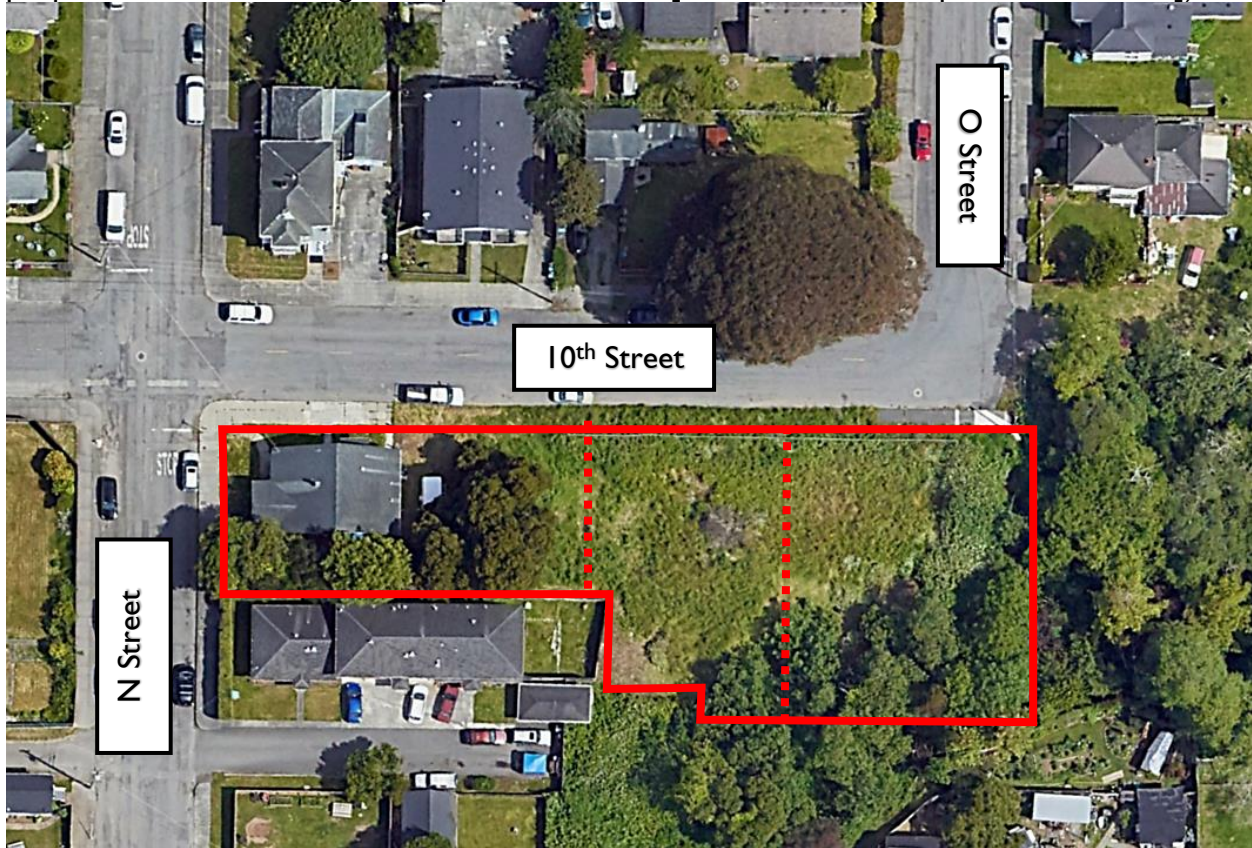


Title:	Edgar Minor Subdivision
Project(s):	Minor Subdivision SDMN-24-0001
Location:	1005 N Street
APN:	005-144-007
Applicant:	Evan Edgar
Property Owner:	Same as applicant
Purpose/Use:	Minor subdivision of one parcel into three
Request for Hearing:	October 8, 2024
Deadline for Action:	November 22, 2024
General Plan:	MDR – Medium Density Residential
Zoning:	R2 – Residential Medium
CEQA:	Exempt under §15315, Class 15 – Minor Land Divisions
Staff Contact:	Alexandra Gonzalez, Assistant Planner
Recommendation:	Hold a public hearing; and Adopt a resolution finding the project exempt from CEQA and sustaining the Director’s conditional approval of the Edgar Minor Subdivision.
Motion:	“I move the Planning Commission adopt a resolution finding the project exempt from CEQA and sustaining the Development Services Director’s conditional approval of the Edgar Minor Subdivision at 1005 N Street.”

Figure 1: Location Map



Figure 2: Site Map (solid red outline is existing parcel configuration, and broken red lines are proposed lot lines creating three parcels from one [See Draft Parcel Map in Attachment 2])



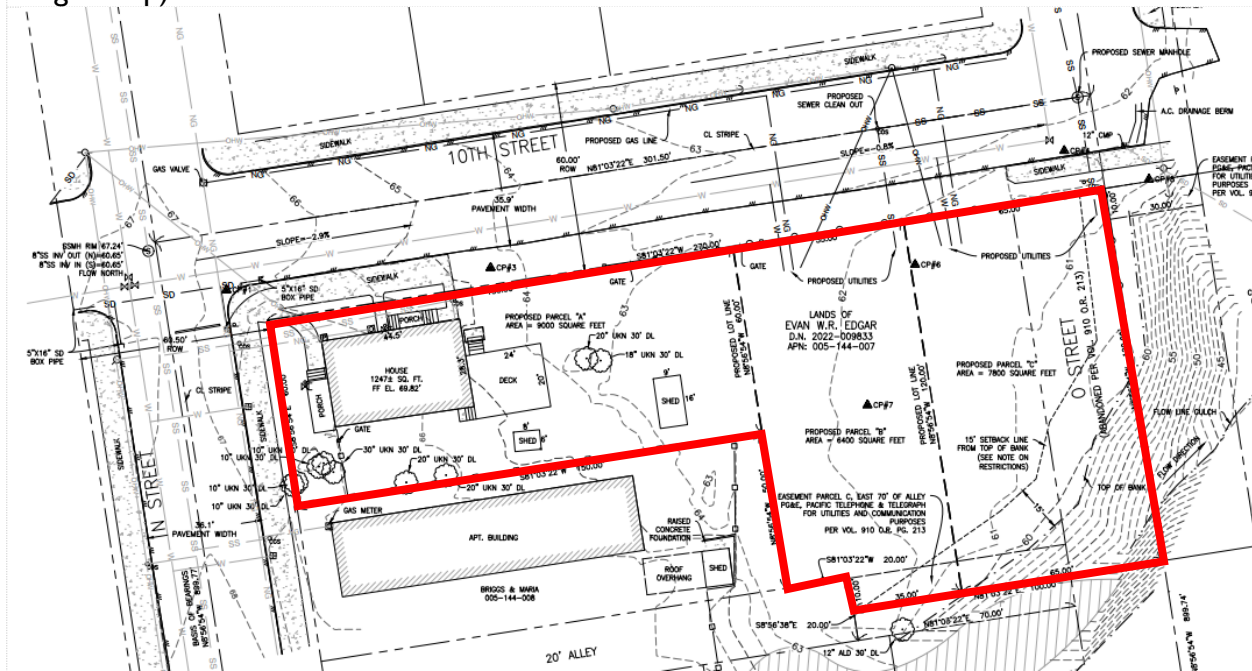
PROJECT SUMMARY

Evan Edgar, the Applicant, is proposing a Minor Subdivision to subdivide an existing 0.55-acre (23,200-square-foot [sf]) parcel into three parcels (Figure 2). The three Resultant Parcels (Parcels A, B, and C) will be 9,000-sf, 6,400-sf, and 7,800-sf, respectively as shown in the table below. The minimum parcel size allowed in the Residential Medium Zoning District (R2 District) is 2,000 sf.

Existing Parcel (sf)	Resultant Parcels (sf)	
23,000	Parcel A	9,000
	Parcel B	6,400
	Parcel C	7,800
	Total	23,200

Pursuant to the subdivision regulations in Eureka Municipal Code (EMC) Chapter 154, on October 1, 2024, the Development Services Director approved the proposed subdivision pursuant to eight conditions of approval (See Figure 3 below and Attachment 2: Notice of Subdivision Action). The Notice of Action (NOA) was sent to property owners within 300 feet of the parcel, and provided 15 calendar days (until October 1, 2024) for any interested party to request the Planning Commission review the action of the Director at a public hearing. On October 8, 2024, an interested party requested in writing that the Planning Commission review the action of the Director.

Figure 3: Portion of Draft Parcel Map (1005 N Street outlined in red; see Attachment 2 for larger map)



Background

As described in the NOA (Attachment 2), the existing parcel is a corner lot developed with an approximately 1,274-sf single-family residence, attached deck and two detached sheds. The Cooper Gulch greenway runs along the southeastern side of the existing parcel, covering portions of Resultant Parcels B and C as shown on the Draft Parcel Map (Figure 3). Resultant Parcel A will remain a corner lot and contain the existing improvements. Resultant Parcels B and C will be undeveloped interior lots which can be developed in the future with new residential uses, but no development will be allowed within 15 feet from the break in slope of the gulch/greenway. Resultant Parcel A has existing sewer, water and electricity utility connections from N Street, and Resultant Parcels B and C will obtain sewer, water, electricity, and natural gas connections from 10th Street at the time of development, as conditioned in the NOA.

The request to review the Director's action on the Minor Subdivision pertains only to the subdivision, which is the sole discretionary aspect of the project at this time. The future Building Permits for development of the Resultant Parcels are ministerial and not within the Planning Commission's purview. Should more than four dwelling units be proposed on a Resultant Parcel, then Design Review will be triggered. However, Design Review is a discretionary process focusing solely on the aesthetics of street-facing building facades, and the City cannot require a modification to a mandatory development standard, such as allowed maximum density (i.e. number of dwelling units per parcel).

REQUIRED FINDINGS OF APPROVAL & DENIAL

Based on the Subdivision Map Act and the City of Eureka's Subdivision Ordinance in Eureka Municipal Code Chapter 154, the division of a parcel into four or fewer parcels is a Minor Subdivision. The City's ordinance prescribes that the Development Services Director is

designated to approve subdivisions of four or fewer parcels, provided the required finding can be made.

Under Eureka Municipal Code (EMC) §154.065(A)(1), to approve an application for a Minor Subdivision, the Development Services Director must find the proposed subdivision, together with the provisions for its design and improvements, is consistent with applicable general or specific plans adopted by the City. Under paragraph 2 of the aforementioned subsection, a Minor Subdivision may be denied for any reason provided by city ordinances, resolutions, or the State Subdivision Map Act, and shall be denied if any of the findings in EMC §154.040(C) are made. The findings in EMC §154.040(C) are as follows:

- (1) That the proposed map is not consistent with applicable general, coastal, and specific plans.
- (2) That the design or improvement of the proposed subdivision is not consistent with applicable general, coastal land use, or specific plans, as applicable.
- (3) That the site is not physically suitable for land use for the type of development.
- (4) That the site is not physically suitable for the proposed density of development.
- (5) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (6) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.
- (7) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subdivision shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.
- (8) In the coastal zone, that the proposed subdivision results in the creation of a parcel or parcels totally within an environmentally sensitive habitat area or flood hazard area as defined in the coastal land use plan. Parcels created by division shall have sufficient nonsensitive and non-hazard area to accommodate development allowed in the applicable land use category, but not allowed in a sensitive habitat or flood hazard area.

None of the findings for denial above can be made for the proposed subdivision. As indicated on the NOA (Attachment 2), review of the project by the Director was performed consistent with the State Subdivision Map Act, and local laws enacted pursuant thereto, including the General Plan and Zoning Code. As described in the NOA, each resulting lot is “buildable” and can accommodate a structure in compliance with applicable zoning code development standards. The NOA also describes how the proposed minor subdivision is consistent with the City’s 2040 General Plan policies and furthers several policies.

Additionally, the NOA found the proposed Minor Subdivision is exempt from the California Environment Quality Act (CEQA) under a Class 15 - Minor Land Divisions categorical exemption (CEQA Guidelines §15315), and there are no applicable exceptions to the exemption. The existing parcel has not recently been involved in a previous subdivision. There are no unusual circumstances associated with the existing parcel as it is located in an urban setting and the subdivision has been conditioned appropriately to not allow development within 15 feet of the gulch except for vegetation management for the purposes of protecting and enhancing the ecological benefits of the area. All services and access to the resulting parcels are available. Sewer and water connections, along with driveways and sidewalks for the undeveloped parcels, will be installed to City standards at the time of development. The subdivision is not located near a scenic highway, or on a hazardous waste site, and the subdivision does not affect a historic resource. Additionally, there is no potential for a cumulative impact of successive subdivisions because the General Plan and Zoning Code anticipate lots as small as 2,000-sf.

APPEAL CONTENTIONS

The neighbor who requested the hearing raised concerns about future development of multi-family housing (apartments) affecting nearby property values, and the installation of new utility connections disrupting access to existing residential properties, and damaging three eucalyptus trees on private property adjoining the street rights-of-way. See Attachment 3 for the full text of the hearing request.

Responses to Request for Review

Future Development

The existing parcel is located in the R2 District, which is intended to accommodate “a variety of medium-density housing types near commercial (mixed-use) areas.” Multi-family dwellings are principally permitted in the R2 District. The maximum density is 22 dwelling units per acre, and up to two detached Accessory Dwelling Units (ADUs) are allowed on a parcel with an existing or proposed multi-family dwelling per EMC §155.204.030(D) Table 204-3 and §155.316.060(A). Prior to subdivision, up to 12 primary units and two ADUs, for a total of 14 dwelling units, are allowed on the existing 23,200-sf parcel. With subdivision, the overall number of allowed ADUs increases, resulting in a combined total of 18 dwelling units allowed on the Resultant Parcels (12 primary units and six ADUs). Development on Resultant Parcels B and C (more so Resultant Parcel C) is limited by a required 15-foot buffer from the gulch/greenway; however, the buffer does not impact the allowed maximum residential density calculation for each parcel. The buffer affects the design and size of the units as there is less developable area. Table 2 below shows the maximum number of dwelling units allowed before and after the subdivision.

Table 2: Maximum Number of Dwelling Units Before and After Subdivision			
	Primary Units	ADUs	Total Dwelling Units
Prior to subdivision:	12	2	14
After subdivision:			
Parcel A	5	2	7
Parcel B	3	2	5
Parcel C	4	2	6

The subdivision does not increase the allowed density (i.e. dwelling units per parcel) beyond what is already permitted in the R2 District. Not only is the existing parcel in the R2 (medium-density) District, properties directly across 10th Street to the north and to the west are zoned R3 which is intended for “high-density multi-family housing in an urban setting.” Therefore, the subdivision will not negatively impact the intended design of the neighborhood in the R2 District, which is already a medium-to-high-density neighborhood, and future development will be consistent with the existing mix of single and multi-family residences in the surrounding R2 and R3 Districts (Figure 4).

Figure 4: Zoning Map (the subject property is outlined in red, the R2 District is in light green, the R3 District is in dark green, and the Public [P] District is in blue)



Furthermore, the 2040 General Plan’s Environmental Impact Report anticipated and analyzed gradual buildout of the City over a 20-year period (through year 2040), including the addition of up to 1,886 new residential dwelling units. According to Table 2-1 (Eureka General Plan Estimated Development Potential in the 2040 General Plan), 119 of those dwelling units are anticipated in the City’s Medium Density Residential (MDR) land use designation (which corresponds to the R2 District zoning designation). The subdivision and the maximum potential buildout of the Resultant Parcels is consistent with and supports the forecasted growth for build-out of the 2040 General Plan.

Access to Nearby Properties During Construction of Utility Connections

The commenter has expressed concern that new utility connections along 10th Street (a public right-of-way) will affect access to their property for a significant amount of time. New utility connections required for Resultant Parcels B and C include sewer, water, electricity, and natural gas connections. Existing and proposed utilities are shown on the Draft Parcel Map. An existing water main and an existing natural gas line are buried in 10th Street in front of Resultant Parcels B and C, and there is overhead electrical wire in the project vicinity with the nearest PG&E poles on the south side of 10th Street at the corner of 10th and O Streets and on the north side of 10th Street, north of Resultant Parcel A. Because there is no sewer main existing in 10th Street in front

of Resultant Parcels B and C (Resultant Parcel A connects to a sewer main along N Street), the future developer will be required to install a sewer main extension from O Street to 10th Street at the time of development of either Resultant Parcel B or C, whichever gets developed first.

According to the Applicant, they intend to retain Resultant Parcel A which contains an existing single-family residence, and sell Resultant Parcels B and C to be developed by someone else at a future date. The future purchaser/developer of Resultant Parcels B and C will be responsible for addressing the conditions of approval in the NOA concerning the required utility connections for future development. The NOA states that, “All utilities, public and private, shall be constructed to the City of Eureka standards at the time of development. Public utilities shall be to the satisfaction of Public Works – Engineering. Private utilities shall be to the satisfaction of Development Services – Building. All work performed within City rights-of-way shall obtain an Encroachment Permit from Public Works – Engineering.”

A City Encroachment Permit will need to be approved by Public Works – Engineering prior to any closure of the sidewalk, parking lane, and/or street for any amount of time for work within the public right-of-way. According to Public Works – Engineering, a Traffic Control Plan consistent with the California Manual on Uniform Traffic Control Devices will be required, and neighbors will be notified a minimum of 48-hours in advance of commencement of construction (see Attachment 4 for correspondence with Public Works). The Encroachment Permit process is intended to ensure that contractors doing work in the public-right-of-way conduct the work with the least possible inconvenience to the general public and adjacent property owners, including by not having more work in progress than can be completed in a reasonable period of time. Convenient access to driveways, houses, and buildings adjacent to the work must be maintained, and temporary approaches to driveways or intersecting streets must be provided and kept in good condition. For these reasons, the installation of utility connections in the public-right-of-way will not significantly impact access to surrounding residences during the development of Resultant Parcels B and C.

Impact to Trees

The Draft Parcel Map shows Resultant Parcels B and C receiving electricity from a pole adjacent to large Eucalyptus trees located within the yard of the neighboring property at the northwest corner of 10th and O Streets. Concerns were raised about the potential impact on the adjacent Eucalyptus trees if this utility pole is used, and as a result, branches need to be limbed (Figure 5). The project was referred to PG&E on April 4, 2024 with the Draft Parcel Map included, and no comments were made about the overhead wire proposed at this location. However, a follow-up email and call were made by City Staff to PG&E on October 24, 2024, at which time PG&E clarified (Attachment 4; Page 2) the utility pole in question does not belong to PG&E. However, there are two PG&E poles in the project vicinity (on the south side of 10th Street at the corner of 10th and O Streets, and on the north side of 10th Street, north of Resultant Parcel A) that could be used instead of the proposed location. Typically, when a developer requests service from PG&E, they work with a certified PG&E engineer and undergo service planning to determine the best utility connection. The final decision is made during the service planning process with PG&E. Ultimately, PG&E has the authority to trim or remove trees in the public right-of-way that interfere with their service lines.

Concerns were also raised about the installation of sewer and natural gas connections damaging the roots of the Eucalyptus trees in the adjacent yard. During a follow-up call with PG&E, Staff

was notified that the installation of PG&E natural gas services for future development along 10th Street may impact tree roots, but PG&E is not responsible for any potential damage to the roots or the trees if they are located within the public right-of-way. Similarly, the sewer line work along 10th Street would occur within the public right-of-way, and the City is authorized to make improvements in the right-of-way, even if there are unavoidable impacts to neighboring trees.

Figure 5: Street View of Existing Parcel on 10th Street from O Street (broken red line shows the existing parcel's 10th Street frontage, and red arrow points to the utility pole and trees in question on the right side of the image)



The City has provisions in EMC §155.304.140 (Tree Removal) that are intended to “protect and preserve trees that are important to the character of the City and its neighborhoods” and “allow for tree removal, or tree mass reduction, as necessary to allow for residential developments and supporting solar arrays.” This section “allows the removal, relocation, topping, or any other act that causes the destruction of trees [that are] not classified as protected in EMC §155.304.140(D) without requiring a Tree Permit or Conditional Use Permit.” Eucalyptus trees are not listed as a protected species, and if the utility work in the public right-of-way damages the roots to a point the trees would need to be removed, a Tree Removal Permit would not be required.

EMC §98.03 (Trimming Tree Limbs Required) states that “it shall be the duty of the owner or person in charge of the land upon or in front of which any tree grows with boughs extending over any portion of any street of the city to trim such tree so that there shall be a space of at least 10-ft between the lowest limb thereof and the street.” Therefore, it is the property owner’s responsibility to ensure the maintenance of the tree is in compliance with the code sections above. This was confirmed with Public Works – Engineering and PG&E (Attachment 4).

For all these reasons, the proposed subdivision and subsequent utility installations align with established zoning regulations, city ordinances, and the 2040 General Plan, ensuring neighborhood compatibility, minimal property disruption, and adherence to tree management standards.

PLANNING COMMISSION REVIEW

The Planning Commission is charged with reviewing the action taken by the Development Services Director, which, in this instance was to conditionally approve the proposed subdivision of one lot into three. Upon conclusion of the public meeting, the Planning Commission may sustain, modify, reject, or overrule any recommendations or rulings of the Director by making findings that are consistent with the provisions of the City's Subdivision Ordinance and the State Subdivision Map Act.

ENVIRONMENTAL ASSESSMENT

The City of Eureka, as Lead Agency, has determined the proposed project is categorically exempt from the provisions of the California Environmental Quality Act, in accordance with CEQA Guidelines §15315, Minor Land Divisions, Class 15, which exempts the division of property in urbanized areas into four or fewer parcels when certain criteria are met. The project qualifies for the Class 15 exemption because the project consists of a subdivision of residential land into three parcels in an urbanized area; the project is in conformance with the General Plan and zoning; no variances or exceptions are required; all services and access to the proposed resulting parcels are available; the existing parcel has not been involved in a division of a larger parcel within the previous two years by the same subdivider; and the existing parcel does not have an average slope greater than 20 percent.

PUBLIC HEARING NOTICE

Public notification consisted of notification by mail of property owners within a 300-ft radius of the site on or before November 1, 2024. In addition, the notice was posted on the City's website and bulletin boards, and a public hearing notice sign was posted on the site, on November 1, 2024.

CONCLUSION

Based on the analysis above and in the NOA (Attachment 2), the proposed minor subdivision is consistent with the General Plan and the 2019-2027 Housing Element. The subdivision is suitable for the site, and compatible with existing and planned land uses in the vicinity. The subdivision is properly located in a multi-family zoning district within the City, and will be adequately served by utilities and infrastructure. The subdivision, as conditioned, is consistent with the Subdivision Map Act and local regulations, and none of the findings for denial of the subdivision can be made.

DOCUMENTS ATTACHED

- Attachment 1: Planning Commission Resolution
- Attachment 2: Notice of Subdivision Action
- Attachment 3: Request for Hearing
- Attachment 4: PG&E and Public Works Responses