

## SUPPLEMENTAL INFORMATION No. 4

For Planning Commission Agenda of:  
June 18, 2020

<input type="checkbox"/>	Administrative Agenda Item	
<input checked="" type="checkbox"/>	Continued Hearing Item	<b>Item G-1</b>
<input type="checkbox"/>	New Hearing Item	
<input type="checkbox"/>	Old Business Item	
<input type="checkbox"/>	New Business Item	

Attached for the Planning Commission's record and review are the following supplementary information items:

1. Public comment – email M Delany, received 6-11-2020.
2. Public comment – letter from T Luccesi, received 6-15-2020.
3. Public comment – email from L Henderson, received 6-14-2020.
4. Public comment – letter from L Henderson, received 6-15-2020.
5. Public comment – email from B Dolf, Dept. Env. Health, received 6-15-2020.
- 5a. Public comment – email from B Dolf, Dept. Env. Health, received 6-17-2020.
6. Public comment – email from M Henderson, received 6-15-2020.
7. Public comment – email from B Great, received 6-16-2020.
8. Public comment – letter from J Valentin, received 6-16-2020.
9. Public comment – letter from M Delany, received 6-16-2020.
10. Public comment – Letter from L. Henderson 6-17-2020.
11. Public comment email from T. Luchessi 6-18-2020.
12. Public Comment email from B. Marth 6-18-2020.

## Great work!

Marc Delany <mldelany@gmail.com>

Wed 6/10/2020 6:42 PM

To: Milner, Mary <MMilner1@co.humboldt.ca.us>

Thank you.

We need to be able to slide an ADU into a driveway along side an existing typical home in say eureka.. Is that OK now?

Also, for farm worker housing, we need composting toilets. DHS met with county residents and Mario, put out a even more restrictive local ordinance effectively prohibiting composting toilets (there are 10,000 working units in HC) based on CA's weird and unique decision that kitchen sink produces "black water" thereby requiring septic for grey water, thereby requiring septic for toilet. An odd and solely political decision. Not science based.

928 899-8531 anytime

Marc

*"We have nothing to fear but fear itself" - F.D.R.*

TO: Humboldt County Planning Commission

6/15/20

FROM: Tony Lucchesi

4747 Jacoby Creek Rd.

Bayside, CA

RE: ADU Ordinance, Jacoby Creek Area.

Dear Commissioners,

I understand that the Commission is considering three alternatives in a discussion of Section 69.05.6(g), listing the Jacoby Creek area as an ADU Special Permit area. I urge the Commission to delete the five-acre minimum density restriction for this area.

I have been a resident of Jacoby Creek since 1964, so was present when municipal water was brought to the area and also when the policy was put in place that restricted development in Jacoby Creek until “public water and public sewage disposal systems are available”. From the time this policy was enacted, many of us saw the policy as an arbitrary de facto zoning restriction a “political decision”, as opposed to one based on public benefit or water quality. Virtually no one thought that sewer service was coming to Jacoby Creek then or now.

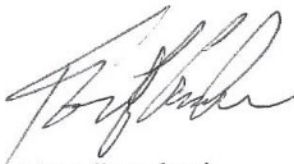
While it is important to safeguard the watershed and public health, I argue that the current policy does exactly the opposite. The majority of the houses in Jacoby Creek were built prior to 1964 and have aging septic systems that do not meet current standards. As long as they (more or less), work though, there is little incentive for property owners and little leverage for Environmental Health to upgrade and improve these systems.

Should the County delete the five-acre minimum for Jacoby Creek, it is unknown how many parcels would be developed with ADU. It is known, though that each parcel developed with an ADU would undergo the rigorous process of meeting modern standards for onsite wastewater treatment, both for the ADU and the existing residence. Additionally, ADU rental income would create a financial incentive for property owners to replace aging septic systems.

I believe a solid argument can be made that water quality in Jacoby Creek would be improved over the long haul with the deletion of the five-acre minimum policy. In addition to the point raised above, there are an unknown number, but probably dozens at least, of unpermitted ADUs and AirBnBs, etc. that are tied into existing aging wastewater systems. Deletion of the five acre policy would be an incentive to bring these into compliance.

Aside from this point, there is no logic in treating Jacoby Creek any differently than any other incorporated area of Humboldt County. The five-acre policy restriction is an arbitrary construct and I have never seen any argument or logic presented for it, as opposed to a one, two, etc. acre parcel size limitation. As is, it serves only as an artificial barrier to construction of badly needed affordable housing units in a desirable area.

Thank you,

A handwritten signature in black ink, appearing to read 'Tony Lucchesi', with a stylized, cursive script.

Tony Lucchesi

707-498-0679

June 14, 2020

Michael Richardson  
Humboldt County Planning Department  
Eureka, Ca 95501

**Re: Accessory Dwelling Unit Ordinance**

Michael:

As you know, I support the ADU Ordinance, as modified to date by the Commission, provided Section 69.05.6(g) is deleted. That section lists the Jacoby Creek Area as an ADU Special Permit Area district and sets a 5-acre density restriction for the Area.

If I understand correctly, Planning will be presenting to the Commission three alternatives regarding the Section: Keep it, delete it, modify it. While I have not seen the recommendation for the third alternative, I expect the modification would only change the Section from a fixed restriction to a more temporary restriction pending review of the Jacoby Creek Community Plan density policies.

Of course, I and other property owners in the area are opposed to any special restrictions for the Jacoby Creek Area without first updating the community plan with full participation of all stakeholders. Hence, we would be opposed to Planning's first and third alternatives.

As we see it, the issue goes beyond the ADU ordinance. The issue and decision is about how the Jacoby Creek Area and the other non-sewered areas in the County are treated...differently or alike? We see two options: (Option A) treat Jacoby Creek Area and the other non-sewered areas in the County *differently* with a special density restriction for Jacoby Creek; or (Option B) treat Jacoby Creek Area and the other non-sewered areas in the County *alike* with no density restriction.

Previously, I told you and the Planning Commissioners that I believed that strict application of the Jacoby Creek Community Plan's 5-acre density restriction would be both consistent and inconsistent with the General Plan. However, after looking more closely at the General Plan, I now believe that a finding cannot be made that the restriction is consistent. The assertion that it might be consistent cannot be reasonably defended. What can be reasonably defended is that our Option A would not be consistent with the General Plan, whereas Option B would be consistent.

Planning's assertion that the restriction would be consistent references two policies set forth in the 2017 Jacoby Creek Community Plan. The key policy referenced is JCCP-P27 (Development within the Urban Development Area):

*“Development within the (Jacoby Creek) 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.**”*

To clarify, the designated density range—as designated in the plan text and map—for new development inside the Jacoby Creek Urban Development Area is 0.2 to 1.0 du/acre (or a parcel size range between 1 and 5 acres). The proposed 5-acre density restriction would supersede the plan text and map until both public water supply and sewage disposal services are available and provided.

The mistake comes from ignoring the ‘exception’ in the last part of the policy. The question is, what is that exception “provided in this Plan?”

The 2017 Jacoby Creek Community Plan provides no exception that would be applicable. On review of all the other policies of the General Plan, the only one that is relevant and appears to apply is policy GP-P6 (Use of On-Site Sewage Systems within Urban Development Areas).

*“The utilization of on-site sewage disposal systems shall not be acceptable for new subdivisions in the Urban Development Area, **unless the Planning Commission makes specific factual findings that:***

- A. The extension of services is physically infeasible; or,*
- B. The area is not planned for service in the service provider’s Municipal Service Review and other written long-term plans; or,*
- C. The services are not reasonably available in a timely manner.”*

A rational inference can be made that this policy is that exception “provided in this Plan.” But Option A is not consistent with this policy. Option A allows no exception that would permit development at the designated plan densities where the services cannot be secured.

The other policy referenced by Planning is JCCP-P26 (Residential Densities).

*“Residential development at one dwelling unit per five or more acres may be permitted within the Urban Development Area if (specified determinations are made with respect to provisions for water supply and sewage disposal). The use of private water sources within the (Jacoby Creek) Urban Development Area is permitted only for residential development at densities of one dwelling unit per five or more acres.”*

This policy is the specific source for proposing the 5-acre density restriction. But it conflicts with policy GP-P6, as it too does not provide for the exception. While Option A might be considered consistent with JCCP-P26, it cannot be found consistent with the General Plan when it conflicts with GP-P6, an over-riding policy.

I have found no other policies set forth in either the Jacoby Creek Plan or County Plan that Option A would be consistent with.

On the other hand, Option B is consistent with all relevant policies in both the Jacoby Creek Plan and County Plan—with the exception of being inconsistent with JCCP-P26, which conflicts with the over-riding policy GP-P6.

Attached is a chart that I prepared listing relevant plan policies and summarizing what I see as the consistencies and inconsistencies of both Options A and B.

Again, my request—and what I would support—is a recommendation that Section 69.05.6(g) simply be deleted. To delete it would be consistent with both the Jacoby Creek Plan and County Plan. But to keep it—or to modify it—would be inconsistent with the plans.

And again, I see no over-riding public interest to impose the special 5-acre density restriction.

I understand why Planning speculates that the 1979 state-imposed "Waiver Prohibition" was the reason for the restriction. The original 1982 Jacoby Creek Community Plan says "Portions of the Jacoby Creek Area are included in a State imposed Waiver Prohibition area." It provides for "enacting" the waiver prohibition by requiring new development to provide "proof of access to adequate waste disposal systems."

But this is not an explanation or justification for why a 5-acre density limitation. Nowhere in the Plan is an nexus provided between the waiver prohibition and a 5-acre density limitation. Further, in the State's documentation related to the waiver prohibition, there was no reference or requirement for any density limitation. There is no reason for the special restriction.

It is my recollection that the limitation was inserted by the Board of Supervisors—without review by the Planning Commission—at Arcata's insistence...it was what the City wanted.

My recollection is shared by other members of the citizens group that prepared the original draft of the Jacoby Creek Community Plan. The original draft did not provide for any density limitation, other than the density ranges designated in the plan text and map. Consideration of a special density limitation was not even on the radar screen, simply because it was expected that there would be no health risk with the strict enforcement—with no waivers—of water supply and sewage disposal standards.

From our point of view, if there is in fact a critical health and safety matter, then all the area covered by the 1979 waiver prohibition needs to be included as an ADU Special Permit Area, not just the Jacoby Creek Area.

Larry

**JACOBY CREEK COMMUNITY PLAN  
CONSISTENCY/INCONSISTENCY COMPARISON  
OF SECTION 69.05.6(G) OPTIONS**

	<b><u>OPTION 'A'</u></b> <b>Treat Jacoby Creek Area and the other non-sewered areas in the County differently with a 5-acre density restriction [Keep Section 69.05.6(g)]</b>	<b><u>OPTION 'B'</u></b> <b>Treat Jacoby Creek Area and the other non-sewered areas in the County alike with no density restriction [Delete Section 69.05.6(g)]</b>
<b>JACOBY CREEK COMMUNITY PLAN POLICIES</b>		
<b>JCCP-P5 (Adequate Housing in Jacoby Creek).</b> It shall be the goal of the County to promote adequate and safe housing for the residents of the Jacoby Creek Area by requiring the provision of appropriate public services when development takes place.	<b>Not consistent</b>  Option 'A' would require water supply and sewage disposal services where and when the 5-acre density limitation in the Jacoby Creek Area is exceeded.  However, the services may not be "appropriate" where and when the development could meet current health standards without the services.	<b>Consistent</b>  Option 'B' would require compliance with water supply and sewage disposal regulations, including connection to appropriate services as needed.
<b>JCCP-P22 (Residential Uses).</b> A variety of housing types and densities should be encouraged to be located within the (Jacoby Creek Area) Urban Development Area.	<b>Not consistent</b>  Option 'A' would limit residential density to no greater than one dwelling unit per 5 or more acres in the Jacoby Creek Area.	<b>Consistent</b>  Option 'B' would not impose any density limitation in the Jacoby Creek Area, subject to compliance with water supply and sewage disposal regulations.
<b>JCCP-P25(Provision of Urban Services).</b> This plan is predicated on the intent that either the City of Arcata or the Jacoby Creek County Water District will be the provider of urban services within the (Jacoby Creek Area) Urban Development Area.  <i>Note: This 40-year old basis for the Jacoby Creek Community Plan policy of a maximum 5-acre density without public sewage disposal services is no longer valid, as the City of Arcata (the responsible service agency) is on</i>	<b>Not consistent</b>  Option 'A' would impose special restrictions to further an interest that is no longer applicable.	<b>Consistent</b>  Option 'B' would not cause or contribute to a need for extended services, resulting in burden on the affected service agency.



<p><i>record that it will not extend sewage services beyond the current service area in the foreseeable future. Further, the Water District's service area has not been extended to serve the Urban Development Area as predicated.</i></p> <p><i>The provision of new urban services to serve new residential development has been insignificant for the last 40 years since the Jacoby Creek Community Plan was adopted. There are no plans to change this, and the expectations now are no expansion of services to allow new development in the Jacoby Creek Area to help resolve our current pressing housing problems.</i></p> <p><i>This information is from the following reports referenced by the GPU:</i></p> <ul style="list-style-type: none"> <li>• <i>Water Resources Technical Report, prepared for Humboldt County by Winzler and Kelly Consulting Engineers (November 2007)</i></li> <li>• <i>Community Infrastructure and Services Technical Report, prepared for Humboldt County by Winzler and Kelly Consulting Engineers (July 2008)</i></li> <li>• <i>City and District Sphere of Influence Reports, LAFCO (January 2009)</i></li> <li>• <i>Water Quality Control Plan for the North Coast Region (Basin Plan), North Coast Regional Water Quality Control Board (May 2011)</i></li> </ul>		
<p><b>JCCP-P26 (Residential Densities).</b> Residential development at <b>one dwelling unit per five or more acres</b> may be permitted within the Urban Development Area if (specified determinations are</p>	<p><b>Consistent</b></p> <p>Option 'A' conforms to this policy in that it allows new development at densities of 5 or more acres per dwelling unit in</p>	<p><b>Consistent</b></p> <p>Option 'B' does not violate this policy in that new development at densities of 5 or more acres per dwelling unit is permissive where applicable.</p>

<p>made with respect to provisions for water supply and sewage disposal).</p> <p><i>Note: It is presumed that this policy does not prohibit new development at densities greater than 5 acres per dwelling unit. The basis of this presumption is the use of the term "may be permitted" and the acknowledgment that the designated density range for new development inside the Urban Development Area (originally, Urban Limit Line) is 0.2 to 1.0 du/acre (or, a maximum parcel size of 5 acres).</i></p> <p><i>This policy provides an exception, otherwise new development resulting in a density less than 0.2 du/acre in the Urban Development Area would conflict with the plan's allowable density range as designated in the plan text and map.</i></p>	<p>non-sewered areas, albeit only at that density range.</p>	
<p><b>JCCP-P26 (Private Water Sources).</b> The use of private water sources within the (Jacoby Creek Area) Urban Development Area is permitted only for residential development at densities of <b>one dwelling unit per five or more acres.</b></p>	<p><b>Consistent</b></p> <p>Option 'A' requires public water supply service (and sewage disposal service) at a density exceeding 5-acre per dwelling unit.</p>	<p><b>Not consistent</b></p> <p>Option 'B' would allow private water sources at higher densities where permitted by current standards.</p>
<p><b>JCCP-P27 (Development within the Urban Development Area).</b> Development within the (Jacoby Creek Area) 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.</p>	<p><b>Not consistent</b></p> <p>Option 'A' requires public water supply and sewage disposal services at a density exceeding 5-acre per dwelling unit.</p> <p>However, the Policy's referenced exception has not been disclosed nor described to determine plan-consistency. If the exception is to permit development at the designated plan densities where the services cannot be secured (as inferred by policy GP-P6, see below), then Option 'A' would</p>	<p><b>Consistent</b></p> <p>Option 'B' would allow development at the mapped, designated plan densities where the services are not available when permitted by current health standards.</p> <p>However, Option 'B' would be consistent with an exception, if provided in the plan, to permit development at the designated plan densities where the services cannot be secured.</p>

	not be consistent, as it provides no exceptions.	
<b>JCCP-P40 (Development of Land Designated Suburban Residential) and JCCP-P43 (Urban Water Systems).</b> All new development on lands designated as Suburban Residential, and all proposed development within the Urban Development Area, shall be required to connect to a public water system as and when such system becomes available.	<b>Not consistent</b>  Option 'A' requires public water supply and sewage disposal services at a density exceeding 5-acre per dwelling unit. But it has no provision allowing new development before the services become available	<b>Consistent</b>  Where public water services are not nor will be available, Option 'B' would not permit new development that would be dependent on the services in order to comply with health requirements.
<b>JCCP-P47 (Rural Subdivision Limitation).</b> No new subdivision or minor subdivision which creates parcels of less than five acres shall be approved on lands designated as Suburban Residential until publicly maintained waste disposal systems are available to such lands.	<b>Not relevant</b>  The policy addresses subdivisions, not ADUs. However, Option 'A' would conform to the 5-acre restriction.	<b>Not relevant</b>  The policy addresses subdivisions, not ADUs. However, Option 'B' would conflict with the 5-acre restriction.
<b>OTHER GPU POLICIES</b>		
<b>G-P31 (Common Sense Principle).</b> The General Plan 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. When using the Commonsense Principle, findings shall be made by the Planning Commission and/or Board of Supervisors indicating how the use of this principle balances the needs of the community and Plan policies.	<b>Not consistent</b>  Option 'A' violates the Common Sense Principle in that it strictly applies a special restriction that—for the reason that the required services are not nor will not be provided—results in a de facto moratorium on ADUs in the Jacoby Creek Area for an undeterminable period of time until the services can be provided.  The “moratorium” factor is because there are very few, if not any, parcels in the subject area where new development or ADUs could comply with the 5-acre density restriction, with or without services.	<b>Consistent</b>  Option 'B' simply represents sound practical judgement.

<p><b>GP-P2 (Urban Development Areas).</b> Establish and maintain Urban Development Areas within Community Planning Areas to reflect areas that are served with existing, or planned, public wastewater systems.</p>	<p><b>Not consistent</b></p> <p>Option 'A' continues the incorrect premise that the Jacoby Creek Area Urban Development Area is served with, or is planned to be served with, public wastewater systems. This is not true.</p>	<p><b>Consistent</b></p> <p>Option 'B' acknowledges the error.</p>
<p><b>GP-P5 (Connection to Public Wastewater Systems within Urban Service Areas).</b> All new development within Urban Service Areas shall connect to public wastewater systems.</p>	<p><b>Not consistent</b></p> <p>Option 'A' exceeds the scope of this policy and imposes this requirement to areas beyond the Jacoby Creek Area Urban Service Area.</p>	<p><b>Consistent</b></p> <p>Option 'B' does not violate this policy.</p>
<p><b>GP-P6 (Use of On-Site Sewage Systems within Urban Development Areas).</b> The utilization of on-site sewage disposal systems shall not be acceptable for new subdivisions in the Urban Development Area, unless the Planning Commission makes specific factual findings that:</p> <ul style="list-style-type: none"> <li>A. The extension of services is physically infeasible; or,</li> <li>B. The area is not planned for service in the service provider's Municipal Service Review and other written long-term plans; or,</li> <li>C. The services are not reasonably available in a timely manner.</li> </ul>	<p><b>Not consistent</b></p> <p>Jacoby Creek Community Plan policy JCCP-P27 is:</p> <p style="padding-left: 40px;">"Development within the (Jacoby Creek Area) Urban Development Area should occur at designated plan densities only when public water and public sewage disposal systems are available, <b><i>except as provided in this Plan</i></b>".</p> <p>A rational inference can be made that policy GP-P6 is that exception "provided in this Plan."</p> <p>However, in conflict with this policy, Option 'A' allows no exception that would permit development at the designated plan densities where the services cannot be secured.</p>	<p><b>Consistent</b></p> <p>Option 'B' applies this policy.</p>

**To: Humboldt County Planning Commission**  
**From: Larry Henderson**  
**Date: May 25, 2020**

4

**Subject: Proposed Accessory Dwelling Unit Ordinance**

Please consider the following input. I have four issues to address.

**First Issue: The requirement to connect to sewer system has detrimental consequence**

Section 69.05.3.6 (Sewer and Water Service) requires all new ADUs within a community service district's service area to connect to a public wastewater system. But some community service districts do not provide—nor can or plan to provide—sewerage facilities or other wastewater disposal systems. The requirement would be a de facto moratorium on ADUs in areas where the current State law would otherwise permit them.

There need be no requirement other than the ADU must comply with the requirements applicable on the primary residence or—as an alternative where service capacity is restricted—new residences.

**Second Issue: The permit provisions are vague**

Section 69.05.2 (ADUs Generally Permitted) provides that ADUs *may be* principally permitted in designated areas subject to specified conditions, and *may be* excluded or required to get a Special Permit in certain other designated areas.

The term “may” is discretionary. If an ADU may or may not be permitted or excluded, then the specifics must be added as to who gets to decide and what the criteria is for making the decision.

To correct the problem, delete the “permissive” text to read “is principally permitted” (rather than “may be principally permitted”), “is excluded” (rather than “may be excluded”), and “requires a Special Permit” (rather than “may require a Special Permit”).

**Third Issue: The Special Permit Area provisions are improper**

Section 69.05.6 provides that lots located in an ADU Special Permit Area “*are presumed* to have certain water and sewer service limitations, adverse impacts on traffic flow, and/or public safety conditions that may preclude construction of an ADU.”

The most demanding regulatory test in constitutional law is that the requirement or prohibition is the least restrictive means to further an overriding public interest. Is there a public interest and is it more important than other interests, and what are the options and is the proposed one the least restrictive?

In this case, the County is presuming there is an overriding public interest to apply the proposed restrictions. This is wrong. Government agencies must offer genuine justifications for important decisions...real reasons that can be scrutinized by the public and courts, rather than fabricated reasons that are asserted as self-evident truths.

To correct the problem, the underlying “special consideration” for the particular restrictions should be clearly defined, and the appropriate test for permitting the ADU described.

**Fourth Issue: Exclusion of ADUs in Jacoby Creek Area is unlawful**

Seven ADU Special Permit Areas are listed in Section 69.05.6. Six of them are truly areas having “special considerations” that—because of real, extraordinary hazardous conditions—the public interest justifies discretionary review through the special permit process. The seventh area listed (the Jacoby Creek Area) is not comparable and should not be excluded from the ADU provisions applicable to all other residentially zoned lands not having disclosed extraordinary hazardous conditions.

The proposed text is, “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.” This is misleading, as the 5-acre density reference is not law, but policy.

There is not a legislative 5-acre minimum density limit in the Jacoby Creek area. The residential zoning in the area permits parcels 2.5 acres and smaller subject to the same requirements and restrictions of all the other similar zoned properties throughout the County.

The 5-acre density reference is to the Jacoby Creek Area Plan that was adopted nearly 40 years ago in 1982. The plan was included by reference in the updated General Plan. But the “re-adopted” plan was not updated; nor was it’s “re-adoption” completed in compliance with CEQA mandate and public noticing and hearing requirements.

The County has the choice to include or exclude the Jacoby Creek area from the general permit provisions of the ADU ordinance. This will be a discretionary decision requiring (in addition to CEQA compliance) a showing of justification and the mandatory General Plan Consistency determination.

Planning will say the area must be excluded because including it would be inconsistent with the General Plan. Again, the reference will be the 5-acre density limitation of the 40-year old Jacoby Creek Area Plan.

The Plan allows a wide residential density range...from one dwelling unit per two and a half (2½) acres to a maximum of seven dwelling units per acre. However, the policy of that plan calls for **both** public water supply **and** sewage disposal services for new development at a density greater than one dwelling unit per five acres...effectively, for all new development in that area. The problem is there currently is no plan, budget, or projected schedule for a wastewater system in the area.

The adoption of this ordinance with Section 69.05.6(g) as proposed would now make this 40-year old policy limitation a legislative mandate.

Would it be consistent with the General Plan to make the 5-acre density limitation the law? Defendable arguments can be made that the limitation is inconsistent with numerous other goals and policies throughout the plan. For one, it would conflict with the Plan's policies—and with recent State mandate—that encourages and permits critically needed new housing...urban and suburban.

There is also the question of just cause. Is there an overriding public interest for making the 5-acre density limitation a legislative mandate...what is the problem? The current zoning has been in effect for over 40 years, and there has been no cause to change. Developments have been permitted in the area at a density higher than the 5-acre limitation.

County Planning has stated that the 5-acre density limitation protects public health. Planning references a 1979 resolution of the State Water Resources Control Board. They say the resolution (No. 79-101) identified a public health hazard related to development of residences served by on-site sewage disposal systems in the Jacoby Creek area. The assertion is that the policy—and now, the strict enforcement of the 40-year old policy—was and is necessary to mitigate this hazard.

But the referenced resolution only prohibited “waiver of criteria governing the use of individual waste treatment and disposal systems in portions of the nonsewered areas tributary to Humboldt Bay between the cities of Arcata and Eureka.” The criteria that was effective then—and is still effective today—did not mandate a 5-acre minimum standard. To the contrary, with strict application of the criteria, new housing can be accommodated in non-sewered areas at a density greater than 5 acres per unit without endangering public health.

In contrast, there are NO restrictions elsewhere in the County or State necessitating a minimum 5-acre per dwelling unit density where public water service is or will be provided without sewage disposal service. There is no legitimate reason to not apply to the Jacoby Creek Community Planning Area those policies applicable to new housing development in other areas in the County or State.

My request is to delete Section 69.05.6(g) listing the Jacoby Creek area as a Special Permit Area.

#### Closing

I appreciate and thank the Planning Commission for considering my input and request.

Respectfully

Larry Henderson  
1933 Golf Course Road  
Bayside, CA 95524

**RE: ADU comment email**

5

Dolf, Benjamin <BDolf@co.humboldt.ca.us>

Mon 6/15/2020 2:52 PM

To: Richardson, Michael <MRichardson@co.humboldt.ca.us>; Kalson, Mario <MKalson@co.humboldt.ca.us>

Cc: Milner, Mary <MMilner1@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>

Thanks for reaching out Michael. Mario may chime in also, but I'll give my personal opinion (which has inherent bias... I live on that road).

Purely on the wastewater aspects, I can't support a change to the current JCCP language. The vast majority of existing septic systems in the area pre-date current standards, and a shallow water table is consistent along the valley floor. Even hill side properties can be very problematic for septic systems (e.g. Plunkett Road). This is an area that sees frequent repair permits as well. Our regulations identify the area as a variance prohibition zone due to the shallow water table and sensitivity of the creek. The current language in the JCCP seems reasonable, it's an extra step in the development process but not overly restrictive.

As a resident, I have larger concerns. Particularly traffic on that narrow road that my kids ride their bikes to school on. There is a lot of foot traffic, people are constantly jogging/walking/biking and there are no sidewalks or bike lanes. It's a quiet, peaceful road. Increase in traffic would be my biggest concern, and of greatest consequence to the community. I grew up there also, and knowing my neighbors and others that live in the area it's a very safe bet that the folks who want to change the JCCP are a vocal minority in comparison to the overall population.

Thanks again for reaching out, and for letting me give my personal input as well.



**Benjamin W. Dolf, R.E.H.S.**

**Senior Environmental Health Specialist**

DHHS Division of Environmental Health, Land Use Program :: 100 H St. Eureka, CA 95501 :: (707) 268-2235

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**From:** Richardson, Michael <MRichardson@co.humboldt.ca.us>

**Sent:** Monday, June 15, 2020 1:57 PM

**To:** Kalson, Mario <MKalson@co.humboldt.ca.us>; Dolf, Benjamin <BDolf@co.humboldt.ca.us>

**Cc:** Milner, Mary <MMilner1@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>

**Subject:** FW: ADU comment email

Hi Mario and Ben,

We're getting input on our ADU ordinance from some in the Jacoby Creek Community Plan (JCCP) area that would like to see ADU's allowed as principally permitted uses on properties in that Plan area without regard to their parcel size. Presently the JCCP has a policy that requires applications for new residential development (e.g. ADU's & subdivisions) at a density of more than one unit per five acres include information demonstrating not only are the on-site conditions favorable for septic systems but that mitigation measures for the project will assure that the proposed development will not cause adverse cumulative health or



environmental impacts. We can't require any mitigation measures for principally permitted development, so effectively the changes to the ADU ordinance being argued for at the Planning Commission would do away with this policy as far as ADU's are concerned. Is your Department OK with that, or would you prefer a different approach?

The Commission will be taking this item up again this coming Thursday evening, so any help you can provide before then would be really helpful.

Thanks so much!

- Michael R.

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**From:** Lippre, Suzanne <[SLippre@co.humboldt.ca.us](mailto:SLippre@co.humboldt.ca.us)>

**Sent:** Monday, June 15, 2020 12:46 PM

**To:** Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)>; Milner, Mary <[MMilner1@co.humboldt.ca.us](mailto:MMilner1@co.humboldt.ca.us)>

**Subject:** ADU comment email

Please see attached email comments re ADU



**Suzanne Lippre**

Executive Secretary

Planning and Building Department

3015 H Street Eureka, CA 95501

Phone: 707-268-3728

Email: [slippre@co.humboldt.ca.us](mailto:slippre@co.humboldt.ca.us)

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**From:** DeBeni, Leslie <[LDeBeni1@co.humboldt.ca.us](mailto:LDeBeni1@co.humboldt.ca.us)>

**Sent:** Monday, June 15, 2020 11:59 AM

**To:** Lippre, Suzanne <[SLippre@co.humboldt.ca.us](mailto:SLippre@co.humboldt.ca.us)>

**Subject:**

**RE: ADU comment email**

Dolf, Benjamin <BDolf@co.humboldt.ca.us>

5a

Tue 6/16/2020 4:07 PM

To: Richardson, Michael <MRichardson@co.humboldt.ca.us>; Kalson, Mario <MKalson@co.humboldt.ca.us>

Cc: Milner, Mary <MMilner1@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>

Hi Michael,

After Mario and I had a chance to discuss the JCCP/ADU in more detail we have a few thoughts and a few questions. My initial response included concerns about density and groundwater/soil condition in the basin, but didn't clearly express that these are the types of cumulative impacts that the current plan intends to address.

Adding ADUs on small parcels with shallow groundwater and low-permeability soils can result in mounding and nitrogen loading of groundwater and surface water, essentially reducing in-ground treatment of wastewater.

Although we were not familiar with the JCCP until now, conditions in the basin most certainly warrant analysis of cumulative impacts before reducing minimum parcel size for non-discretionary permitting. Are there modifications proposed to the JCCP? How does the ADU ordinance effect the JCCP specifically? Are there other areas that have a reduction in minimum parcel size for principally permitted ADU's?

Adding a discretionary element to the review of proposed development allows our office to recommend cumulative impact studies, advanced treatment systems, or other mitigation measures beyond what would be considered reasonable under a ministerial OWTS permit. Although there haven't been significantly localized call for adding ADU's in the basin currently, relaxing protections could be problematic.



**Benjamin W. Dolf, R.E.H.S.**

**Senior Environmental Health Specialist**

DHHS Division of Environmental Health, Land Use Program :: 100 H St. Eureka, CA 95501 :: (707) 268-2235

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**From:** Richardson, Michael <MRichardson@co.humboldt.ca.us>

**Sent:** Monday, June 15, 2020 1:57 PM

**To:** Kalson, Mario <MKalson@co.humboldt.ca.us>; Dolf, Benjamin <BDolf@co.humboldt.ca.us>

**Cc:** Milner, Mary <MMilner1@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>

**Subject:** FW: ADU comment email

Hi Mario and Ben,

We're getting input on our ADU ordinance from some in the Jacoby Creek Community Plan (JCCP) area that would like to see ADU's allowed as principally permitted uses on properties in that Plan area without regard to their parcel size. Presently the JCCP has a policy that requires applications for new residential development (e.g. ADU's & subdivisions) at a density of more than one unit per five acres include information demonstrating not only are the on-site conditions favorable for septic systems but that mitigation measures for the project will assure that the proposed development will not cause adverse cumulative health or

environmental impacts. We can't require any mitigation measures for principally permitted development, so effectively the changes to the ADU ordinance being argued for at the Planning Commission would do away with this policy as far as ADU's are concerned. Is your Department OK with that, or would you prefer a different approach?

The Commission will be taking this item up again this coming Thursday evening, so any help you can provide before then would be really helpful.

Thanks so much!

- Michael R.

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**From:** Lippre, Suzanne <[SLippre@co.humboldt.ca.us](mailto:SLippre@co.humboldt.ca.us)>

**Sent:** Monday, June 15, 2020 12:46 PM

**To:** Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)>; Milner, Mary <[MMilner1@co.humboldt.ca.us](mailto:MMilner1@co.humboldt.ca.us)>

**Subject:** ADU comment email

Please see attached email comments re ADU



**Suzanne Lippre**

Executive Secretary

Planning and Building Department

3015 H Street Eureka, CA 95501

Phone: 707-268-3728

Email: [slippre@co.humboldt.ca.us](mailto:slippre@co.humboldt.ca.us)

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**From:** DeBeni, Leslie <[LDeBeni1@co.humboldt.ca.us](mailto:LDeBeni1@co.humboldt.ca.us)>

**Sent:** Monday, June 15, 2020 11:59 AM

**To:** Lippre, Suzanne <[SLippre@co.humboldt.ca.us](mailto:SLippre@co.humboldt.ca.us)>

**Subject:**

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**From:** matt H <matheus-707@hotmail.com>  
**Sent:** Monday, June 15, 2020 2:24 PM  
**To:** Planning Clerk  
**Subject:** Jacoby Creek ADU Policy

Planning Commissioners,

I am a resident of Jacoby Creek area who is interested in building an ADU on a five acre parcel. I am unable to do so due to the five acre minimum density restriction. The restriction serves only as a preventative measure to building up to date and safe ADU units for additional family dwellings or rentals. Please reconsider this restriction. We are trying to expand our family while keeping our immediate family together on our family property we have owned since 1945. We are unable to do so due to the restrictions that only apply to the Jacoby Creek area and nowhere else in Humboldt County. The deletion of the five acre policy restriction would allow families to build permitted ADUs while bringing already built ADUs up to compliance.

Sincerely,  
Mathew Henderson  
707-267-5701

**mmilner1@suddenlink.net**

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**From:** Brittany Great <brittgreat0791@gmail.com>  
**Sent:** Monday, June 15, 2020 2:24 PM  
**To:** Planning Clerk  
**Subject:** Jacoby Creek ADU Policy

Dear Commissioners,

I am currently residing with my partner and his family in the Jacoby creek area with an interest to build an ADU on their five acre parcel. We had plans to build an additional unit on the property in order to expand our family but are unable to do so due to the five acre policy restriction. We would like to keep our immediate family together but are unable to with this policy restriction that only applies to Jacoby Creek in Humboldt County. We believe the restriction is not upholding the compliance requirements for many current ADUs and Airbnb's in the area and in deleting the five acre policy will bring these ADUs up to compliance. For example, many current septic systems are running on out of date standards. New ADU units would give homeowners a financial incentive to correct these out of date septic systems, as new ADU units would have to be up to code and environmentally safe. In conclusion, I believe that eliminating the five acer policy restriction will benefit the county and community financially and environmentally by making sure all new units are permitted and up to standards.

Thank You,

Brittany Great

541-941-6067

Jason Valentin  
282 Fickle Hill Rd  
Arcata CA 95521  
jasondvalentin@gmail.com

June 15, 2020

Humboldt County Planning Commission  
Eureka CA 95501

Commissioners,

I am attempting to build a home in the Jacoby Creek Area. It would be a second dwelling on the property and would be permitted under the proposed ADU ordinance...except for the fact that the property is located in the Jacoby Creek Area. As drafted, the proposed ordinance would place a special 5-acre density restriction to that area.

My site is smaller than 5 acres. It has a dwelling on it, and it looks like the property's on-site water supply system and sewage disposal systems would comply with standards to accommodate both dwellings. But, as currently drafted, the proposed ADU ordinance would require me to obtain both water supply and sewage disposal service. This is not going to happen any time in the near or distant future.

Apparently, the reason for the special restriction is related to a "waiver prohibition zone" established by the State Water Resources Control Board in 1979. This doesn't make sense to me, because the zone covers an area much larger than just the Jacoby Creek Area. Why would I be allowed to build my ADU in the Indianola Area—that is also within the waiver prohibition zone—when I cannot do so in Jacoby Creek?

I recommend and ask that the ADU Ordinance be implemented, but without the special restriction on the Jacoby Creek Area.

Sincerely yours,

Jason Valentin

## Fwd: From Frank Richards

Marc Delany <mldelany@gmail.com>

Tue 6/16/2020 1:43 PM

To: Spain, Kenneth <kspain1@co.humboldt.ca.us>; Madrone, Steve <smadrone@co.humboldt.ca.us>; Franklin Richards <frichards294@mycr.redwoods.edu>; Ford, John <JFord@co.humboldt.ca.us>; Milner, Mary <MMilner1@co.humboldt.ca.us>; Kalson, Mario <MKalson@co.humboldt.ca.us>; debbie homecontained.com <debbie@homecontained.com>; jgd119@humboldt.edu <jgd119@humboldt.edu>; Juliet Maestas <julemae70@yahoo.com>

Dear Representatives of Hoopa Nation and Humboldt County

I am hopeful that the county will support the reactivation of the Hoopa Modular plant. We are working towards a joint proposal that should be able to ensure that HC uses all of the available HC Housing Authority Housing Choice vouchers, for home ownership and new rental housing by using the new State Accessory Dwelling laws and complimentary local ordinances. Less square footage built on existing residential lots as ADS and similar tiny homes can be affordable to large portions of the homeless here in HC and the underhoused populations in HC and Hoopa. This can be a joint economic development project benefiting all of CA.

I look forward to continuing the conversation and moving the local ADU ordinances forward. Significant roadblocks may exist in HC due to current Health Department regulations concerning sewer and septic connects for ADU's on existing lots. The CA State and local P&Z Fire regulations currently discourage or prevent rural development through development bans in areas where the local Fire Department considers risky, limited access areas. There are solutions for these roadblocks, and those three departments along with representation from the Hoopa nation should be brought into the discussion as opportunity presents.

Thank you for your consideration and review.

Marc Delany  
Ghoti & Co.

*"We have nothing to fear but fear itself" - F.D.R.*

----- Forwarded message -----

From: **Joe Davis** <jgd119@humboldt.edu>

Date: Tue, Jun 16, 2020 at 11:24 AM

Subject: Re: From Frank Richards

To: Juliet Maestas <[julemae70@yahoo.com](mailto:julemae70@yahoo.com)>

Cc: Connie A. McKinnon <[camckinnon@ktjUSD.k12.ca.us](mailto:camckinnon@ktjUSD.k12.ca.us)>, Rhonda Bigovich <[bigovichrhonda@gmail.com](mailto:bigovichrhonda@gmail.com)>, Marc Delany <[mldelany@gmail.com](mailto:mldelany@gmail.com)>, <[msanchez@yuroktribe.nsn.us](mailto:msanchez@yuroktribe.nsn.us)>, becky cape <[bcape@ktjUSD.k12.ca.us](mailto:bcape@ktjUSD.k12.ca.us)>, Alphonso Colegrove <[brushdancer\\_2000@yahoo.com](mailto:brushdancer_2000@yahoo.com)>, Franklin Richards <frichards294@mycr.redwoods.edu>

I like these ideas Juliet. I would encourage you to bring them to the Council in a formal meeting.

Best,  
Joe

**Joe Davis**  
**Councilmember**  
**Hoopa Valley Tribe**  
(530) 515-0433

On Tue, Jun 16, 2020 at 7:40 AM Juliet Maestas <[julemae70@yahoo.com](mailto:julemae70@yahoo.com)> wrote:

When I was in Morongo a few years ago, I heard a presentation from the Rincon Nation, about all the businesses that operate under Title 17. These include a RV Park, 7-11 convenience store, etc. Not only was it profitable, but the tax breaks were enormous. I'm not sure if HVDE (hoopa valley development enterprise) operated under title 17 back in the day. But with the turn over in council members, I hope Danny is educating council members about Title 17. To move forward, I suggest the tribe consider a governing body similar to HVDE for enterprise development. The decision of where and how to spend the remainder of the Cares monies should not be decided at the political table, but rather amongst businesses minded and knowledgeable individuals.

On Monday, June 15, 2020, 7:44:49 PM PDT, Franklin Richards <[frichards294@mycr.redwoods.edu](mailto:frichards294@mycr.redwoods.edu)> wrote:

I went to see Danny Jordan, Self Governance Director about the business plan he submitted to the council and the meetings he was involved with and he recommended I look up Section 17 of the Indian Reorganization Act. This is it. Let me know what people think?



Email from Larry Henderson dated 6/17/2020

Michael:

Thank you for copying me with yesterday's input from Environmental Health.

I am disappointed that they provided this information so late in the process, and not earlier when the ADU ordinance was first drafted...or even during the recent update of the Jacoby Creek Community Plan (JCCP).

The immediate issue here is interpretation—not reconsideration—of a current plan. This requires looking at both the written words of applicable policies, and the intent of the maker of those policies.

In this particular "JCCP/ADU" case, we in fact do not know the intent of the 40-year old policy that sets the 5-acre density limitation. The original 1982 JCCP does not provide an explanation; nor does the recent 2017 JCCP. Apparently, no record can be found to explain why the limitation was imposed.

For the decision of treating the Jacoby Creek Area and all the rest of the County's non-sewered residential communities differently or alike, there simply is no genuine justification to treat them differently...no reason that can be constructively scrutinized by the Jacoby Creek Area property owners.

Planning has provided speculation that the intent was related to the State's 1979 waiver prohibition. This premise has not been corroborated. To the contrary, I believe the premise is contradicted by the waiver prohibition measure itself, which, I understand, has no explicit reference or recommendation for a 5-acre density limitation anywhere in the area covered by the waiver prohibition.

Now, what is Environmental Health telling us? Are they saying there is a need to treat the Jacoby Creek Area differently; and if yes, why now and not with the plan update? Or are they saying that current standards are not effective, and all the area covered by the 40-year old waiver prohibition needs to be restudied...that we need to redo the general plan update?

Environmental Health says they "were not familiar with the JCCP" until last Monday. But now—one day later—they suggested that there are genuine health problems that justify treating the Jacoby Creek Area differently. Is this true, or is it a fabrication for a hidden agenda?

I am an affected property owner and want to know what I can and cannot do with my property. It is of major importance to the future of my family that I have predictability. I ask Environmental Health to please treat me with respect and tell me straightforwardly, is there or is there not a unique problem facing the Jacoby Creek Area that is not applicable anywhere else in the County?

If the letter from Environmental Health is provided to the Planning Commission, please provide this correspondence as a response from me (with the deletion of the preceding correspondence from Environmental Health).

Thank you.

Larry

**From:** [Richardson, Michael](#)  
**To:** [Lippre, Suzanne](#)  
**Subject:** FW: FW: ADU comment email  
**Date:** Thursday, June 18, 2020 1:44:00 PM

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fyi

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**From:** Tony Lucchesi <tony@pacificbuilders-arcata.com>  
**Sent:** Thursday, June 18, 2020 11:50 AM  
**To:** 'Larry Henderson' <henderson95524@gmail.com>; Richardson, Michael <MRichardson@co.humboldt.ca.us>  
**Subject:** RE: FW: ADU comment email

Good morning Michael,

I'll be brief in stating my agreement with Larry's well-reasoned argument.

There is no supportable rationale whatsoever as to why Jacoby Creek should be treated differently than other unincorporated areas of the County where sewer service is not provided. Requiring that onsite wastewater systems meet the standards set by Environmental Health and the professionals tasked with designing those systems is Science; arbitrarily separating Jacoby Creek from that approach is a purely emotional point of view that not only has no place in Planning, but is counter productive in that it ensures that aging, poorly performing systems will continue to do so.

The five-acre policy was supported at its' inception by a few residents who lived on small lots in Jacoby Creek that simply didn't want to see their neighbor's larger parcels subdivided into housing lots much like their own-a classic case of environmentalists who already have their "cabin in the woods". I'll re-state my earlier argument that construction of ADU in Jacoby Creek will inevitably lead to upgrading poorly performing, outdated septic systems to current standards and that ADU income will give the property owners incentive to do so.

California law has been developed and modified to strongly encourage the construction of ADU. Continuation of the five-acre minimum for Jacoby Creek runs directly counter to that intent. I trust that you will share this with the Commission.

Thank you,  
Tony Lucchesi  
707-498-0679

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**From:** Larry Henderson <[henderson95524@gmail.com](mailto:henderson95524@gmail.com)>  
**Sent:** Thursday, June 18, 2020 9:18 AM  
**To:** Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)>  
**Subject:** Re: FW: ADU comment email

Thank you for letting me input.

What it says is: “The Plan clearly states that no additional urban development shall be approved until publicly maintained sewage disposal systems are available.”

The key phrase is “urban development.”

Planning’s interpretation is that the term means all new development within the Urban Limit Line. My interpretation is that it means new development dependent upon full urban services (public water supply and sewage disposal) to meet health standards, and not new development that can meet standards without connection to sewage services.

With the only exception being the JCCP, there is no community plan or health standard I know of that requires new development to connect to sewage services where the services are and will not be provided. Further, up until the Board of Supervisor’s action on the Draft JCCP, there is no explicit reference to the necessity for a 5-acre density limitation in order to make sure “no additional urban development shall be approved until publicly maintained sewage disposal systems are available.”

If Planning continues to link the restriction with the policy, my question will be, why five acres and not four or six acres? Or, why not the standard acreages provided everywhere else? Or, as the little old lady says, where's the beef?

My master’s in planning taught me that common sense planning is to plan and regulate between urban areas (developed and developing areas where conditions require public water supply and sewage disposal services) and rural area (undevelopable areas where there will never be services), AND the suburban areas in between (areas transitioning from undeveloped to developed neighborhoods where full or partial services may or may not be provided). The JCCP kind of misses the target.

Bottom line...if I cannot develop my property in accordance with current health standards applicable everywhere else in the County, because of a misapplied 40-year old 5-acre density restriction, we have a legal problem.

I trust that this correspondence will be provided to the Planning Commission if appropriate.

Larry

On Thu, Jun 18, 2020 at 7:53 AM Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)> wrote:

Hi Larry,

Maybe I’m missing something.

What I read in the EIR is the Plan that came from the CAC “clearly said” in the Urban Development Area no new development would be approved unless publicly maintained sewage disposal systems are available, and this was to address the health and safety concerns associated with

potential water quality impacts of failing septic systems on properties developed at urban densities.

Looking at the approved JCCP there's a carve out to allow approval of dome development - those that are at a density of five or more acres provided certain findings can be made and mitigation measures incorporated to assure cumulative water quality impacts are addressed. This is **more** permissive than what was described in the EIR.

I'm thinking this is different than your interpretation. It sounds like from what you've written that you believe the City of Arcata influenced the Board to become **less** permissive of development in the JCCP urban area than what was recommended by the CAC.

I'm interested to hear your thoughts.

- Michael R.

**From:** Larry Henderson <[henderson95524@gmail.com](mailto:henderson95524@gmail.com)>

**Sent:** Wednesday, June 17, 2020 1:57 PM

**To:** Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)>

**Subject:** Re: FW: ADU comment email

Thank you, Michael.

Am I missing something?

I think the EIR confirms that there was no consideration given to health standards as a reason for the 5-acre density restriction in the suburban residential areas. There is zero reference to 5-acre criteria (other than the reference of a minimum 5- to 20-acre lot size for Residential Rural designated areas).

For me, it is consistent with the recollection that the restriction was added by the Board of Supervisors at the end of the process only to accommodate the City of Arcata's insistence. The lack of specific discussion in the Final EIR about the restriction is evidence that the idea had not even been proposed from the Citizen Advisory drafting stage through the Planning Commission's hearing and approval. It is a mystery why it was not disclosed and discussed in the final EIR certified by the Supervisors.

I feel like the JCCP is a great plan, without the requirement that all development of a density greater than one dwelling per 5 acres is connected to public sewerage system. Perhaps our problem with the plan is—other than being 40 years old—it focuses too much on describing what we want our urban and rural residential areas to eventually look like, and skips the concept of how we are going to get there. In

other words, great guidance for developed (urban) areas and undevelopable (rural) areas, but lacking in good guidance for developing (suburban) areas. Meaning... urban where conditions require public sewerage services, rural where they ain't never gonna be, and suburban only where and when we say they gonna be.

I think the relevant sections of the EIR are the following:

Page 3 (of what you copied to me): "The Plan clearly states that no additional urban (vs. *suburban and rural...my insertion*) development shall be approved until publicly maintained sewage disposal systems are available." The Plan also recommends that the City and the District prepare facility plans to accommodate the projected growth." "The Plan will have a cumulative beneficial impact on the area's [*defined as "the urban portion of the planning area"*] ground and surface waters by requiring all new an existing development to connect to public sewage disposal systems."

Page 4: There is no reference to a 5-acre density limitation in the comments from the NCRWQCB.

Page 5: "In the Residential Suburban areas, within the Urban Limit Line, current development patterns show a mixture of one, two, and three acre parcels."

Page 6 (The NCRWQCB's response to comments to the Draft EIR, included in the Final EIR): The Waiver Prohibition area (imposed by the NCRWQCB) "means that any application for a sewage disposal system permit must meet all of the criteria in regard to soils conditions and ground water levels."

**From:** [Brett Marth](#)  
**To:** [Planning Clerk](#)  
**Subject:** Jacoby Creek ADU  
**Date:** Wednesday, June 17, 2020 11:55:48 AM

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June 16, 2020

Humboldt County Planning Commission

Eureka CA 95501

Commissioners,

I would like to eventually build an ADU “mother in law” home in the Jacoby Creek Area. I could then move my parents close as time goes on. It would be a second dwelling on the property and would be permitted under the proposed ADU ordinance, except for the fact that the property is located in the Jacoby Creek Area. As I understand, the proposed ordinance would place a special 5-acre density restriction to that area.

My site is smaller than 5 acres. There is a house on it, and the property’s on-site water supply system and sewage disposal systems would comply with standards to accommodate both dwellings. But, as currently drafted, the proposed ADU ordinance would require me to obtain both water supply and sewage disposal service. This is not possible, however as stated, currently on site systems would handle the needed capacity for both dwellings.

As I read, the reason for the special restriction is having to do with a “waiver prohibition zone” established by the State Water Resources Control Board in 1979. I also read the zone covers an area much larger than just the Jacoby Creek Area. So I ask, would I be allowed to build my ADU in the Indianola Area—that is also within the waiver prohibition zone zone—when I cannot do so in Jacoby Creek?

I recommend and ask that the ADU Ordinance be implemented, but without the special restriction on the Jacoby Creek Area. I’d like to keep my family close so please consider this.

Thank you,

Brett Marth

Sent from my iPhone