RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT

Resolution Number 24-

Hornstein Final Map Subdivision
Record Number PLN-2024-18941
Assessor Parcel Number 500-091-064

Making the required findings for certifying compliance with the California Environmental Quality Act and conditionally approving the Hornstein Final Map Subdivision.

WHEREAS, the owners submitted an application and evidence in support of approving the Final Map Subdivision; 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, the Planning Division, the Lead Department pursuant to Section 202 of Resolution No. 77-29 of the Humboldt County Board of Supervisors, has determined that impacts from projects of this sort were analyzed and addressed during preparation of Environmental Impact Reports (EIR's) for the Jacoby Creek Community Plan (SCH# 1982061615) and 2017 Humboldt County General Plan (SCH#2007012089), in keeping with the criteria outlined within section 15183 of the Guidelines; and

WHEREAS, a public notice was sent via mail to all owners and occupants of property within 300 feet of the boundaries of the project; and

WHEREAS, on December 5, 2024, a public hearing was held before the Humboldt County Planning Commission during which the Planning Commission reviewed, considered, and discussed the application and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

1. **FINDING:** **Project Description:** A Final Map subdivision of an approximately 12.3-acre parcel into two parcels of approximately 5.1 acres (Parcel 1) and 7.2 acres (Parcel 2). This parcel was recently created by Tract No. 673. As the current owner processed the previous subdivision, it is being processed

as a Final Map. The parcel is currently vacant. The parcels will be served by a shared water system and on-site wastewater treatment systems. Water and sewage disposal information is on file with the Division of Environmental Health.

EVIDENCE: a) Project File: PLN-2024-18941

CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

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

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

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

b) There are no environmental effects that are peculiar to the project or the parcel on which the project is located. Neighboring development on adjacent parcels is composed of the same density as the subject parcel. The proposal is consistent with the planned density and is currently developed with low-density residential uses. The development pattern and design included in the concept provided by the applicant has been found to be acceptable by the Land Use Division of Public Works and Planning Division.

c) Potential Impacts such as those common to projects of this sort were analyzed and addressed during preparation of Environmental Impact Reports (EIR's) for the Jacoby Creek Community Plan (SCH# 1982061615) and 2017 Humboldt County General Plan (SCH#2007012089).

d) There are no potentially significant environmental effects which were not analyzed in the above referenced EIR's. The proposed subdivision would enable future build-out to the currently planned density for the area, which was re-confirmed during adoption of the 2017 General Plan. The project is also consistent with the applicable policies and standards of the General Plan, which are further discussed below.

e) There are no potentially significant off-site impacts and cumulative impacts which were not discussed in the above referenced EIR's (SCH# 1982061615 & SCH# 2007012089). The proposed subdivision will facilitate build-out consistent with planned densities and applicable policies and standards found in the recently adopted General Plan.

f) There is no substantial new information that would cause the project to result in a more severe adverse impact than what was known and disclosed at the time the General Plan EIR was certified.

g) There is no substantial evidence, given the whole record before the agency, that the project may have a significant effect on the environment, as proposed.

h) The project site is not located within a scenic vista area and will not impact visual resources within the County. The proposed subdivision will create a total of two parcels that can accommodate future residential development consistent with the assortment of uses and structures on surrounding parcels. The project will result in a less than significant impact to aesthetics.

i) The project was referred to the Northwest Information Center (NWIC), the Wiyot Tribe, Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria. None of the tribes referred submitted a response. NWIC responded stating that the proposed project area has a low possibility of containing unrecorded archaeological sites and that no further study for archaeological resources is recommended. However, NWIC did recommend that standard inadvertent archaeological discovery protocols be in place for any ground disturbing activities. This has been added to the conditions of approval.

j) The project site is not included on a list of hazardous material sites, nor does the proposed project involve routine transport, use or disposal of hazardous materials. The project site is not located in an Airport Review Area. Murray Field is the closest airport and is located approximately five miles southwest of the project site.

k) According to the Humboldt County Fire Hazard Severity map, the parcel is located within a moderate fire hazard severity area. The site is within the State Responsibility Area for wildfire protection and Arcata Fire Protection District. Future development of the site will require compliance with the Uniform Fire Code and Uniform Building Code. The Department finds no evidence that the project will create, or expose people or property to, hazardous materials, or impair implementation of or physically interfere with, an adopted emergency response plan.

l) The project will not violate any water quality standards or waste discharge requirements or substantially degrade surface or groundwater quality or degrade groundwater supplies. Future residential development will receive water from a shared water

system and wastewater will be treated by permitted onsite wastewater treatment systems.

m) According to the California Natural Diversity Database, there is no mapped habitat for any special status plant or animal species on or near the subject property

The project was referred to the California Department of Fish and Wildlife (CDFW) who conducted two separate site visits. In their response to the County, CDFW offered the following comments and recommendations:

1. CDFW has determined that no further action is necessary for the wells. After conducting additional research and revisiting the site, CDFW's Engineering Geologist concluded that domestic use is unlikely to result in significant impacts to streamflows. The depth and configuration of the wells relative to the surrounding strata suggest they are sufficiently disconnected from any alluvial aquifer.

2. If the landowner is willing to accommodate a couple of minor changes to avoid potential impacts to unmapped wetlands, CDFW does not think a biological assessment is necessary. CDFW observed a wetland seep in the middle of the old logging road connecting the two resultant parcels, which fed into a seasonal swale. The wetland has not been mapped, but an increased setback from 30' to 50' along the southwestern edge of resultant Parcel 2 would provide an adequate buffer. CDFW does not think Mr. Hornstein was planning to re-open that old logging road anyway, but CDFW recommends formally closing it, perhaps by planting a few native understory species or taking another minimally impactful approach (i.e., avoid ground disturbance in the wetland). Suitable plants for that area would include sword fern (Polystichum munitum), salmonberry (Rubus spectabilis), thimbleberry (Rubus parviflorus), and red elderberry (Sambucus racemosa), among others.

3. CDFW did observe two California Rare Plant Rank 4 species on resultant Parcel 2: 1) leafy-stemmed

miterwort (Mitellasrtra caulescens; CRPR 4.2), growing at the culvert inlet under Splinter Lane; and 2) nodding semaphore grass (Pleuropogon refractus; CRPR 4.2), growing in and along the driveway. The proposed development won't impact the miterwort. Driveway improvements will inevitably result in the loss of some nodding semaphore grass, but the species is rhizomatous and well-established in the adjacent riparian and wetland areas, where it will probably recolonize roadside edges. The building envelope for the house itself is marginal habitat, consisting of second-growth redwood with a limited understory.

4. As with any development entailing tree removal, CDFW recommends working outside of nesting season (generally March 15 – August 15) to avoid impacts to native resident and migratory birds. If that's not feasible, a qualified biologist shall survey for active bird nests no more than seven days prior to tree removal or significant trimming. If an active nest is found, the permittee should consult with CDFW regarding appropriate site-specific avoidance measures and buffer distances. If there is a lapse in project related activities of seven days or more, the biologist should re-survey the area before work resumes.

5. To minimize the risk of spreading invasive species into adjacent redwood forest and riparian areas, please consider a condition of approval to prohibit the use of invasive plant species in landscaping (see Cal-IPC Inventory for a list).

Based on the comments above regarding the wells, the County has determined the increased use of the wells resulting from future development of Parcels 1 and 2 would have a less than significant impact on public trust resources and no further analysis is required. The County has reviewed and considered the above recommendations from CDFW and have included them in the Conditions of Approval for the project.

312-1.1.2 Legal Lot Requirement

3. FINDING: The lot that was created in compliance with all applicable state and local subdivision regulations.

EVIDENCE: a) The subject parcel has been determined to be one legal parcel created by Tract No. 673, recorded June 1, 2023

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

4. FINDING: All lots shall be suitable for their intended uses.

EVIDENCE: a) The project will result in a total of two parcels of 5.1 and 7.2 acres in size. The newly created parcels will be served by a shared water system and onsite sewer. The lots are large enough to comply with all required setbacks for existing and proposed structures. The minimum parcel size is 6,000 square feet and both parcels will meet this requirement.

5. FINDING: Improvements shall be required for the safe and orderly movement of people and vehicles.

EVIDENCE: a) The parcels will utilize Idylbear Lane/Splinter Lane southerly to Golf Course Road/Buttermilk Lane as the primary ingress and egress route. The northerly access, Simmons Lane northerly to Fickle Hill Road will be utilized as a secondary access. The Department of Public Works (PW) has reviewed the proposed subdivision and recommends several conditions of approval related to road improvements and maintenance, traffic control devices and signs, monumentation on the parcel map, standard improvements, etc. These are enumerated in a memo dated 6/3/2024 (Attachment 1C) and are included as conditions of approval.

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

EVIDENCE: a) Satisfaction of the requirements found in the 6/3/2024 memo from the Land Use Division of Public Works (PW) is required by the project Conditions of Approval. Sections 3.2 and 3.3 of their memo informs the applicant of their responsibility to correct any drainage problems associated with subdivision to the

satisfaction of PW and requires that a hydraulic report and drainage plan for the subdivision be submitted to PW for review and approval.

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

EVIDENCE: a) The parcel is currently served by an existing shared water system that will serve all parcels. The Division of Environmental Health has reviewed the water supply and found that adequate water is available to serve the subdivision. On-site wastewater treatment systems are proposed for all parcels and the Division of Environmental Health has also reviewed and approved the proposed septic tank and leach field locations.

8. FINDING: The size and shape of lots shall be such as is proper for the locality in which the subdivision is situated, and in conformance with the requirements of the current zoning regulations and the Humboldt County General Plan.

EVIDENCE: a) The size and configuration of the proposed parcels complies with width and depth requirements of the Unclassified zone.

9. FINDING: Subdivision to provide adequate solar access.

EVIDENCE: a) The project results in two parcels of 5.1 acres and 7.2 acres in size and is exempt per Section 322.5-6(d) HHC. All lots in the proposed development are one acre or larger in size and lot configuration does not constrain solar access.

Govt. Code §66474.02 Structural Fire Protection

10. FINDING: Where approving subdivision of land (not for open space purposes) within a State Responsibility Area (SRA) or Very High Fire Hazard Severity Zone, the project must be consistent with state or local Fire Safe Regulations and be located within an area where structural fire protection and suppression services will be available from a qualified entity (County, City, Special District, or other political subdivision or entity) that is monitored and funded by a County or other public entity, and organized solely to provide fire protection services, or through contract with the Department of Forestry and Fire Protection

pursuant to Section 4133, 4142, or 4144 of the Public Resources Code.

EVIDENCE: a) The property is located within the SRA for Fire Protection and is within a moderate fire hazard severity area. The property lies within the boundaries of the Arcata Fire Protection District, who provide structural fire protection and responds to medical emergencies. The project was referred to the fire district for review and the fire district recommended approval of the project. The project, as proposed, meets the requirements of both State and local Fire Safe Regulations.

11. FINDING: The proposed subdivision is in conformance with the County General Plan and Jacoby Creek Community Plan.

EVIDENCE: a) The proposed subdivision is consistent with the Residential Agriculture 5-20 acre per unit (RA5-20) land use designation. The project will allow for the creation of two parcels for proposed single-family residential development. The RA5-20 designation specifies a density of one unit for every 5-20 acres.

b) The parcel is currently served by an existing shared water system that will serve all parcels. The Division of Environmental Health has reviewed the water supply and found that adequate water is available to serve the subdivision.

The existing parcel is currently vacant. The newly created parcels will also utilize on-site wastewater treatment systems. The applicants have provided the Planning Division with evidence that sewage disposal can be developed on-site to serve the proposed development. The Division of Environmental Health has approved these plans.

A soils report was submitted that demonstrates adequate building sites (see discussion below).

The parcels will utilize Idylbear Lane/Splinter Lane southerly to Golf Course Road/Buttermilk Lane as the primary ingress and egress route. The northerly access, Simmons Lane northerly to Fickle Hill Road will be utilized as a secondary access. Idylbear Lane, Splinter Lane, and Simmons Lane are private roads with a 50 foot right of way.

c) The eastern property line borders lands owned by Green Diamond Resource Company and managed as industrial timberlands. The border between proposed Parcel 1 and the Green Diamond lands will be required to maintain an adequate forested buffer and fire break consistent with recommendations from CALFIRE. This will be included in the Development Plan such that future owners are aware of the requirement to provide this feature and maintain it.

d) The subject property is located within an area of high geologic instability (Humboldt County General Plan Geology, General Plan Map) and is not within the Alquist-Priolo Seismic Safety Hazard Zone. Therefore, an Engineering Geologic/Foundation and Soils Report (Busch Geotechnical Consultants) was submitted to demonstrate adequate building sites. The Building Division has reviewed the report and recommended approval. The subject property is not within any flood zone.

12. FINDING: JCCP-P34. Flood Free Access to New Subdivisions. All new development shall have flood free access routes.

a) All access routes to the subject property are outside of any flood zone.

13. FINDING: The proposed project is consistent with the purposes of and meets all the applicable development standards of the Unclassified zone (U).

EVIDENCE: a) The proposed zoning designation of U allows for residential uses as principally permitted on lots greater than 6,000 square feet in size. The proposed parcels will meet that requirement.

14. FINDING: The proposed subdivision will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE: a) The proposed subdivision will divide a 12.3-acre parcel into two parcels and build out with a total of two units. The proposed parcel sizes are permitted with the zoning and the resulting density is consistent with that planned for the area.

b) The parcel being divided is currently vacant. One single-family residence is proposed on each parcel. Water will be supplied by a shared water system and wastewater will be treated by permitted onsite wastewater treatment systems. The parcel is planned and zoned for single-family residential development and is surrounded by parcels with the same density. Single-family residential development is principally permitted under the parcel's current zoning. None of the referral agencies oppose the project and there is no information to suggest that approval of the project would potentially be detrimental to the public health, safety, and welfare or materially injurious to properties or improvements in the vicinity.

15. FINDING: The proposed subdivision with possible future development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE: a) The parcel's General Plan land use designation (RA) and zoning (U) allow single-family residential development. The project will positively impact compliance with Housing Element law. The project will increase the available separately owned housing in the Jacoby Creek Community Plan area and will comply with the density range of the RA5-20 land use designation, which includes a maximum density of one unit per 5-20 acres. The parcel was not included in the 2019 Housing Element inventory so there is no risk of the density falling short of the target required.

16. FINDING: The common law Public Trust Doctrine protects sovereign lands, such as tide and submerged lands and the beds of navigable waterways, for the benefit, use and enjoyment of the public. These lands are held in trust by the State of California for the statewide public and for uses that further the purposes of the trust. The hallmark of the Public Trust Doctrine is that trust lands belong to the public and are to be used to promote publicly beneficial uses that connect the public to the water.

EVIDENCE: a) The parcel is currently served by an existing shared water system fed by four wells that will serve both parcels. The location of the wells is at approximately 40.8475 latitude, -

124.0471 longitude and approximately 220-feet elevation above sea level. The depth and screening interval depth of the wells is unknown.

The nearest surface water feature to the wells is approximately 100 feet to the east. This unnamed watercourse is ephemeral, and is a tributary to Jacoby Creek, with the confluence approximately 1.8 miles feet east of Humboldt Bay. The watercourse is at an elevation of approximately 200 feet at its nearest point to the wells.

Given that the unnamed watercourse is ephemeral and only contains water during short periods after precipitation events, the increased use of the wells would not have any effect on flowrates. Ephemeral watercourses by their nature do not contain any significant riparian habitat or aquatic life. Jacoby Creek runs year-round and contains riparian habitat and aquatic species including sensitive species such as salmonids. Given the distance involved between the wells and Jacoby Creek (4,850 feet), it can reasonably be concluded that the wells do not intersect with the underflow of Jacoby Creek and will have no measurable effect on flowrates within Jacoby Creek.

Further, there is no potential for the increased use of the wells to affect public trust resources. There are no known uses of Jacoby Creek for waterborne commerce and the increased use of the wells will therefore have no impact on commerce. While Jacoby Creek provides important fish habitat that helps to support recreational fishing activities, the increased use of the wells will not impact flow rates within Jacoby Creek and will therefore have no detrimental effect on this public trust resource. Lastly, it is unclear if Jacoby Creek is used for recreational boating or paddling when flow conditions are suitable; however, the increased use of the wells would have no impact on these resources because the effect on flow rates will be negligible.

Based on the facts outlined above and comments provided by CDFW, the increased use of the wells will not interfere with the Public Trust or substantially impair the public rights to navigation, fisheries, or water related activities or access.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby**.**

- Adopt the findings set forth in this resolution; and
- Approve the Hornstein Final Map Subdivision subject to the conditions of approval attached hereto as Attachment 1A.

Adopted after review and consideration of all the evidence on **December 5, 2024**.

The motion was made by _____ and seconded by _____ and the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSTAIN: Commissioners:

ABSENT: Commissioners:

DECISION:

I, John H. Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.

_____

John H. Ford, Director
Planning and Building Department