

## POSITION FOR VARIANCE

Larry and Eileen Henderson propose to divide their 4.6-acre property into two lots of 1.4 and 3.2 acres.

The property is located in the unincorporated Golf Course Road neighborhood, between the City of Arcata and the Baywood Golf Course. The parcel is currently zoned with a classification of Residential Suburban (RS) with combining acreage restriction of 2.5-acre minimum parcel size.

The proposed 1.4-acre lot is 56% smaller than the 2.5-acre minimum lot size of the applicable zoning classification.

Although lots of not less than 50% of the minimum lot size are permissible under HCC 325-11 (*Minimum Lot Size Modification*), a variance would be required for the proposed parcel split because not all the terms of HCC 325-11 for qualifying for lot-size modification can be satisfied. This is because the area of the subject property in the before condition (4.6 acres), divided by the total number of lots to be created (2), does not result in an average area equal to or greater than that required (2.5 acres).

The granting of variances from the terms of the zoning ordinance is permitted and regulated under HCC 312-3.2 as authorized by CGC 65906. The tests are:

1. Variances 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.
2. 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.
3. 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.

The variance would be permissible. There are special circumstances applicable to the property. The proposed subdivision is consistent and not inconsistent with privileges enjoyed by other property owners in the vicinity. The new residential development is allowed under the zone district and conforms with the existing development in the immediate neighborhood.

### Special circumstances

The proposed parcel split effectively equates to the phased subdivision of a 10-acre parcel into four 2.5-acre parcels.

The proposed 1.4-acre Lot 1 (APN 500-201-003) was originally a separate lawful parcel of land but was combined in 1975 with adjacent property. (Shown as Parcels 1 and 2 on 5PM72) The total acreage of the combined property was 11.2 acres.

This parcel was redivided into two parcels per 5PM72, then reconfigured in 1984 per 20PM67, and again in 1987 by Lot Line Adjustment (LLA 18-86), resulting in the present-day configuration of subject 4.55-acre property (Parcel 1) and associated neighboring 6.6-acre property (Parcel 2) as shown on the inset of the Tentative Parcel Map submitted with the application (copy attached for reference). Parcel 1 was sized smaller than 5 acres to accommodate special circumstances applicable to the original parcel's topography for locating building sites, and to conform to existing fence-lines of occupation.

The two parcels were envisioned as the first of a two-phased 4-lot subdivision of the larger 11.2-acre parcel. The concept was (using the minimum lot-size modification concept ) to split the 11.2-acre parcel into two parcels that would in turn, over time, separately be split into two lots... where the average of all four lots would be more than 2.5 acres. It was expected that at least one lot (proposed Lot 1) would be smaller than the 2.5-acre minimum to conform to its original configuration and existing features.

The special circumstances are that while the original concept would have been permitted under minimum lot-size modification provisions and practices of that time, today it does not. The subject property, by itself, is too small to be split into two lots of 2.5 acres or larger. Currently the provisions require that "each and every map filed must stand on its own as to the requirements." This was not considered with the original subdivision, and consequently strict application of the provision makes the proposed subdivision unqualified for lot-size modification.

### Consistency with privileges

Granting the variance would not constitute a special privilege granted exclusively for the proposed subdivision.

The subject property is part of the developed, unincorporated neighborhood of Golf Course Road properties between the City of Arcata and the Baywood Golf Course. The neighborhood is zoned with a classification of Residential Suburban (RS) with combining acreage restriction of 2.5-acre minimum parcel size. The subject 4.6-acre property is the largest parcel of land in the neighborhood, and no other parcels are subdividable under the zoning classification.

To the contrary, denial of the variance would deny the applicants privilege enjoyed by other properties in the neighborhood. The average size of the developed parcels in the neighborhood is 2.1 acres (see attached Variance Ex. A – Avg Size of Developed Parcels). The average size of the proposed two lots is 2.3 acres.

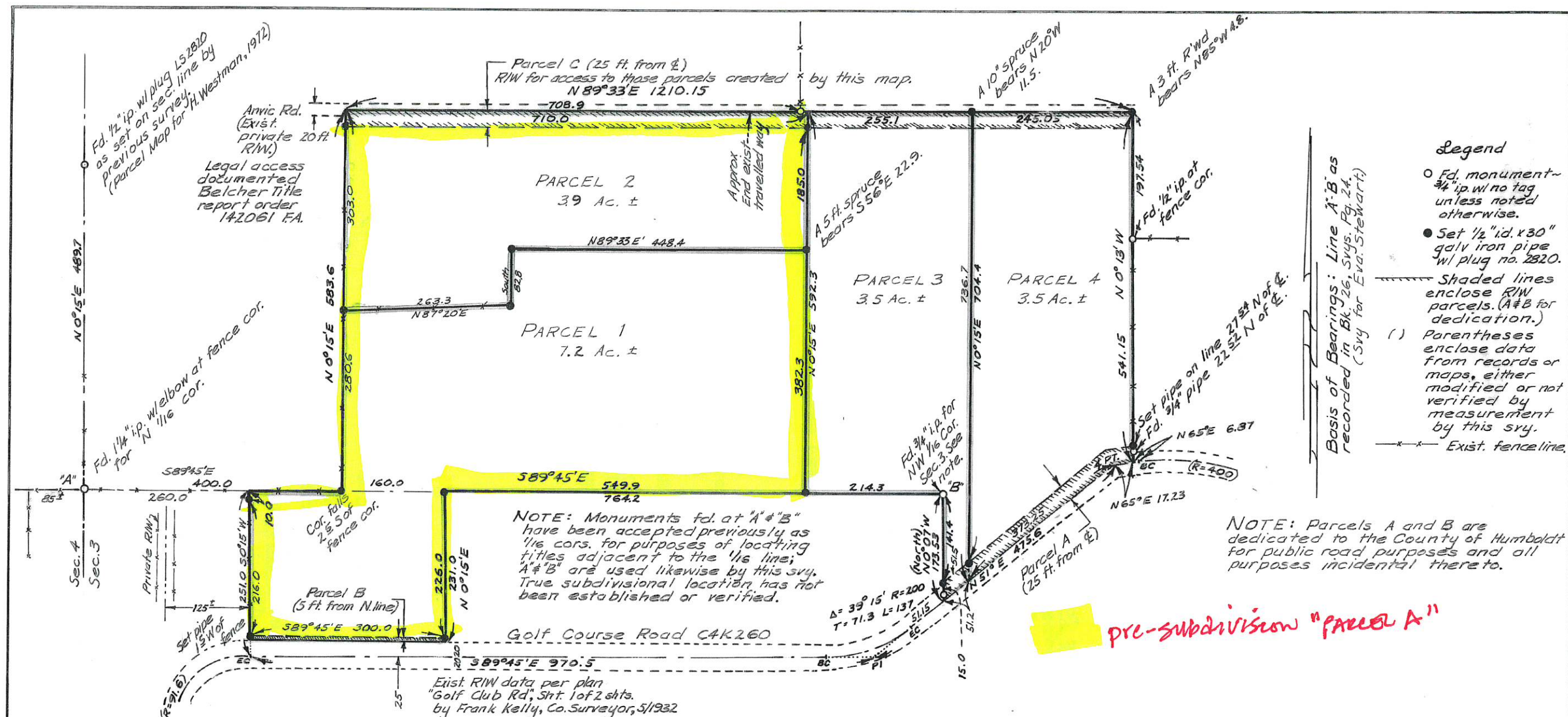
Compliance with authorized land use

The variance would not enable an expressly unauthorized use or activity. Suburban type residential development—as proposed—is allowed under the zone district.

The two proposed 2.3-acre average lots match the development in the neighborhood. They neither create nor compound conflict in the existing neighborhood character of small rural residential lots.

Further, the proposed design continues the neighborhood pattern of conforming to existing natural and man-made features. The smaller lot (Lot 1) not only fits to the lot's original configuration, but it also reflects its current identity as a vacant homesite separate from the existing neighboring homesites, including that of the larger lot (Lot 2).





- Legend**
- Fd. monument - 3/4" ip. w/ no tag unless noted otherwise.
  - Set 1/2" i.d. x 30" galv iron pipe w/ plug no. 2820.
  - Shaded lines enclose R/W parcels. (A & B for dedication.)
  - ( ) Parentheses enclose data from records or maps, either modified or not verified by measurement by this svy.
  - Exist. fence line.

Basis of Bearings: Line A-B as recorded in Bk J 26, Svys. Pg. 24, (Svy for Eva. Stewart)

NOTE: Parcels A and B are dedicated to the County of Humboldt for public road purposes and all purposes incidental thereto.

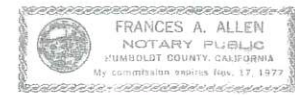
pre-subdivision "Parcel A"

NOTE: Monuments fcl. at "A" & "B" have been accepted previously as 1/16 cor. for purposes of locating titles adjacent to the 1/16 line; A & B are used likewise by this svy. True subdivisional location has not been established or verified.

Exist. R/W data per plan "Golf Club Rd", Sht. 1 of 2 shts. by Frank Kelly, Co. Surveyor, 5/1932

**Owner's Consent**  
Know All Men By These Presents:  
That the undersigned, being a party having a record title interest in the real property being subdivided by this map, do hereby consent to the preparation and recordation of this map.  
Dated this 3<sup>rd</sup> day of July, 1975... Pauline M. McHugh

**Acknowledgment**  
STATE OF CALIFORNIA  
COUNTY OF Humboldt  
On this 3<sup>rd</sup> day of July, 1975, in the year 1975, before me FRANCIS A. ALLEN a Notary Public, State of California, duly commissioned and sworn, personally appeared Pauline M. McHugh, known to me (or proved to me on the oath of ...) to be the person(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that (he, she or they) executed the same.  
In Witness Whereof I have hereunto set my hand and affixed my official seal in the County of Humboldt, the day and year first above written.  
Francis A. Allen  
Notary Public, State of California  
My Commission expires 11/12/77.



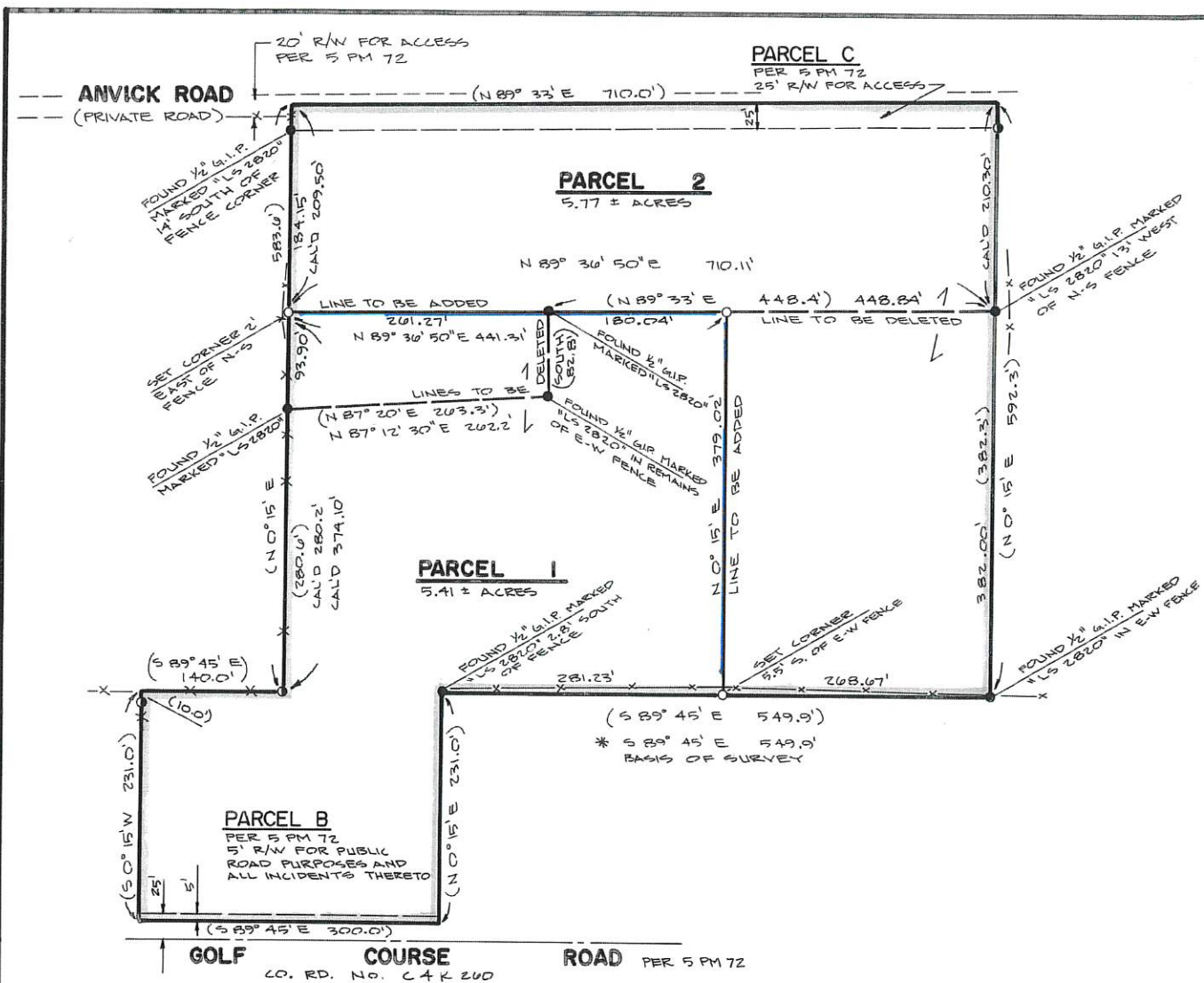
**County Surveyor's Certificate**  
This map conforms with the requirements of the Subdivision Map Act and local ordinance. Dated 23 JULY 1975  
Hugh E. Kelly  
Humboldt County Surveyor  
12408

**Recorder's Certificate**  
Filed this 29<sup>th</sup> day of July, 1975, at 2:37 P.M. in Book 5 of Parcel Maps, at Page 72, Humboldt County Records, at the request of Hugh E. Kelly.  
Grace Jackson  
Humboldt County Recorder  
By Gulab B. Bhatia Deputy  
Fee \$5.00

**PARCEL MAP NO. 596**  
FOR  
**PAULINE M. McHUGH**  
IN  
**SEC. 3, T5N, R1E, H.M.**  
April, 1975 Scale: 1"=100'  
**Surveyor's Certificate**  
This map was prepared by me or under my direction and is based upon a field survey in conformance with the requirements of the Subdivision Map Act at the request of Pauline McHugh in Sept. 1974. I hereby certify that it conforms to the approved tentative map and the conditions of approval thereof.  
Hugh E. Kelly  
STATE LICENSED LAND SURVEYOR NO. 2820

CERIFICATE OF CORRECTION, see Book 1385 of Official Records, page 162, Grace Jackson, Recorder of Humboldt County, by Mary Sharp, Deputy





#### BASIS OF SURVEY

\* THE BASIS OF THIS SURVEY IS PARCEL MAP No. 590, RECORDED IN BK. 5 P.M., PG. 72

#### LEGEND

- ① MONUMENTS PER BOOK 5 OF PARCEL MAPS, PAGE 72, FOUND AND NOT TIED ON THIS SURVEY.
- ② MONUMENTS PER BOOK 5 OF PARCEL MAPS, PAGE 72, FOUND AND USED BY THIS SURVEY.
- ③ 1" G.I.P. W/PLASTIC PLUG STAMPED "RCE 28465", SET BY THIS SURVEY.
- ( ) RECORD INFORMATION PER BK. 5 P.M., PG. 72

THIS MAP IS A RE-SUBDIVISION OF PARCELS 1 AND 2 OF PARCEL MAP No. 590, RECORDED IN BK. 5 P.M., PG. 72, HUMBOLDT COUNTY RECORDS, PER GOVERNMENT CODE 00499.20.

#### NOTE

COVENANTS OF PUBLIC RECORD PERTAINING TO PARCEL B & PARCEL C.

PARCEL B- EASEMENT RECORDED IN BOOK 1299, PAGE 369, OF OFFICIAL RECORDS.

PARCEL C- NON-EXCLUSIVE RIGHT OF WAY RECORDED IN BOOK 191, PAGE 281, OF DEEDS

EASEMENT RECORDED IN BOOK 1383, PAGE 52, OF OFFICIAL RECORDS

EASEMENT RECORDED IN BOOK 1383, PAGE 58, OF OFFICIAL RECORDS

#### OWNER'S CONSENT

KNOW ALL MEN BY THESE PRESENTS

THAT THE UNDERSIGNED, BEING A PARTY HAVING A RECORD TITLE INTEREST IN THE REAL PROPERTY BEING SUBDIVIDED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND RECORDED OF THIS MAP.

DATED THIS 5TH DAY OF JULY, 1984

% Eileen M. Henderson  
EILEEN M. HENDERSON

#### ACKNOWLEDGEMENT

STATE OF Calif., COUNTY OF Humboldt, ss. ON THIS 5th DAY OF July, IN THE YEAR 1984, Eileen M. Henderson, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT ACKNOWLEDGED THAT SHE EXECUTED IT.

IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND AND AFFIXED MY OFFICIAL SEAL IN THE COUNTY OF Humboldt, THE DAY AND YEAR ON THIS CERTIFICATE FIRST ABOVE WRITTEN.

Charlotte Cudney  
NOTARY PUBLIC, STATE OF Calif.  
COMMISSION EXPIRES 9-12-87



#### OWNER'S CONSENT

KNOW ALL MEN BY THESE PRESENTS

THAT THE UNDERSIGNED, BEING A PARTY HAVING A RECORD TITLE INTEREST IN THE REAL PROPERTY BEING SUBDIVIDED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND RECORDED OF THIS MAP.

DATED THIS 26th DAY OF July, 1984

% John P. McHugh  
JOHN P. McHUGH

#### ACKNOWLEDGEMENT

STATE OF Calif., COUNTY OF Humboldt, ss. ON THIS 26th DAY OF July, IN THE YEAR 1984, John P. McHugh, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, ACKNOWLEDGED THAT HE EXECUTED IT.

IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND AND AFFIXED MY OFFICIAL SEAL IN THE COUNTY OF Humboldt, THE DAY AND YEAR ON THIS CERTIFICATE FIRST ABOVE WRITTEN.

Charlotte Cudney  
NOTARY PUBLIC, STATE OF  
COMMISSION EXPIRES 9-12-87



#### SURVEYOR'S CERTIFICATE

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF JOHN P. McHUGH & EILEEN M. HENDERSON ON FEB. 1984. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY. I FURTHER STATE THAT ALL MONUMENTS ARE OF THE CHARACTER, AND OCCUPY THE POSITIONS INDICATED, AND THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

SIGNED Robert L. Chandler  
ROBERT L. CHANDLER  
R.C.E. 28465



#### COUNTY SURVEYOR'S CERTIFICATE

THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE.

DATED December 8, 1984

SIGNED Robert L. Chandler  
COUNTY SURVEYOR

22961

#### COUNTY RECORDER'S CERTIFICATE

FILED THIS 11th DAY OF DECEMBER, 1984, AT 11:41 P.M. IN BOOK 20 OF PARCEL MAPS, AT PAGE 67, AT THE REQUEST OF CHANDLER ENGINEERING.

SIGNED Grace Jackson  
COUNTY RECORDER, HUMBOLDT COUNTY

FEE \$6.00

#### PARCEL MAP No. 2301

FOR

JOHN P. McHUGH  
EILEEN M. HENDERSON

SEC 3, T5N, R1E H.M.

COUNTY OF HUMBOLDT, STATE OF CALIFORNIA  
BAYSIDE

SCALE: 1" = 100'

DATE: FEBRUARY 1984

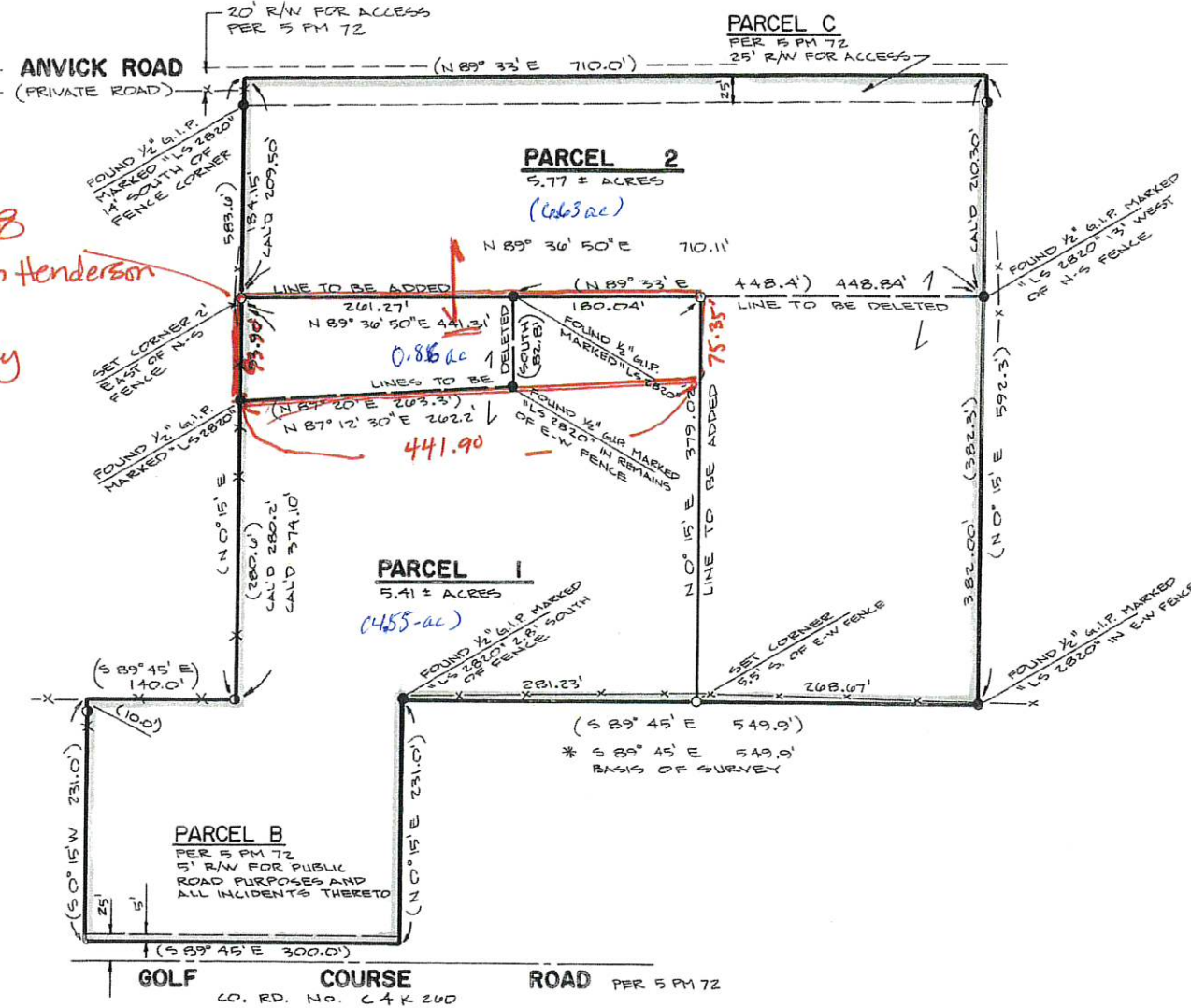
CHANDLER ENGINEERING  
611 L ST. EUREKA, CALIF. (707)445-8988

SHEET 1 of 1

BOOK 20 OF PARCEL MAPS, PAGE 67



JUNE 8, 1988  
Larry & Eileen Henderson  
to  
Michael & Shelley Morrison  
1876-72



**BASIS OF SURVEY**

\* THE BASIS OF THIS SURVEY IS PARCEL MAP No. 596, RECORDED IN BK. 5 P.M., Pg. 72

**LEGEND**

- ① MONUMENTS PER BOOK 5 OF PARCEL MAPS, PAGE 72, FOUND AND NOT TIED ON THIS SURVEY.
- ② MONUMENTS PER BOOK 5 OF PARCEL MAPS, PAGE 72, FOUND AND USED BY THIS SURVEY.
- ③ 1" G.I.P. W/ PLASTIC PLUG STAMPED "RLE 28405", SET BY THIS SURVEY.
- ( ) RECORDED INFORMATION PER BK. 5 P.M., Pg. 72

THIS MAP IS A RE-SUBDIVISION OF PARCELS 1 AND 2 OF PARCEL MAP No. 596, RECORDED IN BK. 5 P.M., Pg. 72, HUMBOLDT COUNTY RECORDS, PER GOVERNMENT CODE 06499.202.

**NOTE**

COVENANTS OF PUBLIC RECORD PERTAINING TO PARCEL B & PARCEL C.  
**PARCEL B -** EASEMENT RECORDED IN BOOK 1299, PAGE 369, OF OFFICIAL RECORDS.  
**PARCEL C -** NON-EXCLUSIVE RIGHT OF WAY RECORDED IN BOOK 191, PAGE 231, OF DEEDS  
 EASEMENT RECORDED IN BOOK 1383, PAGE 52, OF OFFICIAL RECORDS  
 EASEMENT RECORDED IN BOOK 1383, PAGE 58, OF OFFICIAL RECORDS

**OWNER'S CONSENT**

KNOW ALL MEN BY THESE PRESENTS  
 THAT THE UNDERSIGNED, BEING A PARTY HAVING A RECORD TITLE INTEREST IN THE REAL PROPERTY BEING SUBDIVIDED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP.  
 DATED THIS 5TH DAY OF JULY, 1984  
 % Eileen M. Henderson  
 EILEEN M. HENDERSON

**ACKNOWLEDGEMENT**

STATE OF Calif., COUNTY OF Humboldt, ss. ON THIS 5th DAY OF July, IN THE YEAR 1984  
Eileen M. Henderson, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, ACKNOWLEDGED THAT SHE EXECUTED IT.  
 IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND AND AFFIXED MY OFFICIAL SEAL IN THE COUNTY OF Humboldt, THE DAY AND YEAR ON THIS CERTIFICATE FIRST ABOVE WRITTEN.

Charlotte Cudney  
 NOTARY PUBLIC, STATE OF Calif.  
 COMMISSION EXPIRES 9-12-87

**OWNER'S CONSENT**

KNOW ALL MEN BY THESE PRESENTS  
 THAT THE UNDERSIGNED, BEING A PARTY HAVING A RECORD TITLE INTEREST IN THE REAL PROPERTY BEING SUBDIVIDED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP.  
 DATED THIS 20th DAY OF July, 1984  
 % John P. McHugh  
 JOHN P. MCHUGH

**ACKNOWLEDGEMENT**

STATE OF Calif., COUNTY OF Humboldt, ss. ON THIS 20th DAY OF July, IN THE YEAR 1984  
John P. McHugh, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, ACKNOWLEDGED THAT HE EXECUTED IT.  
 IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND AND AFFIXED MY OFFICIAL SEAL IN THE COUNTY OF Humboldt, THE DAY AND YEAR ON THIS CERTIFICATE FIRST ABOVE WRITTEN.

Charlotte Cudney  
 NOTARY PUBLIC, STATE OF Calif.  
 COMMISSION EXPIRES 9-12-87

**SURVEYOR'S CERTIFICATE**

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF JOHN P. MCHUGH & EILEEN M. HENDERSON ON FEB. 1984. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY. I FURTHER STATE THAT ALL MONUMENTS ARE OF THE CHARACTER, AND OCCUPY THE POSITIONS INDICATED, AND THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

SIGNED Robert L. Chandler  
 ROBERT L. CHANDLER  
 R.C.E. 28465



**COUNTY SURVEYOR'S CERTIFICATE**

THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE.  
 DATED December 8, 1984  
 SIGNED Charles Stiller  
 COUNTY SURVEYOR

**COUNTY RECORDER'S CERTIFICATE**

FILED THIS 11th DAY OF December, 1984, AT 11:41 A.M.  
 IN BOOK 20 OF PARCEL MAPS, AT PAGE 67  
 AT THE REQUEST OF CHANDLER ENGINEERING.  
 SIGNED Grace Jackson  
 COUNTY RECORDER, HUMBOLDT COUNTY

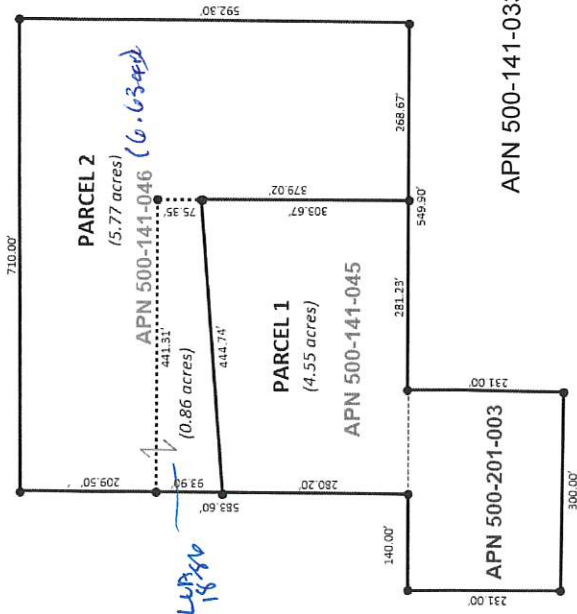
**PARCEL MAP No. 2301**  
 FOR  
**JOHN P. MCHUGH**  
**EILEEN M. HENDERSON**  
 SEC 3, T5N, R1E H.M.  
 COUNTY OF HUMBOLDT, STATE OF CALIFORNIA  
 BAYSIDE

SCALE: 1" = 100' DATE: FEBRUARY 1984  
 CHANDLER ENGINEERING  
 611 L ST. EUREKA, CALIF. (707)445-8988

LLA-18-86  
 Final Comp

20 PM 67-Knotes





This is a subdivision of Parcel 1 of Parcel Map 2301 (Humboldt County, 20 PM 67) as altered by lot line adjustment certified by Notice and Certification 7622 (Humboldt County, 1832 OR 920). (LUA 1886)

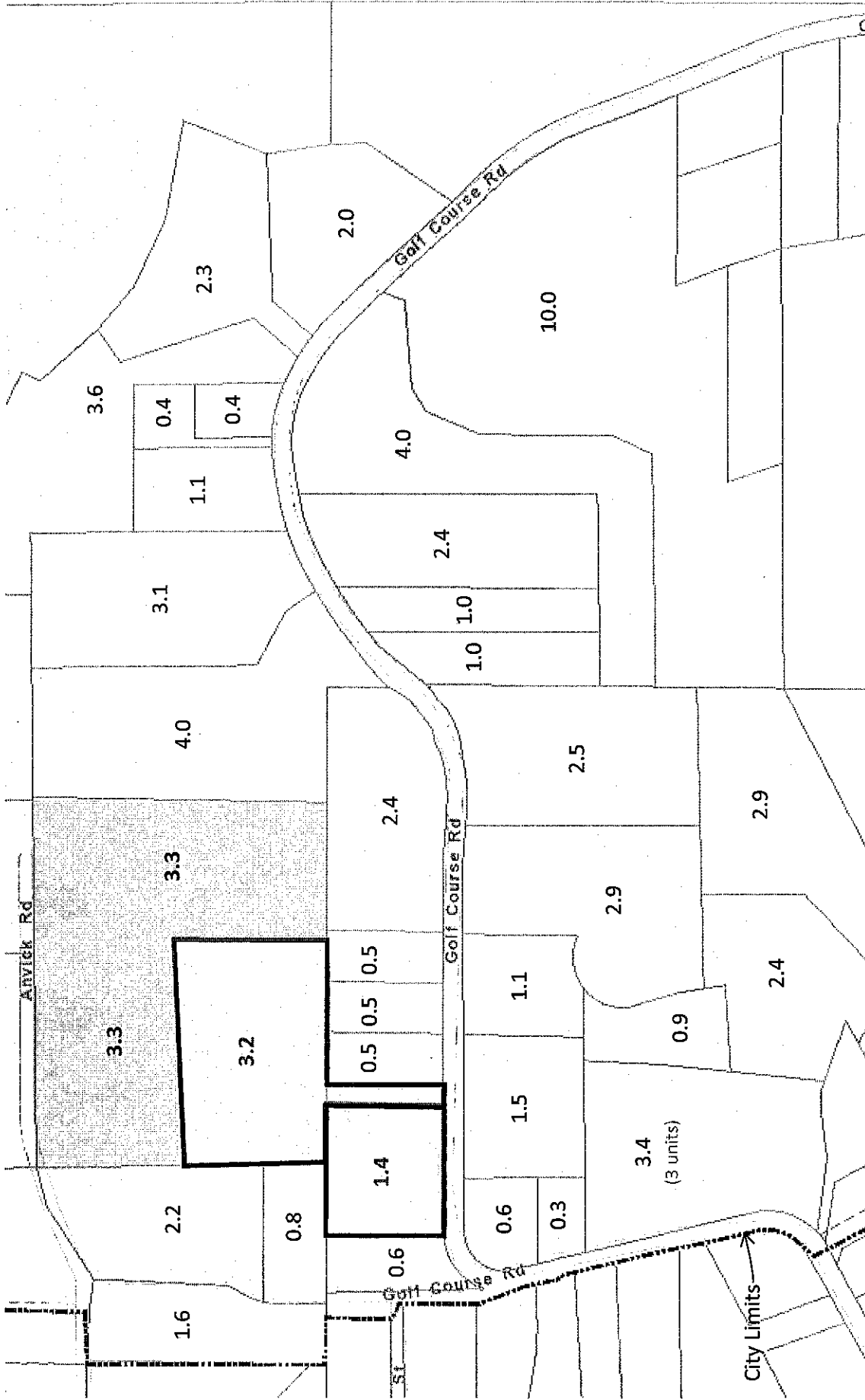
The parcel has two APNs because it is divided by a Section Line and separate fire districts.

# **NOTES:**

1. No historical buildings or archeological, paleontological or sensitive biological resources.
2. Site is relatively flat with no significant sloped areas.
3. Lot 2 has an existing residence; Lot 1 is vacant.
4. Lot 2 has an existing on-site sewage disposal system; Lot 1 will be served by an on-site system.
5. Both lots will have water supply from a common water source.
6. Property is zoned RS-B-5 (2.5).

## **PRELIMINARY PARCEL MAP PROPOSED MINOR SUBDIVISION APNs 500-141-045 & 500-201-003**

Variance Ex. A - Avg. Size of Developed Parcels



Average size of numerated parcels is 2.1 acres.



## POSITION FOR PLAN CONSISTENCY

Larry and Eileen Henderson propose to divide their property into two lots served by on-site water supply and wastewater disposal systems. Compliance for on-site water supply and wastewater disposal systems has not yet been determined.

The property and its unincorporated Golf Course Road neighborhood are part of the Jacoby Creek Community. The Jacoby Creek Community Plan (JCCP) designation for the neighborhood and parcel is Residential Estates between 2.5-acre and 5.0-acre parcel sizes. The parcel is currently zoned with a classification of Residential Suburban (RS) with combining acreage restriction of 2.5-acre minimum parcel size.

The proposed parcel split effectively equates to the subdivision of a 5-acre parcel into two 2.5-acre parcels. ***Assuming requirements are met for on-site water supply and wastewater disposal***, that split would conform to the plan designation and zoning regulations and is permissible... with one potential exception.

The property and its unincorporated Golf Course Road neighborhood are within the JCCP designated Urban Development Area (UDA). Under the JCCP, new parcels cannot be created within the UDA until public water supply (water) and sewage disposal (sewerage) systems are available to serve the parcels (JCCP Policy P27, Development within the UDA). Division of a 5-acre parcel into two 2.5-acre parcels served by on-site water supply and wastewater disposal systems does not comply with that policy.

It can be argued that the proposed subdivision must be disapproved for the reason that—pursuant to Subdivision Map Act Section 66473.5—it cannot be approved “unless it is consistent with” the General Plan. In that case, a General Plan Amendment Application would be required as part of the “complete” application package for the proposed subdivision.

However, in addition to requiring disapproval of a subdivision unless it “is consistent” with the General Plan, Section 66473.5 also provides that a subdivision “shall be consistent” when it is “compatible with” the Plan. ***Hence, the County does have the choice to approve the proposed subdivision—without having to first amend the JCCP portion of the General Plan—if it is compatible with the Plan and therefore consistent with the Plan.***

The Humboldt County General Plan (Policy G-P9, Errors in the Plan) stipulates:

*“Where there is an obvious error in the Plan that would prevent a land use decision otherwise consistent with the Plan, the Planning Commission ... may act on the matter based on a comprehensive view of the Plan...”*

In other words, if there is error in the Plan and if approval of the proposed split would otherwise be consistent with the Plan, the split would be compatible with the Plan.

The HCGP (Policy G-P31, Commonsense Principle) also stipulates:

*"(It) should be interpreted in a commonsense manner to encourage reasonable development which can meet the needs of the community with minimal impacts on the environment and demands on public services. Taking a comprehensive view of all relevant plan policies, the result must balance the intent of these policies, in a practical, workable, and sound manner."*

In actuality... there is error in the Plan; the proposed split is otherwise consistent with the Plan; and approval of the proposed split would be an example of the Commonsense Principle.

Further, it would be illegitimate to disapprove the proposed split on the grounds of lack of public water and sewerage.

#### There is error in the Plan

The HCGP is structured on three primary sectors: Urban Development Areas (UDAs), Urban Expansion Areas (UEAs), and Rural Areas (RAs).

The HCGP Appendix B (Glossary and Definitions) defines UDAs as lands "currently served" with public water and sewerage (referred to as Urban Service Areas) and other areas where either adequate public water or sewerage services "are provided." HCGP Policy P2 further defines UDAs to "reflect areas that are served or planned to be served with public sewerage systems."

The original JCCP mapped the subject property within the boundary of the City of Arcata's Urban Development Area. Properties such as these were expected to eventually be annexed into the City's boundary and that public water and sewer would be available to the subject property at some point in the future. (See attached HCGP Appendix C JCCP Figure 1 - Urban Development and Urban Expansion Area from the Land Use Map)

While the subject property is located within a mapped City of Arcata Urban Development Area, the City is on record stating that there is no intent, now or in the future, to provide subject property with public sewer service. The recently adopted City of Arcata General Plan has revised the mapping of the subject property to now be in Urban Services Boundary - "Water Only" area. (See attached Figure GM-a City of Arcata Urban Services)

The City further acknowledges that some follow-up work is needed with the City and LAFCO to clean up minor mapping inconsistencies. The subject property and other parcels in and around Golf Course Road are among newly expanded Water Only areas that were adopted to facilitate



the water services by the Jacoby Creek Community Water District, however the expanded areas were not included in the 2020 Service Report adopted by LAFCO for the Water District. Thus, in order for the subject property to actually be provided water service, the Water District will need to amend their service boundary with LAFCO to include the expanded areas that presently reside outside their district, and the City and LAFCO will also need to amend their current service agreement to ensure water services can be provided and how.

The City is on record stating that if the County contemplated a subdivision in their jurisdiction boundary, the water and or sewer services would need to be addressed independent of City water or sewer service. (Source: Joe Mateer, Senior Planner, Arcata Community Development Department, 10/14/2024.)

In other words, neither public water services nor public sewerage services will be provided to the Golf Course area by either the City of Arcata or the Jacoby Creek Community Water District.

This constitutes error in the Plan, as the JCCP "is predicated on the intent that either the City or the District will provide urban services within the UDA" (JCCP Policy P25, Provision of Urban Services).

#### The proposed split is otherwise consistent with the Plan

HCGP Policy GP-P6 provides that on-site sewage disposal systems may be utilized for new subdivisions in an UDA if the services are not reasonably available to the area, and the area is not planned for public sewerage service in long-term plans. The proposed split is consistent with this policy.

HCGP Policy H-P17 promotes the infill of vacant and under-developed land within UDAs "as a strategy to create affordable housing, provide an economic stimulus and re-vitalize community investment." The proposed split is consistent with this policy in that no other parcels in the affected Golf Course Road neighborhood are "subdividable" under the zoning's 2.5-acre minimum restriction (see attached Consistency Ex. A – Avg Size of Developed Parcels).

But, although the HCGP supports infilling within UDAs, it does not allow increasing density "beyond historical allowances." This is not the case with the proposed split, in that the current density of the affected Golf Course Road neighborhood is greater than that of the proposed split. The average size of the developed parcels in the neighborhood is 2.1 acres. (See attached Consistency Ex. A – Avg Size of Developed Parcels.) The average size of the proposed two lots is 2.3 acres.

The JCCP stipulates that no new rural development shall be approved without sufficient potable water and adequate waste disposal systems to meet the needs of the proposed development

(Policies P35 and P42). The proposed split would be consistent with these two policies. Without public water and sewerage services, the project is rural development; and it will not be permitted until proof of adequate water supply and suitability for on-site sewage disposal—***without waiver of applicable standards***—is provided.

Further, the proposed split is consistent with HCGP goals for housing production and diversity (Goals H-G1 and H-G2).

Approval of the proposed split would be an action demonstrating the Commonsense Principle.

Not only is there error in the Plan, but of greater importance, the result is a moratorium or limitation of development otherwise allowed by the Plan... not only for this area, but for the entire JCCP UDA. In this scenario, the County must “take appropriate actions as necessary to reflect new capacity limitations in land use and permitting decisions” (HCGP Policy IS-S2, Service Inadequacies and Development Limitations). Approval of the proposed split would be consistent with this Plan mandate... an action demonstrating the Commonsense Principle, as it balances the intent of the Plan in a practical, workable, and responsible manner.

Disapproval would be illegitimate

The most demanding constitutional regulatory test is the least restrictive means to further a compelling public interest.

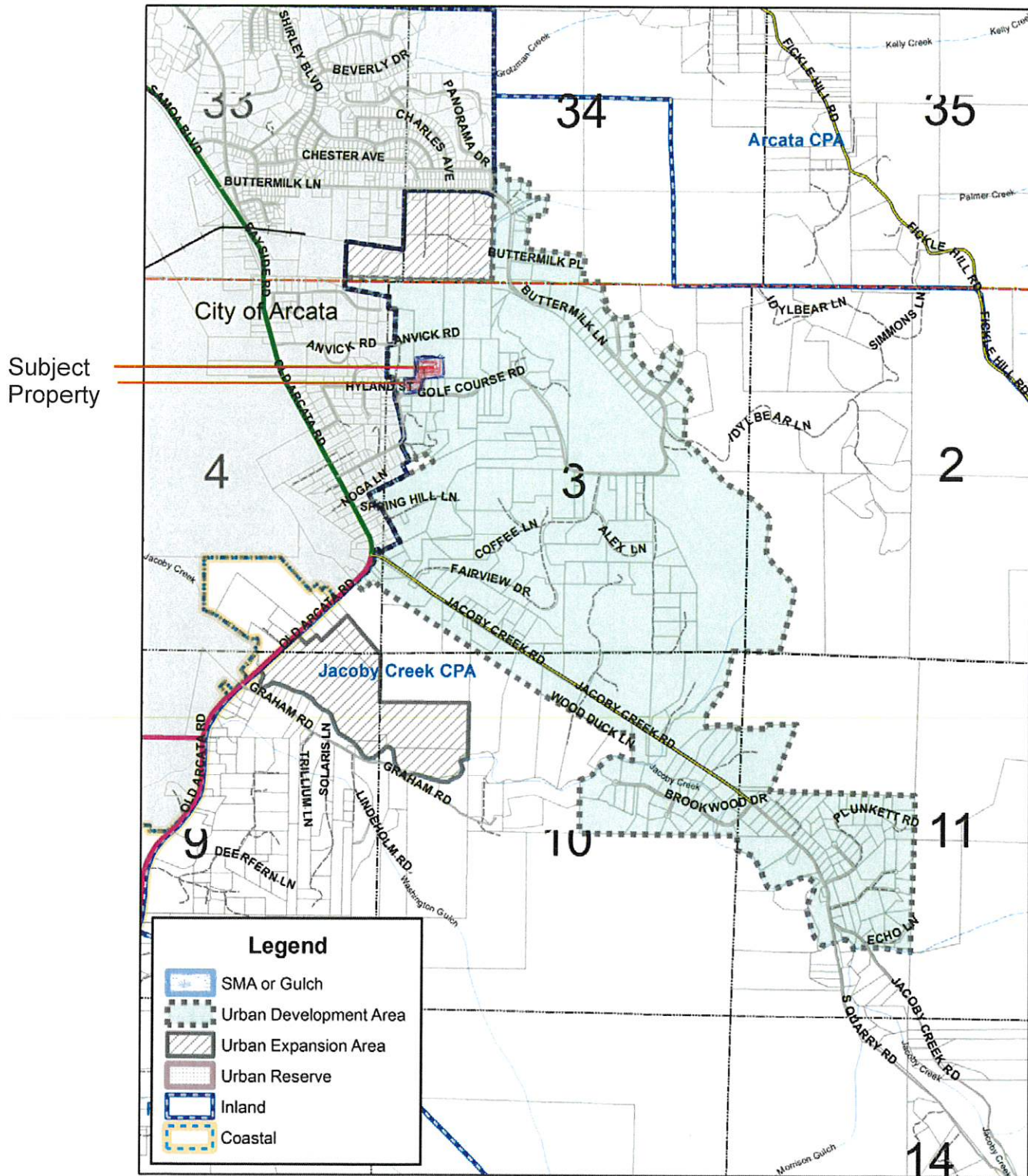
Prohibition of new parcels in the Jacoby Creek Community Planning Area smaller than five acres without public services is a special, unique restriction. It is not imposed anywhere in the County, except in the Jacoby Creek Community Planning Area. What was the compelling public interest that warrants the special restriction, and was the special restriction the least restrictive measure considered?

To date, there has been no explanation. No background information has been located to disclose the reason for the unique restriction... not in the plan document; not in the plan’s CEQA document; nor in the plan’s background reports.

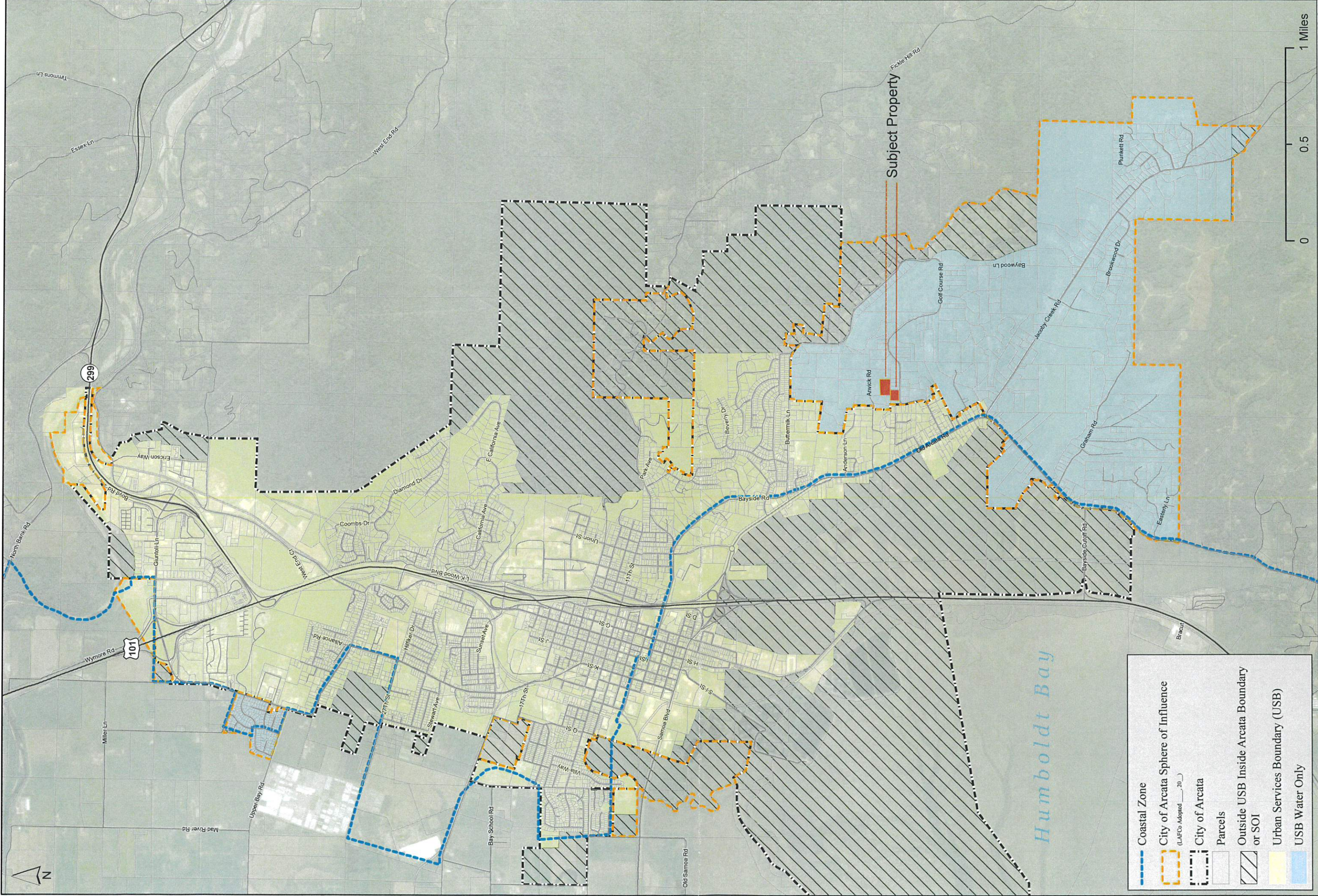
To deny approval of the proposed split without an explanation would violate the constitutional test. The legitimate and appropriate action would be to approve the proposed split, once again, being an action demonstrating the Commonsense Principle.



JCCP-Figure 1 Urban Development and Urban Expansion Area from the Land Use Map







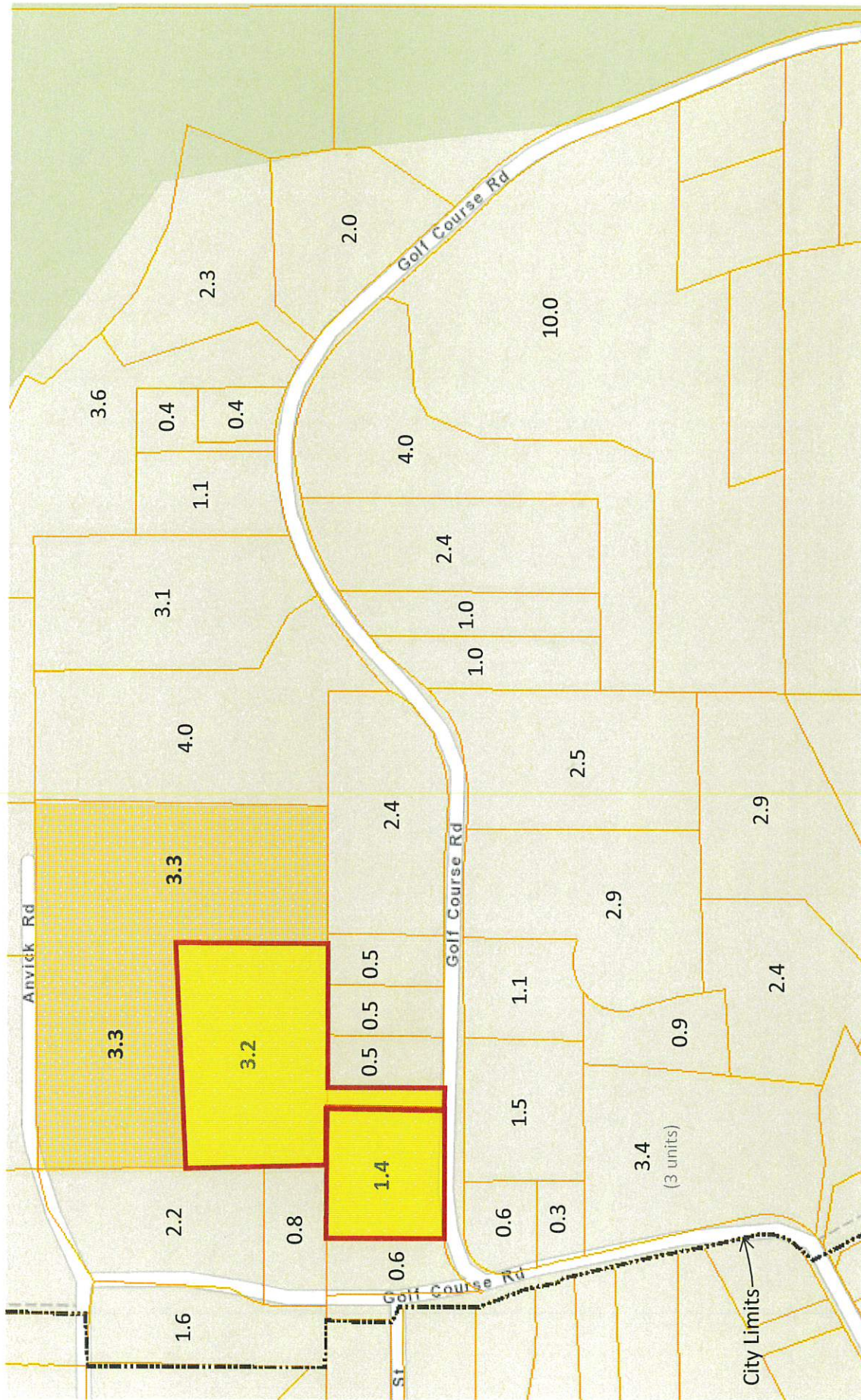
**Figure GM-a** City of Arcata Urban Services



Sphere of Influence will be updated on  
LAFCo Adoption  
Created by PlanWest Partners  
Map Date: 7/2/2024



Consistency Ex. A - Avg. Size of Developed Parcels



Average size of numerated parcels is 2.1 acres.

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:

**69.05.4(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>

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**RE: Henderson Subdivision**

1 message

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**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@eurekaca.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>

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**RE: Henderson Subdivision**

1 message

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**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

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:



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

To Humboldt County Planning Department

From Larry and Eileen Henderson

Re PLN-2025-19178 Henderson PMS

**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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August 5, 2025

To: Humboldt County Planning Commission <planningclerk@co.humboldt.ca.us>  
From: Larry and Eileen Henderson  
Re: Parcel Map Subdivision application PLN-2025-19178

As applicants of the referenced subdivision, we offer the following comments for your Commission's consideration.

As summarized in its staff report, the Planning Department is recommending denial of the subdivision for two reasons. The first is Planning's assertion that the subdivision "does not comply with the specified density of the General Plan" and "is inconsistent with specific policies of the Jacoby Creek Community Plan." Planning offered that the correct pathway to resolve the Plan conflict would be for the applicant to apply to change the general plan policies. The second reason is noncompliance with zoning minimum lot line size standards.

The Planning Department further advised that approval of the subdivision would impose CEQA review before final action on the application.

We, the applicants, obviously disagree. Our reply follows.

**First Issue: Noncompliance and Inconsistency with Plans**

The first matter that necessitates a response relates to the claim of noncompliance with General Plan density policies. This is not quite true. While there is inconsistency with density policies of the General Plan's Jacoby Creek Community Plan (JCCP), no conflicts exist with any other General Plan provision or policy related to density or any other matters.

The JCCP, unlike the other community plans of the General Plan, sets its Residential Estate density at 2.5 to 5.0 acres per lot. However, the General Plan's Governing goals, policies, and standards (Guiding Principles) envision Residential Estate densities ranging from 1 to 5 acres per unit. When viewed as infill of the established Residential-Estate developed Golf Course Road Neighborhood—one of several neighborhoods within the "study area" referenced by the Planning Department, with what will be a built-out density of 2.1 acres per lot—the subdivision is compatible with the General Plan's Guiding density policies. Other than the General Plan policies mandating public water and sewer services for new parcels under 5 acres only in the Jacoby Creek Community, there are no other General Plan or JCCP policies with which the subdivision is in conflict.

Contrary to what the Planning Department implies, the matter of noncompliance with the JCCP policies mandating public water and sewer services for new parcels under 5 acres is the only

plan consistency issue. **The question is, does this JCCP noncompliance constitute inconsistency with the General Plan?**

We and the Planning Department have opposing positions on the answer, but we both agree that the Planning Commission has the discretion to approve the subdivision if they find the subdivision consistent with the General Plan. If they find otherwise, then Section 66473.5 of the Subdivision Map Act prohibits approval.

The Planning Department has presented a compelling case that the subdivision is inconsistent with the Plan. However, Planning has not addressed the factor of the subdivision's "compatibility" with the Plan.

The test for compatibility is of key importance, as Section 66473.5 also provides that "*a subdivision shall be consistent when it is compatible with*" the Plan. If the proposed subdivision is compatible with the Plan, it is consistent with the Plan and may be approved. This clarification is important, as it shows that strict conformity with all general plan provisions is not a mandate for consistency.

Consistency is not synonymous with compatibility. 'Consistency with' means that a proposal strictly adheres to all the policies set forth in that plan—essentially, every policy is observed and none is overlooked. 'Compatibility with' is a broader and more flexible test. A proposal is compatible if it aligns with the overall intent, goals, and spirit of the plan, even if it does not conform to every single policy. In this context, a subdivision might not meet every technical requirement but could still be judged compatible—and thus consistent—if it supports the general objectives and does not undermine the plan's purpose.

We have previously submitted, for the record, why the subdivision is compatible with the General Plan. Should the Commission continue to have reservations, it would be prudent to consider another question: **Would denial of the subdivision be compatible with the Plan?**

The answer is "no." Denial would not be compatible with the Plan for several reasons.

- Conditions have changed. The General Plan policies mandating public water and sewer services for new parcels under 5 acres—only in the Jacoby Creek Community, and in no other community—were adopted in 1984. The policies were "predicated on the intent" that the required services would be provided by the City or District. For the Golf Course Road Neighborhood, which is outside the County Service District, the service provider was to be Arcata. The City says it now "has no intention of providing" water or sewerage services to the Neighborhood. Consequently, the service requirement can no longer be met.



- The required services are unnecessary and unsuitable for the Golf Course Road Neighborhood. The Neighborhood is an established residential area with large estate lots distinct from other parts of Jacoby Creek. The lots are all self-sustaining, eliminating the need to extend services into the Neighborhood. Services encouraging higher density are not desired by the neighborhood residents.
- The subdivision constitutes infill development. The subdivision is one of only two parcels in the Golf Course Road Neighborhood that can be subdivided. Provided health and safety standards are met without waivers, splitting the two parcels to create two additional self-sustaining lots will complete the development of the Neighborhood. In any other community in the County, such infill would be consistent with the respective community plan and, by extension, the General Plan. The project would only be inconsistent under the JCCP.
- A compelling public interest has not been identified. Provided health and safety requirements are met without waivers, a compelling public interest for enforcing the requirement when it cannot be fulfilled has not been explained. The Planning Department has implied they exist but has not provided details as to why the restriction is needed, how it supports community planning goals, or why it is the least restrictive option. In the absence of detailed explanations, it is not possible to conclude that strict enforcement of the restriction is compatible with the General Plan.

Clearly, denying the subdivision would not be compatible with the General Plan. Given this, and the other information we have provided, it is reasonable to conclude that despite the JCCP noncompliance, the subdivision is compatible—and therefore consistent—with the Plan.

### **Second Issue: How to Resolve the Plan Conflict**

To resolve the conflict with the JCCP 5-acre restriction, the Planning Department says that the “correct pathway” would be for the applicants to apply to change the general plan policies.

No. The correct pathway is for the County, not us, to delete the conflict by amending the JCCP.

The continuation of the JCCP 5-acre restriction when the requirement cannot be met is clearly an error in the plan that needs to be corrected. In contrast to The Planning Department’s account, the Planning Commission and Board of Supervisors have already determined that an error exists in the plan as a result of Arcata’s changed approach to service provision—otherwise, they wouldn’t have directed Planning to “update the JCCP to refine the residential density limitations.” Including that directive with the action on the ADU ordinance was unnecessary and inappropriate, unless they thought there was error that needed to be corrected.

This is not just a personal matter, but also a matter of importance for the entire community. Failure, regardless of the rationale, to initiate the amendment process as directed by the Commission and Board, has cost not only us but the community as a whole. Delay in correcting the error escalates the risks for significant legal, economic, and policy-related consequences.

It is unfair, unreasonable, and punitive to hold us solely responsible for amending the plan and its costs.

Additionally, and most importantly, the Planning Commission has the discretion—the choice—to approve the subdivision despite the conflict without waiting for the plan to be amended. That authorization is General Plan Policy G-P9 (Errors in the Plan).

### **Third Issue: Noncompliance With Zoning Minimum Lot Line Size Standards**

The Planning Department asserts that the subdivision “does not comply with the minimum lot size standards of the zone district.” That would be true only if the zoning variance applied for is not granted.

Of course, if the subdivision is determined to be inconsistent with the General Plan, the variance application is irrelevant. But if the Commission determines that the subdivision is compatible, and therefore consistent, with the Plan, it should proceed to consider the variance application.

Again, we and the Planning Department disagree whether the findings for a variance can be made. Our arguments are in the record. But it is noteworthy that Planning provided support for the variance. They said:

“A lot line adjustment could be pursued to revert the parcels to their previous configuration which would result in both parcels meeting the five-acre minimum parcel size required for a subdivision by the zone and avoid the need for a variance.”

Yes, a lot line adjustment, as well as a merger of the property, would remove the need for a variance. But the configuration and development of the properties would remain the same as if a variance had been granted.

Two properties and two ownerships are involved, with three solutions to approval of the subdivision. The two separately owned properties can be merged under a single owner and then subdivided as proposed. Or the two separately owned properties can be reconfigured with a lot line adjustment and then subdivided as proposed. Or the two separately owned properties can, with the granting of the variance, be subdivided as proposed.



The issue is meeting ownership practices in subdivisions. The first two solutions fit the normal ownership practice, whereas the third does not.

If the resulting lots meet all applicable health and safety requirements with no waivers, there is no purpose for denying this variance due to ownership. The focus should be on whether the restriction is necessary, not on who owns the property.

**Fourth Issue: CEQA review**

The Planning Department says that if the Commission approves the subdivision, it will require CEQA environmental review because the subdivision is not consistent with the densities established by the General Plan.

But if the subdivision is approved, there is not inconsistency. In this case, the subdivision should qualify for the usual exemption for approved subdivisions.