

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of September 9, 2025

RESOLUTION NO. 25-__

RESOLUTION OF THE HUMBOLDT COUNTY BOARD OF SUPERVISORS MAKING THE REQUIRED FINDINGS TO DENY THE APPEAL, CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND DENYING THE HENDERSON PARCEL MAP SUBDIVISION AND EXCEPTION REQUEST RECORD NO. PLN-2025-19178-APPEAL; APN 500-141-045-000 AND 500-201-003-000

WHEREAS, the owner submitted an application seeking approval of a Minor Subdivision and Variance Request to result in one parcel of 1.4 acres and one parcel of 3.2 acres; and

WHEREAS, the minimum density of the Humboldt County General Plan for this property is 2.5 acres per dwelling unit and the minimum lot size for parcels in this zone district is 2.5 acres; and

WHEREAS, the minimum parcel size of the RS-B5(2.5) zone district applicable to the property is 2.5 acres; and

WHEREAS, the parcel is located within the Jacoby Creek Community Plan (JCCP) which specifies that parcels without public sewer and public water may not be created to be less than 5 acres in size; 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, a public hearing was held on the matter before the Humboldt County Planning Commission on August 7, 2025, during which the Planning Commission denied the application after the Planning Commission had reviewed, considered, and discussed the application and reviewed and considered all evidence and testimony presented at the hearing; and

WHEREAS, the Planning Commission, at its hearing of August 7, 2025 denied the parcel map subdivision and variance application by a 6-1 vote; and

WHEREAS, on August 18th, 2025, Larry and Eileen Henderson ("Appellant") filed a timely appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

WHEREAS, the Board of Supervisors held a public hearing, *de-novo*, at their meeting of September 9th, 2025 and reviewed, considered, and discussed the application and appeal of the project; and reviewed and considered all public testimony and evidence presented at the hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS THAT:

- 1. FINDING: PROJECT DESCRIPTION:** Denial of a Parcel Map Subdivision (PMS)

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and variance of an approximately 4.55-acre parcel into two parcels of approximately 1.4 acres (Parcel 1) and 3.2 acres (Parcel 2). The site is currently developed with a single-family residence served with on-site water (well) and on-site wastewater treatment system. The variance is requested to allow the subdivision of a 4.6 acre parcel to allow a parcel size below the minimum lot size allowable by the zone (2.5 acres). An exception request has been submitted to allow the parcels to be served by a roadway not meeting the Category 4 road standard.

EVIDENCE: Project File: PLN-2025-19178

CEQA

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been met. The project is exempt from environmental review pursuant to Section 15270 of the CEQA Guidelines (Projects which are disapproved).

EVIDENCE: Section 15270 of the CEQA Guidelines.

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

- 3. FINDING:** The proposed subdivision map is not consistent with the applicable general and specific plan and must therefore be denied.

- EVIDENCE:**
- a) Section 66474 of the California Government Code (Subdivision Map Act) states, in part, that *"A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if" it finds "(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451." or "(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific Plans."*
 - b) The property is 4.6 acres in size and the project will result in a total of two (2) parcels. Parcel 1 will be 1.4 acres in size and parcel 2 will be 3.2 acres in size.

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- c) Lot size is included in the definition of “design” as defined by the Subdivision Map Act. The property is planned in the General Plan for Residential Estates with a mapped density of 2.5 acres to 5 acres per unit. Creation of two parcels from a 4.6-acre parcel results in less than a 2.5-acre density even when averaged across the subdivision. The proposed lot sizes are not consistent with General Plan density limits.
- d) Sanitary facilities and utilities are included in the definition of “design” as defined by the Subdivision Map Act. The proposed minor subdivision is on lands designated as Residential Estates and would obtain its water from a private groundwater well. The specific plan for the area, the Jacoby Creek Community Plan specifies that *“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.”* – JCCP-P39. The proposed on site groundwater well is not consistent with the above-mentioned Specific Plan policy as it is not a public water system.
- e) The proposed minor subdivision would rely on private water and private sewage disposal systems. The property is within the mapped “Urban Development Area” and the Jacoby Creek Community Plan states that *“Development within the Urban Development Area should occur at designated plan densities only when public water and public sewage disposal systems are available, except as provided in this plan.”* – JCCP-P27. The proposed minor subdivision is not served by public water and sewer.

The proposed minor subdivision proposes an average density of 2.3 units per acre when the designated plan density in this instance is 2.5 acres per unit. Such that even if the property was served by public water and sewer, it would still not be consistent with this plan policy.

- f) Jacoby Creek Community Plan Policy JCCP-P26 allows an exception to JCCP-P27 to allow residential development *“at one dwelling unit per five or more acres”* where it can be

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“determined that A) Public water or sewer services are not presently available to serve the project site; and B) the proposed development can safely accommodate individual water and waste water disposal systems consistent with current County standards, and C) Mitigation measures will assure that the proposed development will not cause adverse cumulative health or environmental impacts; and D) the design of the proposed development will not preclude the ultimate development of the site to planned urban densities when public water and sewage disposal systems are provided.” While it appears that the findings A through D above can be made, the exception does not apply because the proposal would be for a density (one unit per 2.3 acres) well below that allowed by the exception (1 unit per 5 or more acres). This policy acknowledges that public sewer and water may not be available in the Urban Development Area and identifies that a 5-acre minimum density is required even with the exception to policy JCCP-27. The intent of this policy is clearly to limit densities to 5 acres even if public water and sewer is never available.

- g) Policy JCCP-P45 requires that *“Prior to the approval of any subdivision, development permit or building permit, proof that such development shall be connected to public water systems shall be required, except as provided for in Policy-P26, Residential Densities of this Plan.”* As stated above, as the proposed subdivision would not connect to a public water system the allowable density would be one unit per 5 or more acres. The proposed density of this minor subdivision would be one unit per 2.3 acres, which is not consistent or allowable.

4. FINDING:

In order to be approved, the subdivision must be found “consistent” with the General Plan or Specific Plan. A project can be found consistent with most of the relevant policies, but if it is inconsistent with one or more policies intended to protect the environment will allowing development, it must be found to not comply with the Plan and is therefore not compatible with the Plan. The proposed subdivision is not consistent, nor is it compatible with the Community Plan or the General Plan.

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- EVIDENCE:**
- a) The applicant argues that the proposal is compatible because it is consistent with Policy JCCP-P35 and Policy JCCP-P-42. Policy JCCP-P35 states that no new rural development shall be approved unless sufficient potable water is available to meet the needs of the proposed development. Policy JCCP-P-42 states that no new rural development shall be approved unless proof is provided that such development has access to adequate waste disposal systems. Consistency with these policies does not make the project consistent with the whole of the Community Plan or General Plan. While it is true that a proposed development project need not be in perfect conformity with every single community plan policy to be compatible with the plan, it is the duty of the decision-making body to consider all of the policies in the plan to determine whether the project would be in harmony with the plan. In this instance, all of the policies within the community plan that address density indicate that a 5-acre density is intended for these parcels unless urban services are provided. A comprehensive view of the JCCP policies demonstrates that a proposed subdivision without urban services is only consistent and compatible with the JCCP if the parcels created are five acres in size or larger.
 - b) The original JCCP made the following findings for the inclusion of the 5 acre requirement for development on lots without public water and sewer stated the following:
 - Existing development within the urban portion of the Planning Area had reached maximum capacity in some neighborhoods.
 - Domestic water is provided to the Planning Area by both the City and the District.
 - Failing septic systems and surface water contamination have been documented in portions of the Planning Area.
 - c) Each of the policies within the community plan that address density indicate that a 5-acre minimum density is intended for these parcels unless urban services are provided. A

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comprehensive view of the JCCP policies demonstrates that a proposed subdivision without urban services is only consistent and compatible with the JCCP if the parcels created are five acres in size or larger.

- d) The Humboldt County General Plan specifically identifies the density in this area as 2.5-acres per unit at maximum and the proposed subdivision would result in parcels that exceed this average density. The proposed division is therefore neither consistent with the density policies of the community plan or the General Plan.

5. FINDING: Inclusion of the property within the Urban Development Area (UDA) of the Jacoby Creek Community Plan was intentional and was not an obvious error.

EVIDENCE: a) The mapping of the UDA was predicated on the reasonable expectation public water and sewer would eventually become available; this is not an “obvious error” as described in policy G-P9. “Obvious error” is a term of art generally referring to facial errors and not those errors that arise after change in circumstance and examination of facts. In addition, local governments have plenary authority and legislative discretion to interpret such terms as included in their general plans. General plans are forward-looking policy documents, and inclusion of this policy was deliberate, not only based on anticipated growth, economic development, or regional coordination but hopes it would serve as a catalyst for future infrastructure development that supports controlled growth and environmental protection. The property is approximately 150 feet from the incorporated city limits of Arcata and yet does not have access currently to urban water and wastewater service. It is not unreasonable to expect that these services will foreseeably be available at some point in the future even if there are no current plans for this. As such, in this case, the urban designation is consistent with long-range planning, and the infrastructure delay is a change in circumstance, not a flaw in the plan’s logic or legality. The Board adopted two scenarios,

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one with services and one without. In adopting the Jacoby Creek Community Plan, the Board of Supervisors intentionally established these policies. There was no immediate plan to annex or provide these parcels with public services at the time of adoption of these policies, rather it was understood that it might happen at some point in the future – not that it absolutely would happen. The fact that annexation and/or provision of services has not yet happened and is not currently proposed does not make this an “obvious error” by the Board in adopting these policies. General plans are forward looking, and infrastructure delivery is often sequenced based on demand, feasibility, and fiscal constraints. Lack of sewer and water connections does not invalidate the land use designation.

6. FINDING: The proposed subdivision would not be consistent with the Jacoby Creek Community Plan even if it were not located in the mapped Urban Development Area.

- EVIDENCE:**
- a) Policy JCCP- P39 limits subdivisions without a public water system to 5-acre parcel sizes and is not limited to parcels in the UDA. It applies equally to lands designated Residential Estates in rural areas of the JCCP. As such, even if the parcel were to be removed from the UDA designation, the parcel could not be further subdivided because it is designated Residential Estates which has a 5-acre density designation even outside of the UDA.
 - b) The intention of Policy JCCP-P39 is to protect water quality and groundwater resources in the Jacoby Creek Community Plan area. Subdivisions at more urban densities have the potential to adversely impact groundwater availability for existing properties in the area and surface waters in the area. There are no studies that have been completed to demonstrate that development of additional private water systems would not have detrimental impacts on groundwater or surface water resources.
 - c) If the subject property was not located in the Urban Development Area it would be identified as rural, which would suggest lower densities.
 - d) The Humboldt County General Plan specifies that the density of

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the subject parcel is 2.5 acres per unit and the subject parcel is only 4.6 acres in size.

- e) The minimum acreage requirement is intended to prevent increased parcel density and by extension broadly limit the amount of development to that which can be absorbed by available services.

- 7. FINDING:** The process for considering changes or removal of policies in a Community Plan is to seek a plan amendment.

EVIDENCE: a) The applicant may initiate a petition to the Board of Supervisors to rezone the property and amend the general plan land use designation and the applicant has been advised of this option. The current designation was adopted through public hearings, supported by environmental review, and included in regional planning documents. As such, it carries a presumption of validity only changeable through further public process such as an amendment to the plan. The applicant alleges the standards applied to the property by the zone designation, General Plan, and Community Plan are inappropriate. The policies do not constitute an obvious error, and, as such, the appropriate action by the applicant is to petition the Board of Supervisors to consider a plan amendment and a zone reclassification.

- 8. FINDING:** The proposed subdivision is not consistent with the minimum parcel size requirements of the zone district.

EVIDENCE: a) The parcel is zoned Residential Suburban with a B (5) Combining Zone specifying a minimum parcel size of 2.5 acres (RS-B-5(2.5)). The parcel is 4.6 acres and subdivision into two parcels would not be consistent with the minimum parcel size even if averaged across the two proposed parcels.

- b) Ordinance 1169 Adopted October 11, 1977.

Variance Findings – Humboldt County Code 312-17.2

- 9. FINDING:** There are no exceptional or extraordinary circumstances or conditions applicable to this property or the intended use of the property that do not equally apply generally to the property or

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class of use in the same zone in the vicinity.

- EVIDENCE:** a) The applicant argues that the original property from which the current property was subdivided was 11 acres and would have allowed for the creation of four parcels and that subsequent land use actions – including a previous subdivision and lot line adjustment, have rendered the parcel too small to be divided under the zoning and that this is therefore a special circumstance. However, the creation of the parcel in its current 4.6-acre size was an action undertaken willingly by the landowner and cannot be viewed as a special circumstance not applicable to other parcels of the same zone. After creation of the parcel by subdivision, the property owner sought and gained approval for two separate lot line adjustments, eventually resulting in the current 4.6-acre parcel. These actions occurred intentionally by the property owner with full knowledge of the 2.5-acre minimum parcel size which was (and remains) applicable to subdivisions. There are no physical constraints unique to this parcel that would qualify as a special circumstance for the purposes of a granting a variance such as topographic limitations or irregular shapes. There are other parcels in this zone district that are too small to be subdivided to the minimum allowable size per the zone.

- 10. FINDING:** The strict or literal interpretation and enforcement of the minimum parcel size regulation would not result in practical difficulty or unnecessary physical hardship and would not deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone district.

- EVIDENCE:** a) A subdivision of a parcel is a discretionary action that must comply with minimum standards set forth by the zoning ordinance and general plan. Not being able to subdivide a parcel into a substandard size is not a physical hardship or unusual practical difficulty. Further, none of the other owners of property in the same zone district have been granted privileges to create parcels smaller than the minimum size allowed by the zone.

- 11. FINDING:** Granting of the variance would constitute a grant of special

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privilege inconsistent with the limitations on other properties classified in the same zoning district and would create a substandard and therefore nonconforming parcel. There is no precedent for the granting of variances to allow for subdivision of parcels and approval of this variance would therefore be a special privilege.

- EVIDENCE:**
- a) The applicant argues that the denial of the variance would deny the applicant the ability to have a parcel similar to the average parcel size in the area and that the subject parcel is the largest parcel in the zone and no others are subdividable. This is not accurate. Notwithstanding the general plan and specific plan policies, the parcel immediately to the north is over 5 acres and could be subdivided to the 2.5-acre zone minimum and there is one parcel in the same zone which is ten acres in size which would also be subdivided. The average size of other parcels in the vicinity under identical zoning is 2.45 acres. The proposal as it stands is to subdivide a parcel into two parcels with an average size of 2.3 acres. This is below both the required minimum and the average size of existing parcels in the vicinity. No other property owners in the same zoning district have been granted privileges to subdivide below the minimum size of the zoning district.
 - b) In this area there are parcels that are less than 2.5 acres in size, but there are also parcels that are larger than 2.5 acres in area. Under the zoning unless the parcel is more than 5 acres in area, it cannot be further subdivided. In this case this property owner has the same right of any other property owner with a parcel area between 2.5 and 5 acres to develop their property with a single-family residence and any permitted accessory buildings and uses allowed under zoning. This property is not being denied privileges available to other property owners in the area.
 - c) The original text of the JCCP identifies that in 1980 there were 770 housing units in the area (P 15 – 2201 Existing Population and Housing). Many of the lot sizes and development patterns were established prior to the adoption of the JCCP and the Zoning Ordinance.

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- d) The majority of parcels in the same RS-B5(2.5) zone district in this area were created prior to rezoning to this zone district which occurred by Ordinance 1169, adopted on October 11, 1977. Subdivisions that have occurred after adoption of this ordinance have been consistent with the requirement to have an average parcel size of at least 2.5-acres per parcel (subsequent to adoption of the JCCP in 1982, subdivisions have been consistent with a 5-acre average parcel size).
- e) The property is currently developed with a single-family dwelling, and the zone and land use designation allow for development of an accessory dwelling unit and residential accessory structures. The size and configuration of the parcel does not preclude development allowed on other parcels in the vicinity with identical zoning and land use designations. Additional development, including development of an Accessory Dwelling Unit, may be permitted on the parcel currently. Not granting the requested variance does not constitute deprivation of a property right.

FINDINGS FOR APPEAL

12. FINDING: There was no abuse of discretion or unlawful action involved with the Planning Commissions denial of the subdivision application as alleged by the appellant.

EVIDENCE: a) Section 66474 of the California Government Code (Subdivision Map Act) states that *"A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if" it finds "(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451" or "(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific Plans."*

The Planning Department correctly advised the Planning Commission of the required standard, which is that the legislative body shall deny approval of a tentative map if it finds the map inconsistent with the applicable general and specific plans.

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- b) Section 66473.5 of the California Government Code (Subdivision Map Act) states that *No local agency shall approve a tentative map, or a parcel map for which a tentative map was not required, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan. A proposed subdivision shall be consistent with a general plan or a specific plan only if the local agency has officially adopted such a plan and the proposed subdivision or land use is compatible with the objectives, policies, general land uses, and programs specified in such a plan.*
- c) The record is clear that the Board of Supervisors was concerned about allowing a continuation of the development pattern created prior to adoption of the Jacoby Creek Community Plan and thus included policies to ensure more intensive development density was limited until such a time as water and sewer services were provided. A project cannot be considered to be compatible with the objectives and policies of the plan if it does not comply with policies put in place due to expressed concerns about the capacity of the area to have additional development.
- d) Based on its clear inconsistency with multiple plan policies as described above in findings 3 through 6, the proposed subdivision is neither compatible nor consistent with the general plan and community plan and as such, per Section 66474 the County must deny the project as proposed.
- e) As described above in findings 3 through 6, the subdivision is clearly inconsistent with multiple plan policies, and while it may be found consistent with some policies such as the support for additional housing, a project may not be found consistent or compatible with the plan as a whole when it is directly inconsistent with multiple policies.

13. FINDING:

The policies of the Jacoby Creek Community Plan establishing a 5-acre maximum density is a legitimate government interest.

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EVIDENCE: Policy JCCP 26 and JCCP 27 were established with the following findings in the original Jacoby Creek Community Plan:

- *Existing development within the urban portion of the Planning Area has reached maximum capacity in some neighborhoods.*
- *Domestic water is provided to the Planning Area by both the City and the District.*
- *Failing septic systems and surface water contamination have been documented in portions of the Planning Area.*

It is clear that the Board of Supervisors was concerned about allowing a continuation of the development pattern created prior to adoption of the JCCP and thus included policies to ensure that policies were in place to limit development density until such a time as water and sewer services were provided. These justifications are legitimate government interests for protecting the public health, safety and welfare. No studies have been completed to demonstrate that increased densities beyond the 5-acre restrictions would not adversely impact the neighborhood. While individual water and septic systems may be able to be developed consistent with Division of Environmental Health standards, these standards do not consider the cumulative impacts of additional development and to date there have been no studies to look at the capacity of the area for additional development and to address any cumulative impacts of increasing development capacity.

NOW, THEREFORE, BASED ON THE ABOVE FINDINGS AND EVIDENCE, THE BOARD OF SUPERVISORS DOES HEREBY:

- a. Adopt the findings set forth in this resolution; and
- b. Denies the appeal submitted by Larry and Eileen Henderson; and
- c. Denies the Henderson Parcel Map Subdivision and Variance.

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The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on September 9, 2025, by the following vote:

Dated: _____

Michelle Bushnell, Chair
Humboldt County Board of Supervisors

Adopted on motion by Supervisor _____, seconded by Supervisor _____, and the following vote:

AYES: Supervisors --

NAYS: Supervisors --

ABSENT: Supervisors --

ABSTAIN: Supervisors --

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.

By Kaleigh Maffei
Deputy Clerk of the Board of Supervisors of
the County of Humboldt, State of California