

July 21, 2025

To: Humboldt County Planning Commission
From: Larry and Eileen Henderson
Re: PLN-2025-19178 Henderson PMS

This letter addresses disagreement with the Planning Department's representation regarding a Planning Commission and Board of Supervisors directive to update the Jacoby Creek Community Plan (JCCP).

In July 2020, the Planning Commission considered the Planning Department's Draft Accessory Dwelling Unit (ADU) Ordinance for approval for adoption by the Board of Supervisors.

That ordinance allows ADUs to be permitted on all parcels in all areas when standards for public health and safety are met. But Planning's draft of the proposed ordinance specifically excluded the Jacoby Creek Area, requiring instead that ADUs "comply with the 5-acre minimum density limit as provided in the Jacoby Creek Community Plan (JCCP)."

The proposed exclusion would have the effect of requiring ADUs on parcels under 5 acres in the Jacoby Creek Community to connect to public water and sewer in order to be permitted. Following public opposition—due to the lack of available public services in the JCCP area—the Commission approved the draft ordinance without this requirement.

The Commission found that the proposed ordinance, with the deletion of this requirement, was consistent with the General Plan, and recommended the Board of Supervisors approve the ordinance without the requirement. The Board concurred with the Commission's findings and recommendations and proceeded to adopt the ADU with the modification recommended by the Commission.

In addition to recommending approval of the ordinance without the requirement, the Commission further recommended that the Board direct the Planning Department "**To update the Jacoby Creek Community Plan to refine the residential density limitations while also protecting water quality in the area.**" The Board adopted this recommendation with a change to explicitly reference JCCP Policy 26. The final directive to staff was "**To update the Jacoby Creek Community Plan Policy JCCP-P26, Residential Densities, to refine the residential density limitations while also protecting water quality in the area.**"

The directive was issued in 2020. To date, the update of the JCCP has not been initiated.

The Department explained (see Exhibit A) that it did not update the JCCP because it "will not solve the problem." When asked for clarification, the Department replied (attached as Exhibit B) that the directive was specifically related to ADU's and not to subdivisions, and there are JCCP policies other than Policy 26 that present problems for my proposed subdivision.

In my view, that explanation neither answers the question nor justifies the Department's failure to update the JCCP or even seek a resolution. Why was there a 5-year delay despite knowing and admitting there was a problem to be solved... not just my problem, but a community problem?

Yes, my wife and I want to split our property and the JCCP 5-acre minimum density limit is a problem. If the property was located elsewhere in the County, the split would be consistent with the General Plan and permitted. The restriction is unnecessary and unjustified, especially since parcels under 5 acres can meet water supply and wastewater standards without waivers, making the restriction redundant.

And yes, we disagree with the Planning Department; the directive to update the JCCP involved more than just Policy 26 and ADUs.

JCCP Policy 26

In its Executive Summary to the Planning Commission, the Planning Department's description of the Commission's changes to the draft ADU ordinance included the following:

69.05.6(g) (page 8 of the draft). The following Special Permit provision was struck:
~~(f) Within the Jacoby Creek area, ADUs must comply with the 5 acre minimum density limits as provided in the Jacoby Creek Community Plan, Appendix C of the General Plan.~~
Jacoby Creek Community Plan Review. In addition, the Commission recommended that the Board direct staff to update the Jacoby Creek Community Plan to refine the density limitations while also protecting water quality in the area.

And, the Department's draft resolution of approval included the following:

WHEREAS, the Planning Commission, in response to public comments and as a result of its review recommends the Board of Supervisors direct the Planning Department to update the Jacoby Creek Community Plan to refine the residential density limitations while also protecting water quality in the area;

The Planning Commission approved the ADU without modification of the draft resolution.

However, in its staff report to the Board of Supervisors, the Planning Department reported that the Planning Commission's recommended directive to staff was "**to update the Jacoby Creek Community Plan Policy JCCP-P26, Residential Densities, to refine the residential density limitations while also protecting water quality in the area.**" The Policy-26 reference was added as part of the Commission's recommendation, despite the Planning Commission not explicitly citing Policy JCCP-P26 or any other JCCP policy in its action.

Consequently, when the Board adopted the ordinance as recommended by the Planning Commission, it incorporated the Commission's directive to update the JCCP—but as described by the Planning Department, limited solely to the specified Policy-26.

The Planning Department has not explained why only Policy-26, and no other relevant policies, was added to its account of the Planning Commission's actions. There were, in fact, other JCCP policies that were referenced in the record and testimony. I think the Department intended to clarify the directive but erred by citing only one JCCP policy as an example instead of referencing all pertinent policies, resulting in a misrepresentation of the Commission's actions.

Of importance, however, is that the record and video of the Board hearing show that the Board was not informed about how or why the Planning Department's proposed directive differed from the Planning Commission's recommended directive.

In this context, the Board's adoption of the Commission's recommendations—particularly without addressing the difference between the recommended and proposed directives—should not be interpreted as a conditional approval that restricts the JCCP update to a single policy, but rather as support for updating all relevant policies as was, I believe, intended by the Commission.

ADUs vs. Subdivisions

According to Planning, a review of *the* Planning Commission meeting video indicates that “the record is clear that (the) discussion and direction was related to ADU's only.” I also reviewed the videos (there were five Commission hearings and one Board hearing), as well as all the written testimony from the public, and I reached a different conclusion: the consideration of the JCCP 5-acre minimum density limit encompassed more than just ADUs.

The public testimony overwhelmingly addressed the restriction of projects—including but not limited to ADUs—that do not have access to the required services. The theme I heard and saw of the Planning Commission's consideration was whether the 5-acre residential density limit—as a general restriction rather than any particular policy—was erroneous. The record, in its entirety, clearly shows that:

- The JCCP 5-acre residential density limit was “predicated” on public services being provided by the City or District.
- Both the City and District were on record that these services are unavailable and will not be provided.

- Enforcing the restriction when the required services are not available acts as a development moratorium for the area.
- Removing the restriction allows development otherwise permitted elsewhere by the General Plan.

Regardless, both the Planning Commission and Board of Supervisors have already acted on this matter. They both found the ordinance—absent Planning’s proposed 5-acre JCCP requirement—to be consistent with the General Plan. For the purpose of allowing ADUs to be permitted on all parcels in all areas when standards for public health and safety are met, no further action or JCCP updates are needed.

Accordingly, the directive to update the JCCP was issued for reasons unrelated to the ADU. The only reasonable reason was that the Commissioners and Supervisors believed that the JCCP 5-acre minimum density limit was erroneous and should be corrected. Moreover, they would not have directed that the JCCP be amended to address only one erroneous policy if there were others as well.

Conclusion

It cannot be denied that the Planning Commission and Board of Supervisors found the JCCP 5-acre residential density limit to be erroneous. They intended for the JCCP to be updated to fix the problem of enforcing a 5-acre residential density limit where the “required” services are not and will not be available.

Updating the JCCP as directed would fix the problem. However, the correct remedy is General Plan Policy G-P9 (Errors in the Plan) that authorizes approval of a project that is otherwise consistent with the General Plan, even if an error in the Plan would otherwise prevent the project’s approval.

The Planning Department continues to reject and obstruct projects that conflict with the JCCP 5-acre minimum density limit, citing inconsistency with the General Plan because of the conflict. This is wrong, causes undue hardships, and needs to be corrected.



Larry Henderson <henderson95524@gmail.com>

RE: Henderson Subdivision

1 message

Estlow, Trevor <TEstlow@co.humboldt.ca.us>

Mon, Mar 17, 2025 at 12:55 PM

To: Kim Preston <kpreston@omsberg.com>

Cc: Larry Henderson <henderson95524@gmail.com>, Kimberley Clark <kclark@omsberg.com>, Larry Henderson <lhenderson@eureka.ca.gov>, "Johnson, Cliff" <CJohnson@co.humboldt.ca.us>

Hi Kim-

I discussed this with Rodney, who then discussed it with Director Ford. They reviewed the information provided, and while we appreciate the identification of the Board Resolution directing staff to update the Jacoby Creek Community Plan Policy JCCP-P26, it does not address the further limitation of subdivision on lands designated as Residential Estates under JCCP-P39 (see below).

JCCP-P39. Subdivision of Land Designated Residential Estates. No new subdivision or minor subdivision which creates parcels of less than five acres shall be approved on lands designated as Residential Estates until a public water system is available to such lands. .

Acting on P26 alone will not solve the problem. Given that staff was not directed to address P39, we will still have a very clear policy that prohibits the creation of parcels less than five acres in size with a Residential Estates land use designation. Therefore, our direction will be to move forward to the Planning Commission with a recommendation of denial as outlined in my first letter dated February 14, 2025.

Please let me know if you have any questions, or have additional information,

Thanks.

-Trevor



Larry Henderson <henderson95524@gmail.com>

RE: Henderson Subdivision

1 message

Johnson, Cliff <CJohnson@co.humboldt.ca.us>

Mon, Jul 21, 2025 at 9:16 AM

To: Larry Henderson <henderson95524@gmail.com>, "Estlow, Trevor" <TEstlow@co.humboldt.ca.us>

Hello Larry,

I thought I would offer a reply as there is quite a bit that needs clarification.

The discussion at the Planning Commission when adopting the ADU ordinance was specifically related to ADU's. The Planning Commission determined that ADU's should be allowed on less than 5-acre parcels in the Jacoby Creek Community Plan. It's a bit of a leap to insinuate that this means that the Planning Commission and the Board wanted to allow subdivisions to be allowed on less than 5-acre parcels. We have gone back and watched the Planning Commission meeting as well and disagree with your characterization that this Planning Commission action related to more than ADU's. The record is clear that this discussion and direction was related to ADU's only.

Further I want to be clear that Trevor's email did not say the Department is ignoring the directive as you suggest. As Trevor explained, the problem with your proposed subdivision is much larger than the single policy. Namely, there are other policies that were not discussed in the July 2020 Planning Commission meeting that present problems for your proposed subdivision.

Lastly, it is not true that the Department rejects projects that conflict with the direction of the Planning Commission and the Board. ADU's are able to be permitted in the Jacoby Creek Community Plan area, as directed by the Planning Commission and Board. As we have previously discussed, you will have the opportunity to present all of your arguments to the Planning Commission.

I hope that this helps.

Cliff Johnson, Planning Manager

County of Humboldt Planning and Building Department

3015 H Street

Eureka, CA 95501

Date: July 25, 2025
To: Humboldt County Planning Department
From: Larry and Eileen Henderson
Re: PLN-2025-19178 Henderson PMS

We request your recommendation for approval of our proposed subdivision of our 4.6-acre parcel into two parcels, one with an existing residence and one for a new residence with approved private water supply and sewage systems.

Specifically, we ask for your recommendation that the Planning Commission take the following actions:

1. Find that (a) there is an obvious error in the Jacoby Creek Community Plan due to changed conditions; (b) the error is preventing approval of the proposed subdivision; and (c) the proposed subdivision is otherwise compatible and therefore consistent with the General Plan.
2. Grant the variance to the applicable minimum lot size and lot size modification requirements.
3. Approve the subdivision subject to recommended conditions, with notation of the error in the Plan and the authorization to act on the matter under General Plan Policy G-P9 (Errors in the Plan).
4. Refer the error of the Jacoby Creek Community Plan to the next available set of General Plan amendments.

Error in the Plan. Reasons for finding that there is an obvious error in the Jacoby Creek Community Plan due to changed conditions:

1. According to policies in the General Plan, such as GP-P2, GP-P3, GP-S4, and GP-IM2, Urban Development Areas (UDAs) within Community Planning Areas are defined as lands that can be developed in the near term to a density of one or more dwelling units per acre and serviced with public water and sewer.
2. The Jacoby Creek Community Plan (JCCP) includes policies, such as JCCP-P26 and -P27, that set a 5-acre density limitation for its Urban Development Areas, allowing development at designated plan densities only when public water and sewer services are available.
3. The requirement for public water and sewer services is predicated by JCCP-P25 on either the City of Arcata or the Jacoby Creek County Water District providing the required services.
4. The City of Arcata is on record (*Source: Joe Mateer, Senior Planner, Arcata Community Development Department, 10/14/2024*) that its Urban Service Area has been changed to

July 25, 2025
To Humboldt County Planning Department
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Re PLN-2025-19178 Henderson PMS

now include only a limited portion of the JCCP-designated UDA, and that the City “has no intention of providing” water or sewerage services to the UDA outside the City’s Urban Service Area.

5. The JCCP’s ongoing requirement for public water and sewer services where they now are unavailable in UDAs is in error, as it cannot be fulfilled.

Effect on Subdivision. Reasons for finding that the error is preventing approval of the proposed subdivision:

1. The proposed subdivision would create two parcels smaller than 5 acres, to be served by private water supply and sewage systems rather than public water and sewer services.
2. Under the JCCP 5-acre UDA density limitation, subdivisions not served with public water and sewer are not allowed.

General Plan Consistency. Reasons for finding that the proposed subdivision is otherwise consistent with the General Plan.

1. The unincorporated Golf Course Road neighborhood, where the subject property is situated, is a residentially developed area located between the City of Arcata and the Baywood Golf Course, with parcel sizes averaging 1.8 acres in size—below both the JCCP 5-acre UDA limit and the zoning minimum of 2.5 acres.
2. The neighborhood lies in the segment of the JCCP UDA where Arcata “has no intention of providing” water or sewer services, and it is also outside the Jacoby Creek County Water District.
3. The subject property and its adjacent northern property, together over 11 acres, are the largest and only subdividable parcels in the neighborhood.
4. Subdividing the two adjacent parcels into a total of four parcels averaging 2.6 acres in size, as permitted by the applicable 2.5-acre minimum parcel size zoning classification, would be infill as it completes the current pattern of neighborhood development.
5. Infill development in the Golf Course Road neighborhood would be compatible with the General Plan, as it does not create or compound any conflicts with the Plan except for the conflict with the JCCP 5-acre UDA limit, which is now invalid as the restriction was predicated on an underlying requirement that can no longer be met.
6. Section 66473.5 of the Subdivision Map Act provides that “*a subdivision shall be consistent (with the General Plan) when it is compatible with*” the Plan.

Variance. Reasons for granting the variance to the applicable minimum lot size and lot size modification requirements:

July 25, 2025

To Humboldt County Planning Department

From Larry and Eileen Henderson

Re PLN-2025-19178 Henderson PMS

1. The proposed division of the 4.6-acre parcel meets zoning requirements with the exception of the minimum lot size rule and the prerequisite for lot size modification, as dividing the property into two lots with an average minimum of 2.5 acres under RS zoning would require the original parcel to be at least 5.0 acres.
2. A zoning variance can be granted if special circumstances prevent a property from enjoying the privileges of neighboring properties, without granting special privileges or allowing unauthorized uses.
3. The property's limited size and unique configuration, due to its history, are special circumstances distinguishing it in the neighborhood and necessitating a variance.
4. Without the variance, the property cannot be subdivided—a privilege that has been afforded to all other properties in the neighborhood and will also apply to the adjacent northern parcel.
5. The variance allows the property to be split into two parcels averaging 2.3 acres, which is not a special privilege, as it exceeds the neighborhood average of 1.8 acres and no other properties in the neighborhood, except for the adjacent northern parcel, can be subdivided.
6. The variance does not permit an unauthorized use or activity, nor cause adverse impacts.

Approval of Subdivision: Reasons for approving the subdivision subject to recommended conditions, with notation of the error in the Plan and the authorization to act on the matter under General Plan Policy G-P9 (Errors in the Plan).

1. Although the proposed subdivision conflicts with the Jacoby Creek Community Plan 5-acre UDA density limit, it may be approved under General Plan Policy G-P9 (Errors in the Plan) as the restriction is an obvious error, and the subdivision is otherwise compatible and therefore consistent with the General Plan.
2. The proposed subdivision is exempt from the provisions of CEQA per Section 15183 (Projects Consistent with a Community Plan or Zoning) of Article 12 (Special Situations) of the CEQA Guidelines.
3. The two proposed parcels are suitable for their intended uses and in conformance with the zoning and subdivision regulations.
4. Approval of the subdivision, subject to recommended conditions, will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

July 25, 2025

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Referring for Plan Amendment. Reasons for referring the error of the Jacoby Creek Community Plan to the next available set of General Plan amendments:

1. The error with the JCCP 5-acre UDA density limit can significantly impact public interests and individual rights.
2. Amendment of the Plan to correct the error is crucial for ensuring accountability and fairness.

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