5) includes single-family residential and accessory dwelling units as a principally permitted use. While the

proposed setback is less than the minimum distance ordinarily required for the B-5 zone, it complies with the requirements for the base zoning district (Residential Suburban – RS). The setback reduction will facilitate clustering of development and maximization of open space.

- 9. FINDING:** The proposed variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE: a) The proposed variance will allow for reduction of a side-yard setback to facilitate redevelopment of a parcel and allow replacement of a qualified non-conforming residence with a new home. The property owner abutting the property line associated with the requested setback reduction is supportive of the project and has verbally agreed to grant an easement for fuels modification to enable the project to comply with the defensible space requirements of the State Firesafe Regulations. Given the project enjoys the support of the property owner most affected by the variance, it is unlikely that the project can be viewed as detrimental to the public health, safety, and welfare nor materially injurious to properties or improvements in the vicinity.

- 10. FINDING:** The proposed subdivision with possible future development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE: a) The parcel's General Plan land use designation (RE 2.5-5) and zoning [RS-B-5 (2.5)] allow residential development. The project will positively impact compliance with Housing Element law as it will result in the redevelopment and replacement of a dilapidated home in compliance with the current density range which requires 2.5-5 acres per dwelling unit. The proposed development is therefore consistent with the Humboldt County General Plan (Section 4.8, RESIDENTIAL ESTATES (RE)).

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

1. Adopt the findings set forth in this resolution; and
2. Approves the Variance (Record Number; PLN-2022-17770) based on the evidence referenced, described, and provided herein and as well as those materials found within the project record, subject to the attached conditions of approval.

Adopted after review and consideration of all of the evidence on **November 3, 2022.**

The motion was made by Commissioner _____
and Seconded by Commissioner _____

AYES:

NOES:

ABSTAIN:

ABSENT:

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