

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.

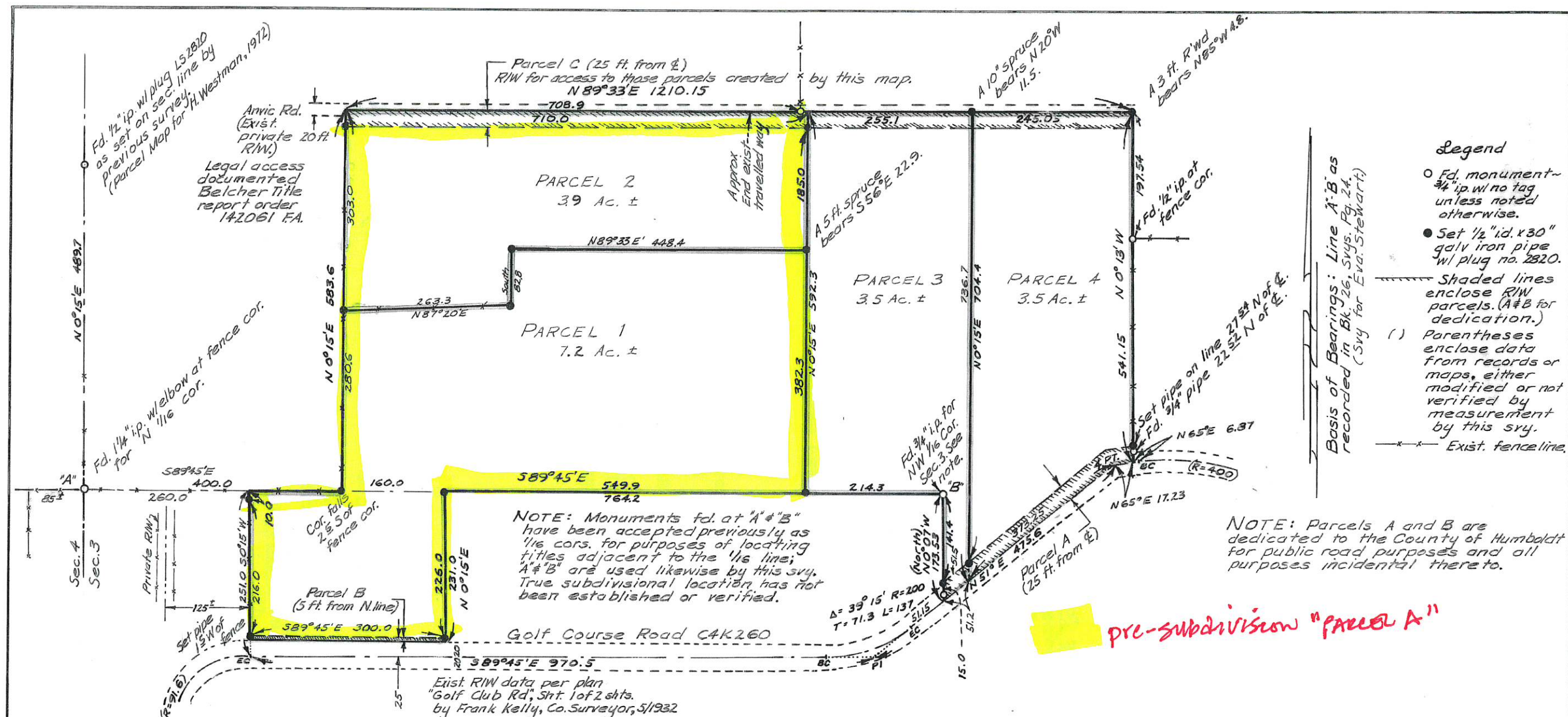
To the contrary, denial of the variance would deny the applicants privilege enjoyed by other properties in the neighborhood. The average size of the developed parcels in the neighborhood is 2.1 acres (see attached Variance Ex. A – Avg Size of Developed Parcels). The average size of the proposed two lots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



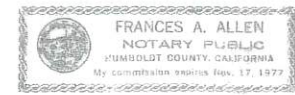
- Legend**
- Fd. monument - 3/4" ip. w/ no tag unless noted otherwise.
 - Set 1/2" i.d. x 30" galv iron pipe w/ plug no. 2820.
 - Shaded lines enclose R/W parcels. (A & B for dedication.)
 - () Parentheses enclose data from records or maps, either modified or not verified by measurement by this svy.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

Basis of Bearings: Line A-B as recorded in Bk J26, 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.

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 3rd day of July, 1975... Pauline M. McHugh

Acknowledgment
 STATE OF CALIFORNIA
 COUNTY OF Humboldt
 On this 3rd 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.

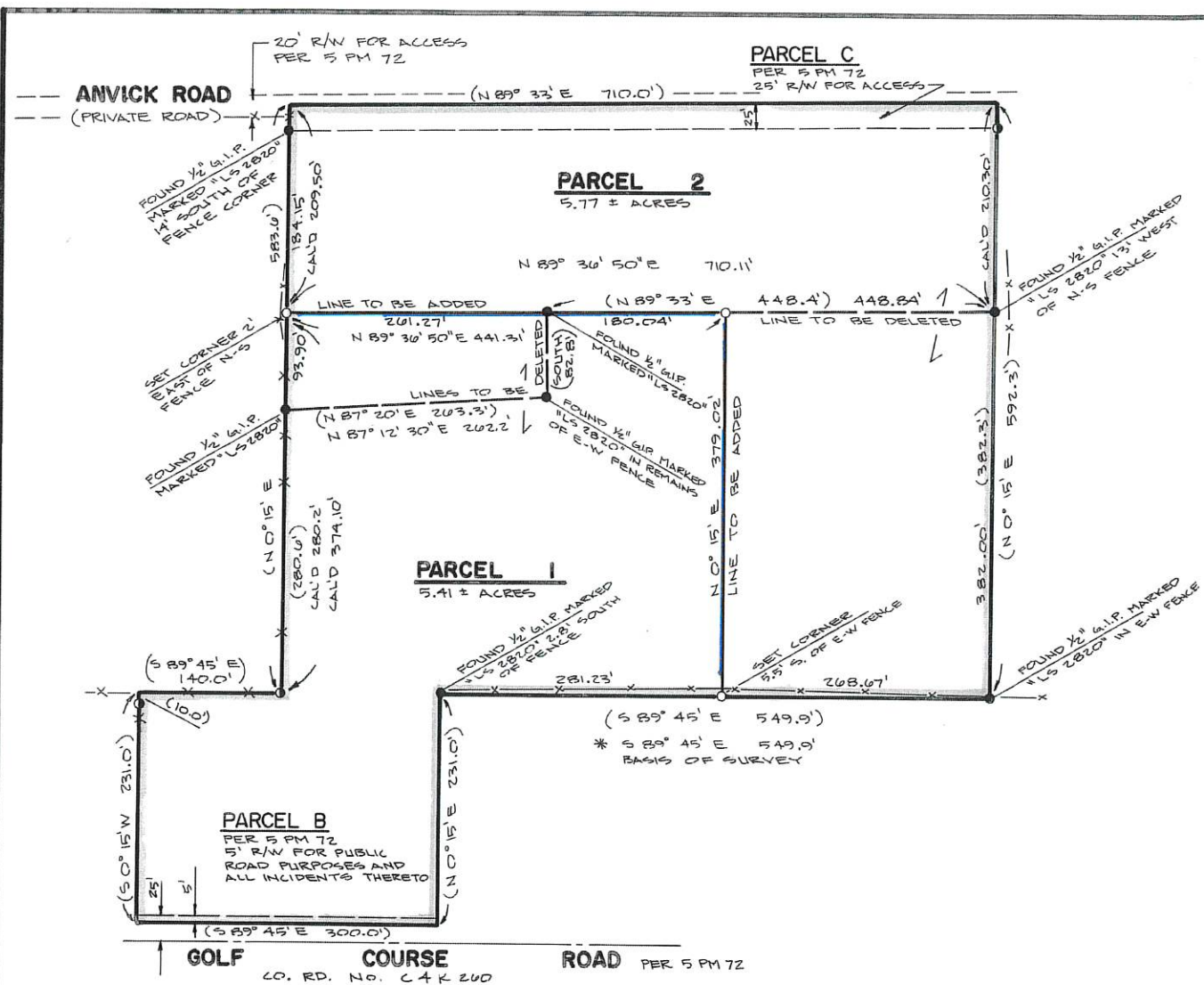


County Surveyor's Certificate
 This map conforms with the requirements of the Subdivision Map Act and local ordinance. Dated 23 JULY 1975
Hugh E. Kelly
 Humboldt County Surveyor
 12408

Recorder's Certificate
 Filed this 21st 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

CERTIFICATE 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 28405", 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 131, 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

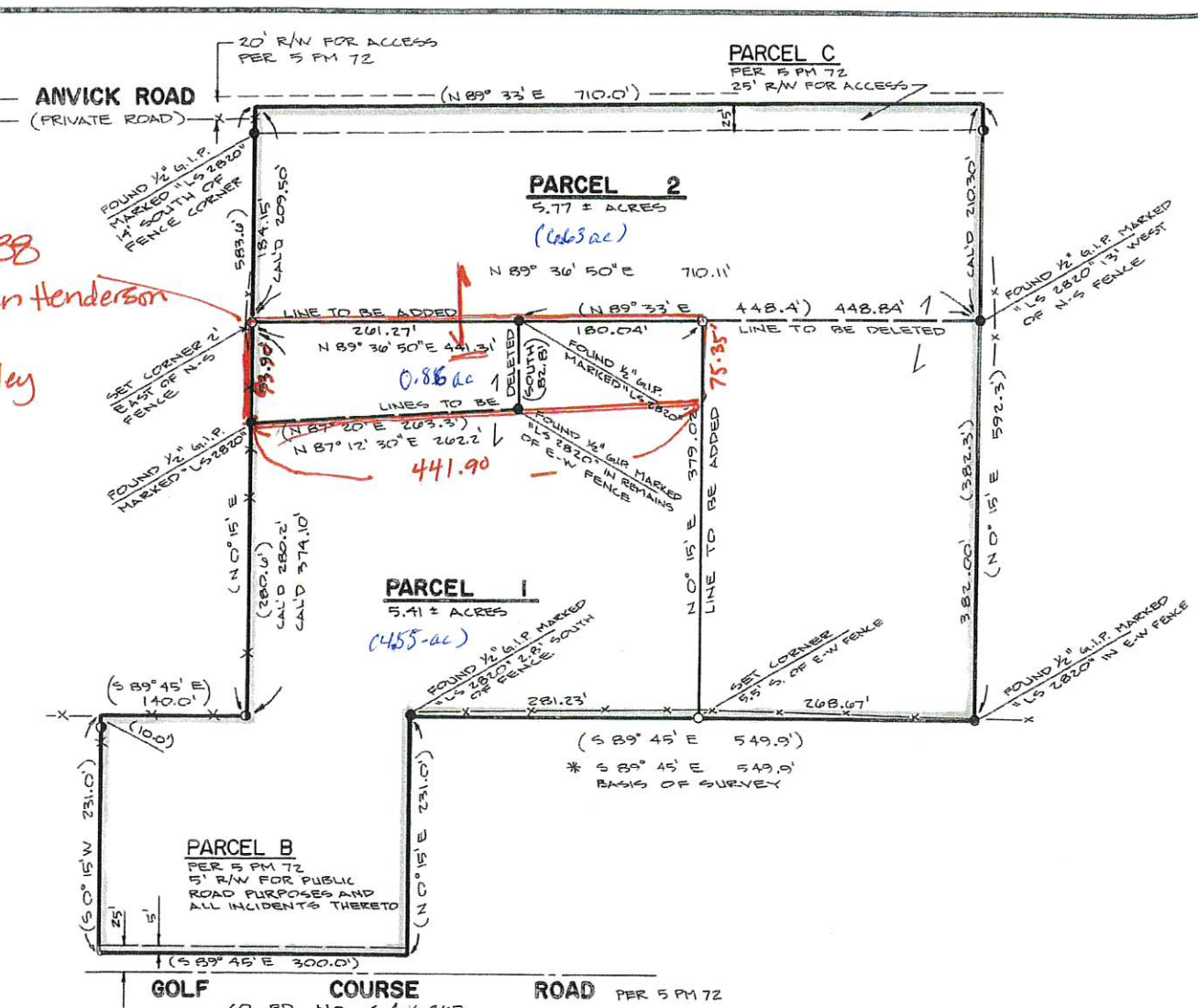
CHANDLER ENGINEERING
611 L ST. EUREKA, CALIF. (707)445-8988

SHEET 1 of 1

BOOK 20 OF PARCEL MAPS, PAGE 67

12/84

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



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 "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. 590, 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, 1984, I, 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, 1984, I, 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 [Signature]
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

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

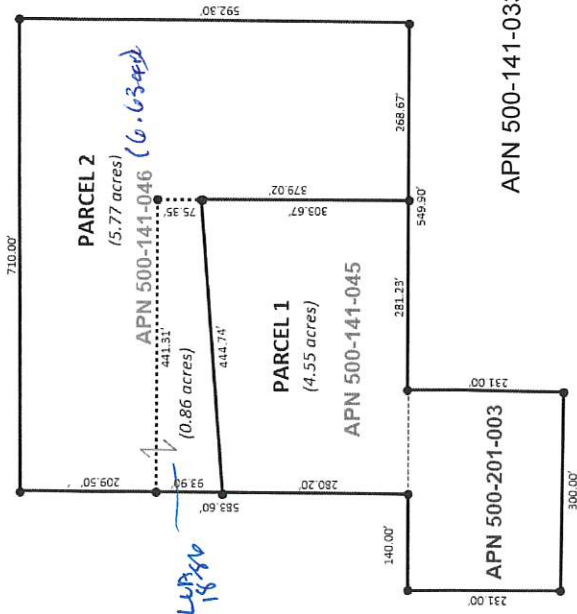
CHANDLER ENGINEERING
611 L ST. EUREKA, CALIF. (707)445-8988

Indexed
SHEET 1 of 1

LLA-18-86
Final Comp

20 PM 67-Knotes

BOOK 20 OF PARCEL MAPS, PAGE 67



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.

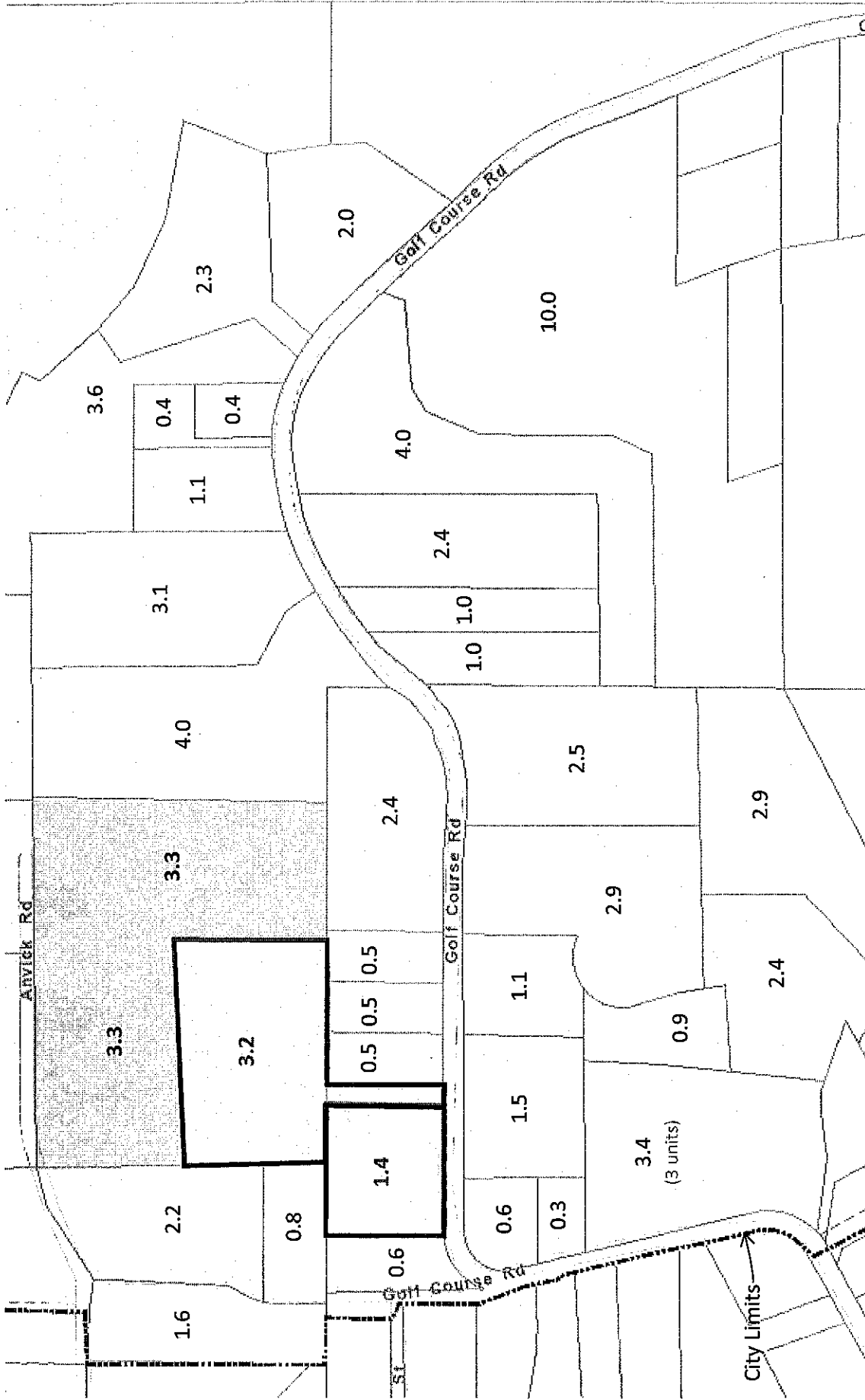
NOTES:

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.

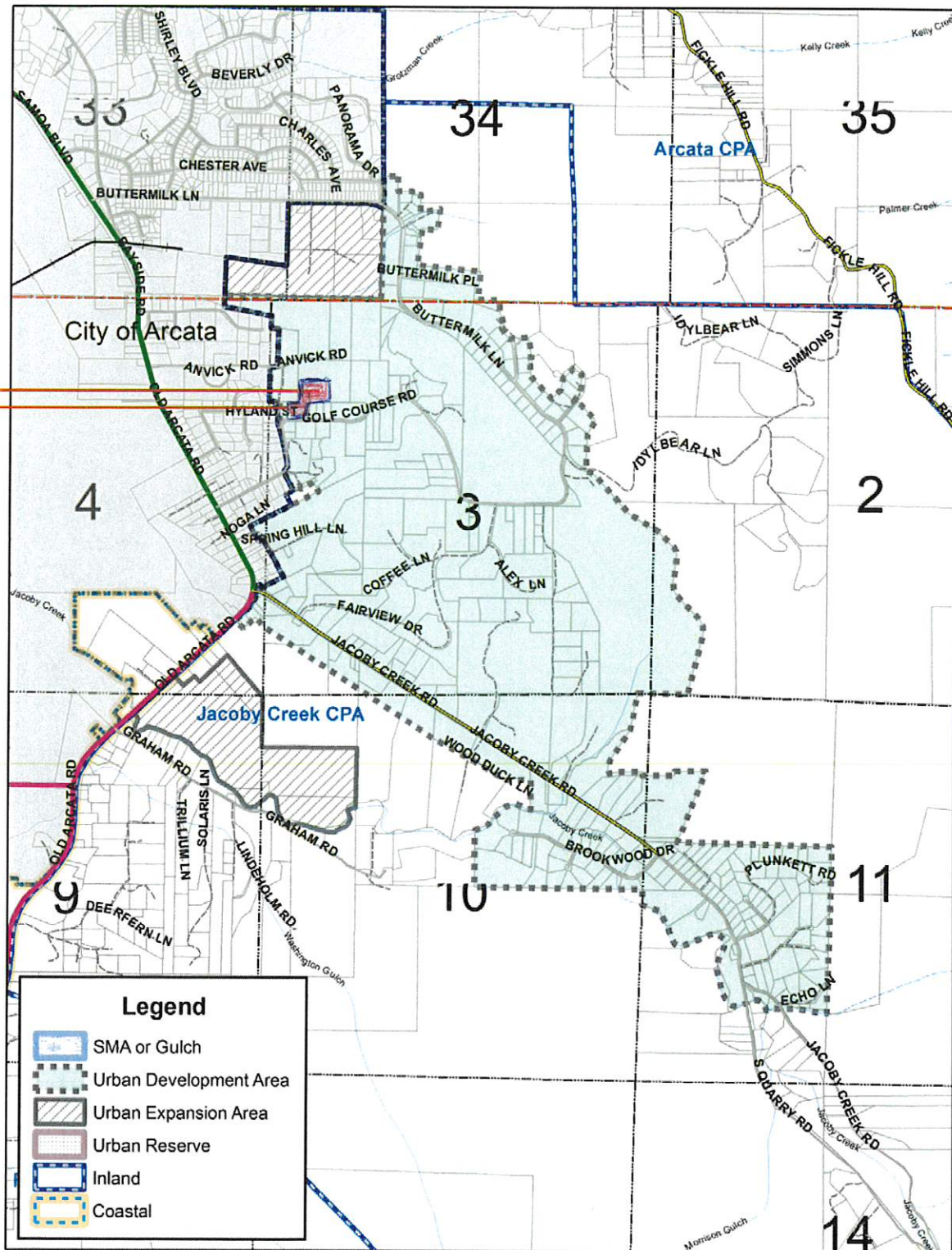
Disapproval would be illegitimate

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.

Subject
Property

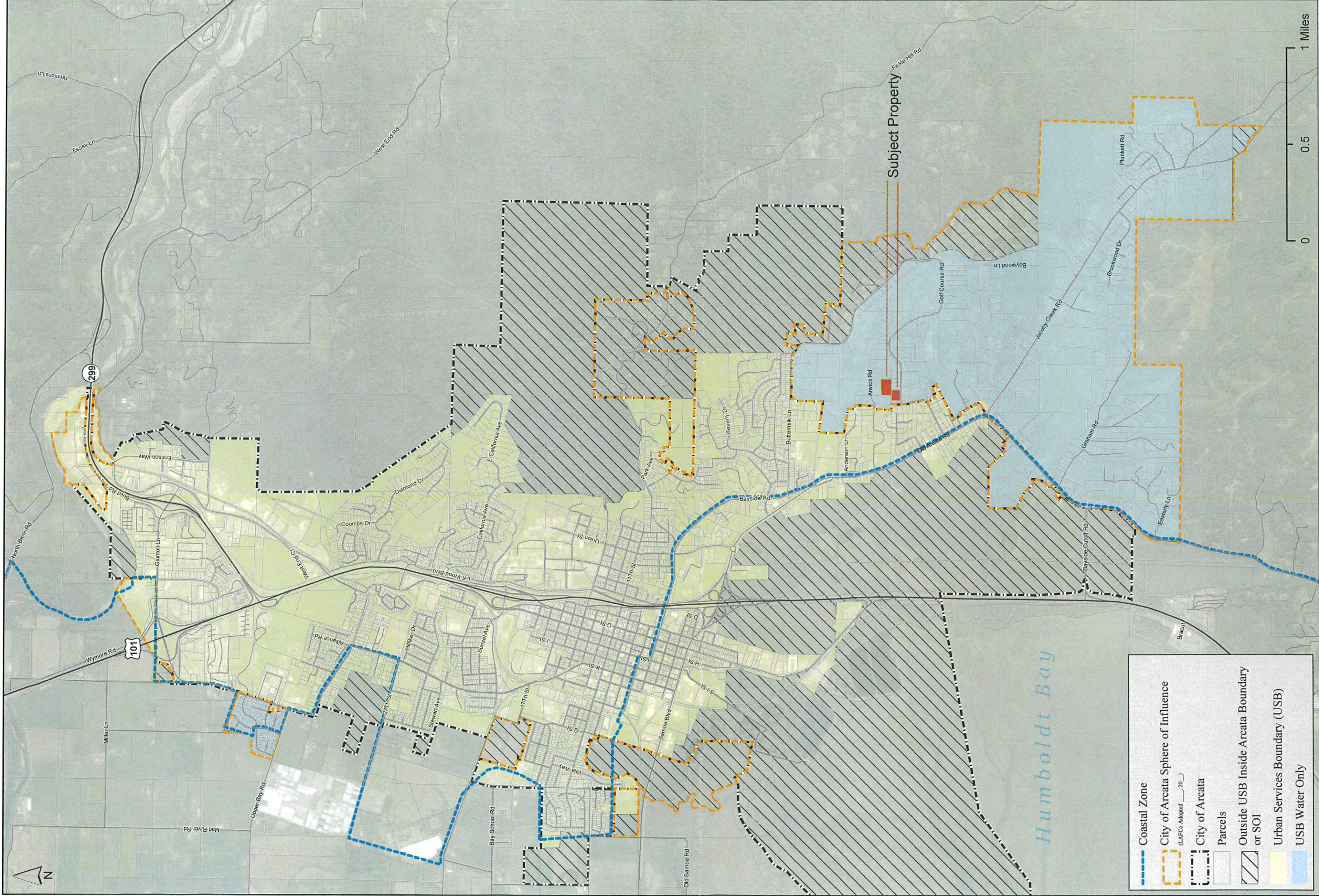


Figure GM-a City of Arcata Urban Services



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

Average size of numerated parcels is 2.1 acres.