

**BOARD OF SUPERVISORS,
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified Copy of Portion of Proceedings for the Meeting of May 21, 2024.**

RESOLUTION NO. 24 – 64

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT ADOPTING FINDINGS OF FACT, DENYING THE APPEAL FOR RECORD NO. PLN-2023-18146-APPEAL AND APPROVING THE SUTTER PARCEL MAP SUBDIVISION AND SPECIAL PERMITS, RECORD NO. PLN-2023-18146

WHEREAS, the owners submitted an application and evidence in support of approving a Parcel Map Subdivision and Special Permits including a request to waive installation of curb, gutter and sidewalk; 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, on April 4, 2024, the Planning Commission adopted a Resolution which did the following:

1. Found that impacts from projects of this sort were analyzed and addressed during preparation of Environmental Impact Reports (EIR's) for the McKinleyville Community Plan (SCH# 1998082024) and 2017 Humboldt County General Plan (SCH#2007012089), in keeping with the criteria outlined within Section 15183 of the State CEQA Guidelines; and
2. Found that based on the submitted substantial evidence the proposed project complies with the General Plan and Zoning Ordinance and made all findings for approval; and
3. Approved the Parcel Map Subdivision and Special Permits under Record No. PLN-2023-18146 as conditioned but did not include waiving installation of curb, gutter and sidewalk.

WHEREAS, Robert Sutter ("Appellant") on April 12, 2024, filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq; and

WHEREAS, the Board of Supervisors opened a duly-noticed public hearing, *de-novo*, on May 21, 2024; and

WHEREAS, the Board of Supervisors closed the public hearing and adopted the motion to deny the appeal, and to approve the Parcel Map Subdivision and Special Permits with the Recommended Conditions of Approval (Attachment 1A); and

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NOW, THEREFORE, IT IS HEREBY PROCLAIMED that the Board of Supervisors makes all the following findings:

- 1. FINDING:** **Project Description:** A Parcel Map Subdivision of an approximately 2.26-acre parcel into four parcels with a 0.55-acre Remainder. The created parcels will be 0.57 acres (0.22 net lot acres), 0.70 acres (0.30 net lot acres), 0.26 acres (0.22 net lot acres), and 0.23 acres in size. An existing single-family residence will remain on the proposed Remainder, an existing Accessory Dwelling Unit will remain on proposed Parcel 2, and the existing detached garage and accessory structures will remain on proposed Parcel 1. A Special Permit is required pursuant to Section 314-43.1.1 of the Humboldt County Code (H.C.C.) to allow the existing detached garage and accessory structures to remain on proposed Parcel 1 prior to the development of the main building. An additional Special Permit is required pursuant to Section 314-99.1.2 of H.C.C. to utilize Lot Size Modification to allow lots less than the minimum 10,000 square feet in size required within the R-1-B-2 zone. The parcel is served with community water and sewer provided by the McKinleyville Community Services District. The property proposed for subdivision is located McKinleyville area, on the east side of Azalea Road, approximately at the intersection of Sutter Road and Azalea Road, on the property known as 1643 Azalea Road.

EVIDENCE: a) Project File: PLN-2023-18146

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- 2. FINDING:** The requirements of the California Environmental Quality Act (CEQA) have been met. The Humboldt County Board of Supervisors has considered the project and finds the proposed subdivision requires no further environmental review per Section 15183 (Projects Consistent with a Community Plan or Zoning) of Article 12 (Special Situations) of the CEQA Guidelines.

EVIDENCE: a) Section 15183 of the CEQA Guidelines acknowledges CEQA's mandate that projects require no additional environmental review when consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified, noting that subsequent environmental review is only necessary where the Lead Agency determines any of the following circumstances apply:

Project-specific environmental effects:

- are peculiar to the project or the parcel on which it is located

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- are significant and were not analyzed as such in a prior EIR
- are off-site and/or cumulative and were not discussed in the prior EIR
- were identified in a prior EIR as significant but due to substantial new information (not known at the time the EIR was certified) are determined to have a more severe adverse impact than what was disclosed.

The residential density specified in the McKinleyville Community Plan was utilized for analysis conducted during development of the Environmental Impact Report prepared for the current Humboldt County General Plan, which includes all the required elements specified in Section 65302 of the Government Code. The EIR for the General Plan was certified during adoption of the plan in 2017.

- b) There are no environmental effects that are peculiar to the project or the parcel on which the project is located. Neighboring development on adjacent parcels is composed of the same density as the subject parcel. The proposal is consistent with the planned density and is currently developed with low-density residential uses. The development pattern and design included in the concept provided by the applicant has been found to be acceptable by the Land Use Division of Public Works and Planning Division.
- c) Potential Impacts such as those common to projects of this sort were analyzed and addressed during preparation of Environmental Impact Reports (EIR's) for the McKinleyville Community Plan (SCH# 1998082024) and 2017 Humboldt County General Plan (SCH#2007012089).
- d) There are no potentially significant environmental effects which were not analyzed in the above referenced EIR's. The proposed subdivision would enable future build-out to the currently planned density for the area, which was re-confirmed during adoption of the 2017 General Plan. The project is also consistent with the applicable policies and standards of the General Plan, which are further discussed below.
- e) There are no potentially significant off-site impacts and cumulative impacts which were not discussed in the above referenced EIR's (SCH# 1998082024 & SCH# 2007012089). The proposed subdivision will facilitate build-out consistent with planned densities and applicable policies and standards found in the recently adopted General Plan.

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- f) There is no substantial new information that would cause the project to result in a more severe adverse impact than what was known and disclosed at the time the General Plan EIR was certified.
- g) There is no substantial evidence, given the whole record before the agency, that the project may have a significant effect on the environment, as proposed.
- h) The project site is not located within a scenic vista area and will not impact visual resources within the County. The proposed minor subdivision will create a total of four parcels and a remainder. Three of which, that can accommodate future residential development consistent with the assortment of uses and structures on surrounding parcels. The project will result in a less than significant impact to aesthetics.
- i) The project was referred to the Northwest Information Center (NWIC), the Wiyot Tribe, Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria. NWIC responded recommending further study and that consultation with local tribes occur. Blue Lake Rancheria responded stating that they had no concerns about the project at this time. The Bear River Band responded stating that they are satisfied that the activities of the project do not appear to represent a source of significant impact(s) on cultural resources and requested that standard inadvertent archaeological discovery protocols be in place for any ground disturbing activities. This has been made a condition of project approval.
- j) The project site is not included on a list of hazardous material sites, nor does the proposed project involve routine transport, use or disposal of hazardous materials. The project site is not located in an Airport Review Area. Arcata Eureka Airport is the closest airport and is located approximately 2.4 miles north-northwest of the project site.
- k) According to the Humboldt County Fire Hazard Severity map, the parcel is mainly located within a moderate fire hazard severity area and a small portion of the western side of the property is located within a high fire hazard severity area. The site is located within the State Responsibility Area (SRA) and within the Arcata Fire Protection District response area. Future development of the site will require compliance with the Uniform Fire Code and Uniform Building Code and the SRA Fire Safe regulations. The Department finds no evidence that the project will create, or expose people

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or property to, hazardous materials, or impair implementation of or physically interfere with, an adopted emergency response plan.

- l) The project will not violate any water quality standards or waste discharge requirements or substantially degrade surface or groundwater quality or degrade groundwater supplies. Future residential development of the parcels being created will receive water and sewer service provided by the McKinleyville Community Services District. A hydraulic report and drainage plan are required to be prepared by a Civil Engineer registered within the State of California and will be submitted to the Land Use Division of Public Works (PW) for review and approval prior to commencement of the project. The project will be required to detain stormwater such that no additional water will leave the site at a rate greater than the pre-development 2-year (Q2) storm flows. Lastly, because the site is located in an urban MS4 stormwater area, future development will be required to incorporate measures to further enhance and detain stormwater runoff. The applicant plans for roof gutter water to be hard piped to 18" diameter perforated pipes in 2' wide x 3' deep x 75' to 100' long trenches. The exact locations will be determined by the owners at the time of construction.

- m) The California Natural Diversity Database does not indicate that any species of concern have been identified on or near the project site, the site is part of a previous residential subdivision, and the project site is fully developed with three residential-type buildings and is fully landscaped. The project was referred to the California Department of Fish and Wildlife (CDFW). CDFW responded requesting the project be conditioned for avoidance of disturbance to nesting birds and encouraging the use of locally appropriate native plants in landscaping, and at a minimum, the planting palette avoiding invasive species listed in the California Invasive Plant Council Inventory. These have been made conditions of project approval.

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: Per LLA-98-16, the subject parcel has been determined to be one legal parcel as shown on Recorded Map in Book 22 of Maps page 120 as a remnant parcel from Parcel Map recorded in Book 13 of Parcel Maps page 61.

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SUBDIVISION FINDINGS - Section 66474 of the State Subdivision Map Act and Title III Division 2 of the Humboldt County Code

4. FINDING: All lots created by this parcel map are be suitable for their intended uses as single family residential capable of supporting accessory dwelling units.

EVIDENCE: The project will result in a total of four parcels and a Remainder. The parcels will range between 0.23 to 0.70 acres in size. The newly created parcels will be served community water and sewer by the McKinleyville Community Services District. The lots are large enough to comply with all required setbacks for existing and proposed structures with the approval from CALFIRE for the exemption of the 30-foot State Responsibility Area setback that is on file with the County and attached to the staff report.

5. FINDING: Improvements have been conditioned to ensure the safe and orderly movement of people and vehicles.

EVIDENCE:

- a) Access to the parcel being divided is provided by Sutter Road (County Road No. C4L810) and Azalea Avenue, a private street. The parcel map has been conditioned to require an easement for a public road, road improvements, including curb, gutter and sidewalk, slope maintenance, and public utility purposes be granted as part of the filing of the map.
- b) There is a right way for the Azalea Avenue Extension from Sutter Road to Blackbird Avenue. While this right of way is not public, it is for the benefit of approximately 68 parcels lying north of Sutter Road. This right of way can be utilized as a connection between Sutter Road and Blackbird Avenue. A non-vehicular connection is required in this corridor.
- c) Since this is the last project to be approved completion of this connection as a safe pedestrian route is needed to full fill the original objective of the Sutter Map approval and the encouragement of the McKinleyville community plan to provide safe and efficient pedestrian access.
- d) The requirement for a sidewalk has been changed to a paved pedestrian path consistent with the requirements of the McKinleyville Community Plan

6. FINDING: Flood control and drainage facilities affording positive storm water disposal will be designed and provided by the subdivider.

EVIDENCE: Satisfaction of the requirements found in the 2/14/2024 memo from the Land Use Division of Public Works (PW) is required by the project Conditions of Approval. Section 3.2 and 3.3 of their memo informs the applicant of their responsibility to correct any drainage problems associated with subdivision

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to the satisfaction of PW and requires that a hydraulic report and drainage plan for the subdivision be submitted to PW for review and approval. Additionally, the project will be required to detain stormwater such that no additional water will leave the site at a rate greater than the pre-development 2-year (Q_2) storm flows. This will likely be achieved by the construction of retention or detention facilities. Lastly, because the site is located in an urban MS4 stormwater area, future development will be required to incorporate measures to further enhance and detain stormwater runoff. The applicant plans for roof gutter water to be hard piped to 18" diameter perforated pipes in 2' wide x 3' deep x 75' to 100' long trenches. The exact locations will be determined by the owners at the time of construction.

7. FINDING: Sewer and water systems will be constructed to appropriate standards.

EVIDENCE: The McKinleyville Community Services District supports approval of the project and is prepared to provide water and sewer service to future development of the parcels. Residential development located on the parcels being created already receives water and sewer service provided by the McKinleyville Community Services District.

8. FINDING: The size and shape of lots are appropriate for the site and surrounding area in which the subdivision is situated, and in conformance with the requirements of the current zoning regulations and the Humboldt County General Plan.

EVIDENCE: The size and configuration of the proposed parcels complies with size, width and depth requirements of the R-1-B-2 zone with the requested Lot Size Modification.

9. FINDING: Section 314-99-1.2 H.C.C.: Minimum lot size may be modified down to 1,500 square feet but cannot create a parcel greater than 1.8 times the allowed minimum.

Section 325-11 H.C.C.: (a) the lots are in harmony with the topography; (b) soil conditions will not be adversely affected; (c) hydrologic conditions will not be adversely affected; (d) traffic patterns and emergency vehicle access will not be adversely affected; (e) the subdivision design with the LSM is in the interest of the public welfare; (f) the existing character of the area will not be adversely affected; (g) wetlands will not be adversely affected; (h) the subdivision conforms to the General Plan.

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EVIDENCE: The subdivision is meant to create four parcels with a remainder. Three of the created parcels (Parcels 1, 2, and 3) will be encumbered by access easements resulting in lot sizes of 0.22 acres, 0.30 acres, and 0.22 acres. The unencumbered Parcel 4 parcel and lot size will be 0.23 acres. None of the created parcels will exceed 1.8 times the allowed minimum lot size of 0.41-acres. Created Parcels 1 and 3, at 0.22 lot acres in size, will be approximately 417 square feet smaller than the 10,000 square-foot minimum lot size for the R-1-B-2 zone. The granting of the Lot Size Modification will allow the created Parcels 1 and 3 to provide access easements for the benefit of the Remainder Parcel and the created Parcel 4.

The Lot Size Modification (LSM) is consistent with the findings of Section 325-11 H.C.C.: (a) the lots are in harmony with the topography; (b) there is no evidence that soil conditions will be adversely affected; (c) hydrologic conditions will not be adversely affected as there are no mapped watercourses on or near the subject parcel; (d) by utilizing existing and required road and access improvements the impact to traffic patterns and emergency vehicle access is minimized; (e) the subdivision design with the LSM is in the interest of the public welfare in that it considers the physical constraints and allows for optimum use of the site; (f) the existing character of the area will not be adversely affected in that the subdivision design with the LSM is consistent with residential development pattern of the area; (g) wetlands will not be adversely affected as there are no mapped wetlands on or near the subject parcel; and (h) the subdivision conforms to the General Plan density.

A condition of approval requires the Development Plan to include a notation as to the creation of these parcels using the lot size modification exception.

Govt. Code §66474.02 Structural Fire Protection

- 10. FINDING:** The project is consistent with State and County Fire Safe Regulations and is located within an area where structural fire protection and suppression services are available from a qualified entity that is monitored and funded by a County or other public entity, and organized solely to provide fire protection services, or through contract with the Department of Forestry and Fire Protection pursuant to Section 4133, 4142, or 4144 of the Public Resources Code.

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EVIDENCE: The property is located in a SRA for Fire Protection and is mainly located within a moderate fire hazard severity area with a small portion of the western side of the property located within a high fire hazard severity area. The property lies within the boundaries of the Arcata Fire Protection District response area, who provide structural fire protection. The project was referred to the district for review and did not result in any comments or issues being raised with the proposal.

FINDINGS APPLICABLE TO ALL PERMITS

11. FINDING: The proposed development is in conformance with the County General Plan and McKinleyville Community Plan.

EVIDENCE: a) The proposed development is consistent with the Residential Low Density (RL1-7) land use designation. The project will allow for the creation of a total of four parcels and a remainder for existing and proposed single-family residential development within the 2.26-acre parcel. The RL1-7 designation specifies a density of one to seven units for every one acre.

b) *McKinleyville Community Plan – Stormwater*
The project will be required to detain stormwater such that no additional water will leave the site at a rate greater than the pre-development 2-year (Q₂) storm flows. Because the site is in an urban MS4 stormwater area, future development will be required to incorporate measures to further enhance and detain stormwater runoff.

Parkland §4420 (MCCP)

c) *Parkland Dedication Fee Calculations*

	130.00	McKinleyville Community Plan requires 130 square feet of parkland dedication per person for new subdivisions
X	2.578	Persons per average McKinleyville household (Source: 2020 U.S. Census)
	335.14	Parkland dedication per average household in square feet
/	43,560	Square feet per acre
	0.00769	Parkland dedication per average household in acres
X	7	Number of new units being created by the subdivision and Planned Unit Development,
X	100% (1.0)	Percentage of these parcels within the McKinleyville Community Planning Area

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	0.054	Acres of parkland for subdivision
X	\$160,000	Value of one acre of land in the vicinity of the subdivision project
	\$8,616.94	Parkland Dedication In-lieu Fee for the Sutter Minor Subdivision

12. FINDING: The proposed project is consistent with the purposes of and meets all the applicable development standards of the Residential One-Family Zone with a Special Building Site Combining Zone and combining zones for Manufactured Home and Noise Impact (R-1-B-2-T-N).

EVIDENCE: a) The property zoning designation of R-1-B-2 allows for residential uses as Principally Permitted on lots greater than 10,000 square feet in size. The proposed creation of lots less than 10,000 square feet is allowable with the Special Permit for the Lot Size Modification that is being requested.

b) (T) A manufactured home is not proposed as part of the project.

c) (N) This parcel is located within the Noise Impact combining zone due to proximity to Sutter Road. There will be no new noise exposure over the existing baseline noise conditions as a result of this project. Sutter Road is located approximately 125 feet south of the project site. As the project is to subdivide a parcel in to four parcels with a remainder, where two existing residences that have been at the current location for decades, there is no evidence that new residences will be exposed to noise levels beyond what is existing.

d) Two existing accessory structures will remain on proposed Parcel 1 prior to the development of a main building, which is allowable with the Special Permit that is being requested.

13. FINDING: The proposed subdivision 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 subdivision will divide a 2.26-acre parcel into four parcels with a remainder parcel and build out with a total of five units. The proposed parcel sizes are permitted with the zoning and the resulting density is consistent with that planned for the area.

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- b) The parcel being divided is currently host to an existing single-family residence with detached garage that will remain on the proposed Remainder, and an existing Accessory Dwelling Unit that will remain on proposed Parcel 2, and existing accessory structures that will remain on proposed Parcel 1 prior to the development of a main building. Public water and sewer service is available through the McKinleyville Community Services District. The parcel has been planned and zoned for single-family residential development for over 30 years and is surrounded by parcels with the same density. Single-family residential development is principally permitted under the parcel's current zoning. None of the referral agencies oppose the project and there is no information to suggest that approval of the project would potentially be detrimental to the public health, safety, and welfare or materially injurious to properties or improvements in the vicinity.

14. 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 (RL) and zoning (R-1) allow single-family residential development. The project will positively impact compliance with Housing Element law. The project will increase the available separately owned housing in the McKinleyville Community Plan area and will comply with the density range of the RL1-7 land use designation, which includes a maximum density of seven units per acre. The parcel is not included within the 2019 Housing Element inventory so there is no risk of the density falling short of the target required.

APPEAL

Appeal Issue

The Appellant requests removal of the section regarding sidewalks in Public Works Condition of Approval Item 2.6(e) from the Planning Commission Decision of April 4, 2024, which states:

Azalea Avenue, north of Sutter Road, shall be constructed having a typical section comprised of an 18-foot-wide travel lane and a 5 foot wide pedestrian sidewalk with Caltrans Type A2-6 portland cement concrete (PCC) curb and gutter(s) on the east side.

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15. FINDING: The orderly development of the subject site requires that curb, gutter and sidewalk be constructed on the extension of Azalea Avenue. There are not circumstances which warrant removing that requirement, in fact the presence of a community pedestrian and bicycle connection across the site from Sutter to Blackbird make the installation of curb, gutter and sidewalk of greater necessary. .

- EVIDENCE:**
- a) Azalea Avenue extension is a road. It is not a driveway as it serves more than one property.
 - b) Public Works uses zoning to determine when non-vehicular facilities are to be provided on roads, whether Public or Private. In general, areas that are primarily zoned for 1 acre and less are considered urban and need pedestrian facilities (curb, gutter, and sidewalk).
 - c) It is highly likely that the residents living in this proposed subdivision off the northerly extension of Azalea Avenue will walk on this road to gain access to existing pedestrian facilities on Sutter Road.
 - d) The California Building Code (CBC) requires pedestrian facilities to be separated from the road; therefore curb, gutter, and sidewalk are necessary.
 - e) Subdivision Map Act Section 66411.1 does not preclude requirements for construction of onsite curb gutter and sidewalk as these are reasonable improvements needed to protect the public health, safety, and welfare.
 - f) McKinleyville Community Plan policies, standards, and implementation measures 4230 #7 and #10, 4260, 4261 #1, and 4262 #1 and #5 support or indirectly support the installation of curb, gutter and sidewalk.
 - g) General Plan policies, standards, and implementation measures UL-P8, C-P28, C-G1, and C-P1 support or indirectly support the installation of curb, gutter and sidewalk on Public and Private Roads.
 - h) Further analysis of the Azalea Avenue Extension shows there is a corresponding easement for bicycle and pedestrian connectivity from Sutter Road to Blackbird Avenue. While this right of way is not public, it is for the benefit of approximately 68 parcels lying north of Sutter Road. The overall connection is the responsibility of the community, but it is appropriate to provide connectivity as part of the improvements for this parcel map. The remainder (about 80 feet) to Blackbird Avenue would need to be completed

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by the community. There may be sufficient nexus and proportionality to require the subdivider to complete this as an off-site improvement but since the project was conditioned by the Planning Commission for on-site improvements only it is recommended that only the onsite improvements be required as part of this parcel map.

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Board of Supervisors does hereby:

- a. Deny the Appeal filed by Robert Sutter.
- b. Approve the Sutter Parcel Map Subdivision and Special Permits for Robert Sutter subject to the Recommended Conditions of Approval including the requirement to install curb, gutter and sidewalk (Attachment 1A.)

Dated: May 21, 2024



Supervisor Rex Bohn, Chair
Humboldt County Board of Supervisors

Adopted on motion by Supervisor Madrone, Seconded by Supervisor Arroyo, and the following vote:

AYES:	Supervisors: -- Bohn, Bushnell, Madrone, Wilson, Arroyo
NAYES:	Supervisors: --
ABSENT:	Supervisors: --
ABSTAIN:	Supervisors: --

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STATE OF CALIFORNIA
County of Humboldt

I, Tracy Damico, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



NIKKI TURNER
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California