

# TRINITY COUNTY PLANNING COMMISSION

## STAFF REPORT

**PROJECT TITLE:** Initial Commercial Cannabis Variance

**APPLICANT:** Oren Magid

**REPORT BY:** Skylar Fisher, Associate Planner

**LOCATION:** 2021 Barker Valley Rd., Hayfork (APN 015-420-006)

**ZONING DISTRICT:** Agricultural with a 20-acre minimum (Agricultural 20)

**GENERAL PLAN DESIGNATION:** Agricultural

**PROJECT DESCRIPTION:**

A request for an initial commercial cannabis cultivation variance (CCV) from neighboring residences for pending commercial cannabis cultivation license (CCL) 524, pursuant to Trinity County Code Section 17.43.050(A)(8).

Location	Land Use	Zoning District	General Plan Designation
North	Residential Single Family	Agricultural 20	Agricultural
South	Residential Single Family	Agricultural 20	Agricultural
East	Timber Preserve	Timber Production Preserve	Resource
West	Residential Single Family	Agricultural 20	Agricultural

Table 1: Surrounding Land Uses to Project Site

**PROJECT BACKGROUND:**

The cultivation area on the site includes a 35' x 50' building for existing processing to become harvest storage and an immature plant area to become a packaging area, a proposed hoop house for immature plants, and an outdoor cultivation area with fifteen beds dedicated to mature plants. Also part of the project's site plan is a cannabis waste area, a building for agricultural chemical and pesticide storage and an administrative hold.

The location of the outdoor cultivation area is closer than 350-feet from two residences on adjoining parcels. There are several sites around the project parcel which are applicants in the county cannabis program, including the adjoined parcel to the north of the project parcel which

the applicant is requesting a residential variance from. Based on comments submitted by cannabis division environmental compliance staff, relocation is possible, but would likely cause for the removal of mature trees and habitat and require ground disturbance/grading. At this time, there have been no comments submitted to the Planning Department in support or against this project.

**PROJECT EVALUATION:**

***Project Consistency with the Trinity County Zoning Code***

**Trinity County Code Chapter 17.43 – Commercial Cannabis Cultivation Regulations**

Trinity County Code Section 17.43.050 describes the locations where CCLs are not allowed in the county. The Agricultural zoning district is not listed as barring commercial cannabis cultivation activities.

Within Section 17.43.050(A)(8), there are parameters given for cultivation variances:

“For specialty cottage, specialty and small licenses cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection.”

The parameters for cultivation area are described in Section 17.43.010 where cultivation is defined as “... the planting, growing, harvesting, drying, or processing of cannabis plants or any part thereof.”

The term variance used in this chapter “is defined as Trinity County Ordinance No. 315, Section 31.”

As the license is for small (up to 10,000 sqft) outdoor cultivation, it is required to have all cultivation activity be at least 350-feet from any residences on an adjoined parcel unless a variance is obtained.

**Trinity County Code Chapter 17.31 – Variances**

Trinity County Code Section 17.31.010 states that the justification for a variance must be “... that the owner would otherwise suffer unique hardship under general zoning regulations because his or her particular parcel is different from others to which the regulation applies due to size, shape, or topography. Variances may be granted only to authorize a change in development standards which is not otherwise authorized by the zoning regulations.”

The following is a list of guidelines for reviewing variances:

1. ***No Special Privilege.*** A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.

**Finding:** The shape, size, and topography of the parcel is not a limiting factor of the parcel owner's ability to relocate the cultivation. It is possible, with expected deforestation and grading of the parcel, for the cultivation to be moved.

2. **Use Variance Prohibited:** *The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance.*

**Finding:** The proposed variance is allowed within the zoning district.

3. **Disservice Not Permitted:** *A variance must not be injurious to the public welfare, nor to adjacent properties.*

**Finding:** Through staff review, there was no evidence found that the proposed variance would be injurious to the public health or cause a safety concern.

4. **Not Adverse to General of Specific Plan:** *A variance must be in harmony with the general purpose and intent of the zoning ordinance and cannot adversely affect the general plan or specific plans of the county.*

**Finding:** The project is not found to be in conflict with the General Plan or any specific plans.

5. **RD-1 Overlay Zone:** *Prior to approval of a variance for property within the RD-1 overlay zone, permission must be granted or deemed not necessary by the Secretary of Agriculture.*

**Finding:** The project parcel is not located within an RD-1 overlay.

### ***Project Consistency with the California Environmental Quality Act (CEQA)***

Discussion and action on the request of a commercial cannabis cultivation variance qualifies as exempt from CEQA, based on Section 15061(b)(3) which states that a project is exempt if it is found that there is no possibility that the activity in question may have a significant effect on the environment.

### **STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission deny the commercial cannabis cultivation variance application as the project parcel does not have a size, topography, or shape constraint which would prevent the applicant from moving the cultivation area.

### **ALTERNATIVES**

If the Planning Commission does not wish to deny the CCV, the following alternatives are available:

1. Continue the item to the next Planning Commission meeting to request additional information

2. Find the project to be exempt from the California Environmental Quality Act under Section 15061(b)(3) and adopt Resolution PC-2022-14 to approve the commercial cannabis cultivation variance to reduce the 350-foot setback from the residences on APN 015-420-005 and APN 015-420-007.

**ATTACHMENTS:**

- A. CCL 524 Site Plan
- B. CCV-21-36 Cultivation Setback Map
- C. CCV-21-36 Location Map
- D. CCV-21-36 Zoning Districts Map
- E. CCV-21-36 General Plan Designations Map
- F. Draft Resolution PC-2022-14

# Figure 3: Property Diagram

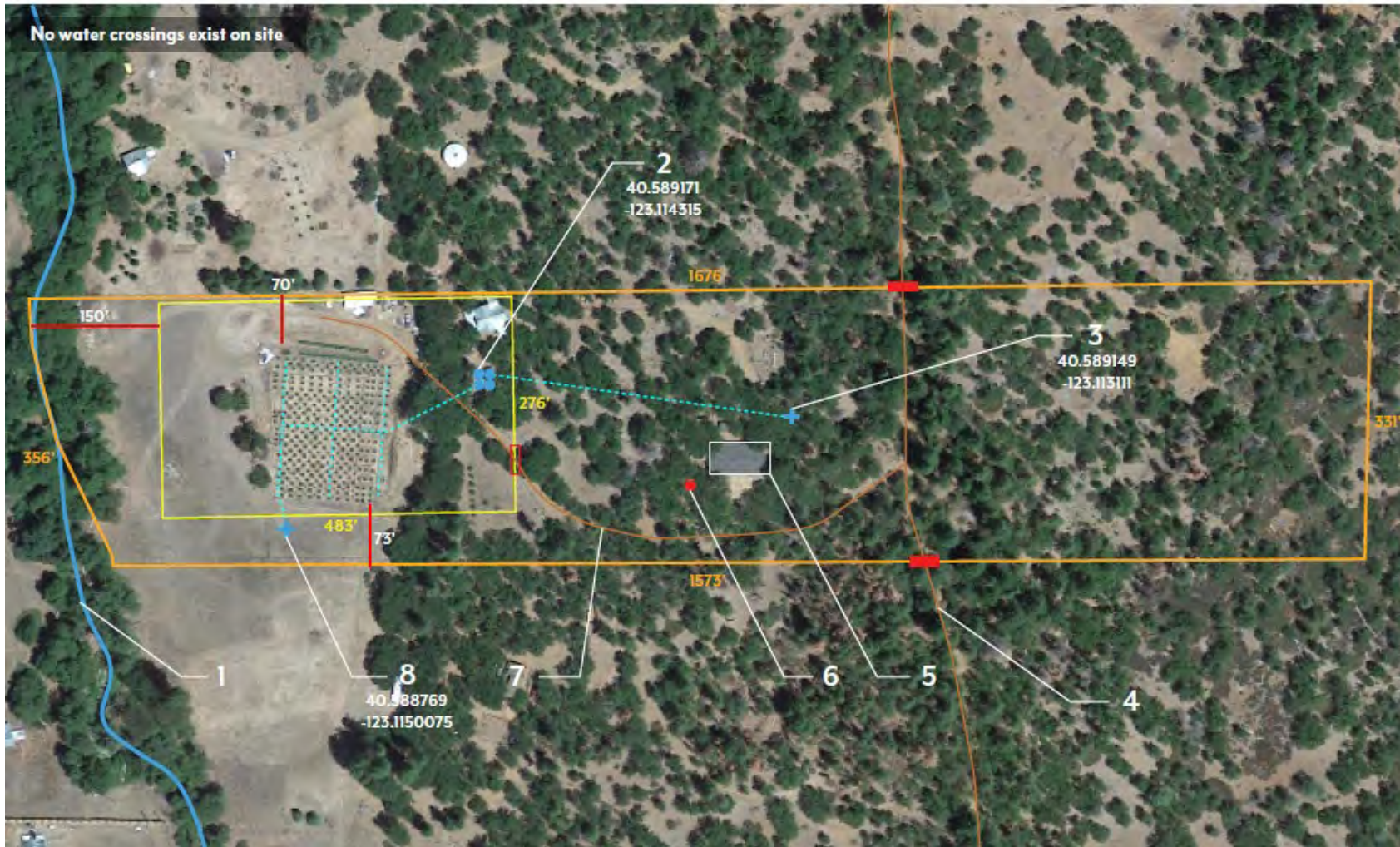
- 1.) Class I Watercourse (Barker Creek)
- 2.) Four 2500G Water Storage Tanks
- 3.) Permitted Well (agriculture, domestic)
- 4.) Barker Valley Road
- 5.) Dwelling
- 6.) Septic
- 7.) Access Road
- 8.) Permitted Well (agriculture)

-  Parcel Boundary
-  Premises Boundary
-  Parcel Entrance/Exit
-  Premises Entrance/Exit

Light-Blue-Dashed Line Indicates Water Transport from Well to Water Tanks to Cultivation

APN:  
015-420-06-00

Remaining Portion of Parcel is Unused





# Figure 4: Project Diagram

- 1.) 5'x20' Cannabis Waste Area - Compost
- 2.) 20'x40' Building-Ag Chemical/Pesticide Storage, Two 2'x3' Totes for Admin Hold
- 3.) 35'x50' Building
- First Floor:
  - 30'x43' Processing will become Harvest Storage Area
- Second Floor:
  - 23.5'x33' Immature Plant Area will become Processing will become
- Packaging Area
- 4.) Proposed 20'x100' Hoop House (Immature)
- 5.) Outdoor Cultivation - Proposed Fifteen 4'x125' Beds (mature)

**Parcel Boundary**

**Premises Boundary**

**APN:**  
015-420-06-00

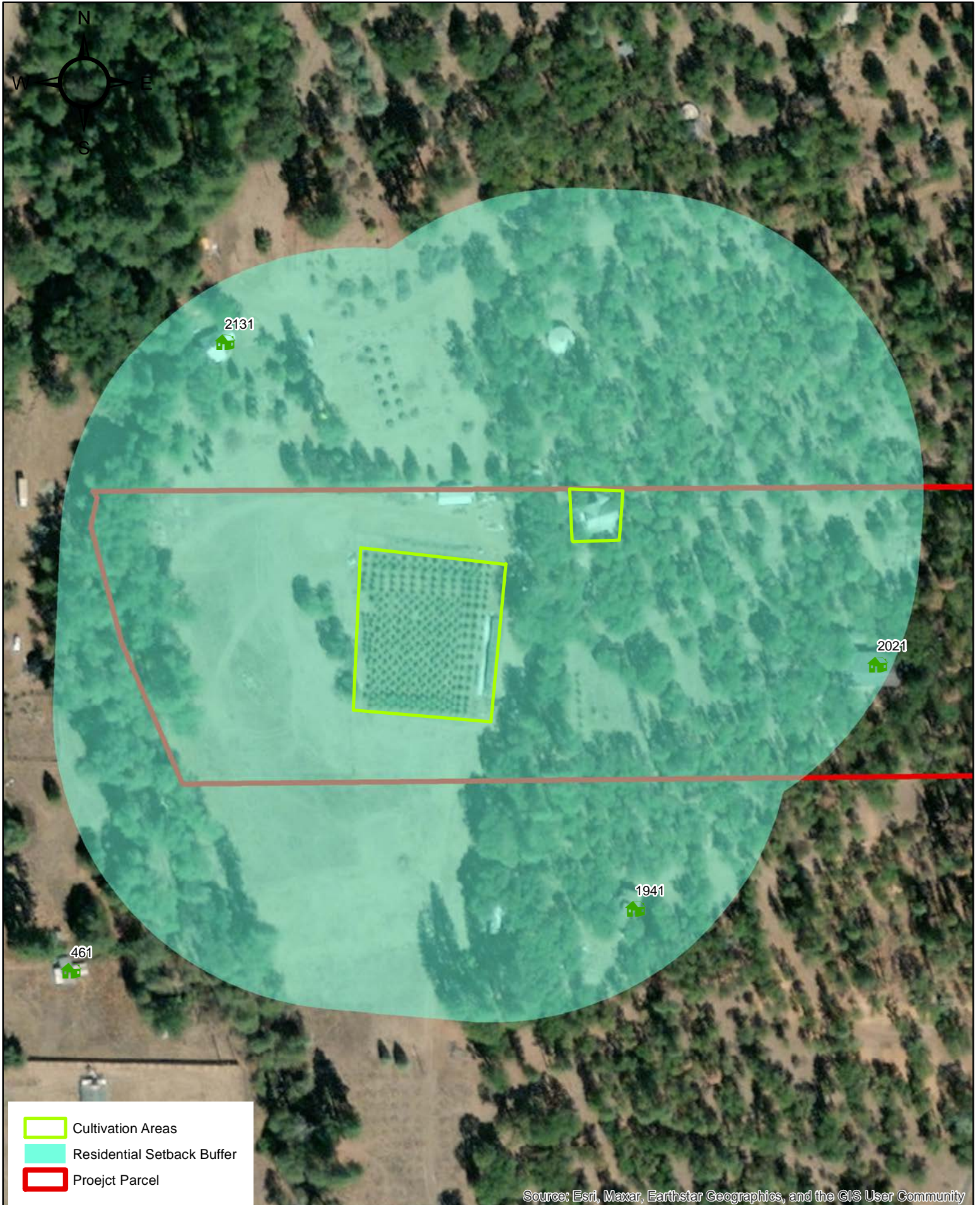
**Remaining Portion of Parcel is Unused**

<b>Immature Canopy Area:</b> (20'x100') = 2000	<b>Mature Canopy Area:</b> (15)(5'x125') = 9375
<b>= 2000 sq ft</b>	<b>= 9,375 sq ft</b>



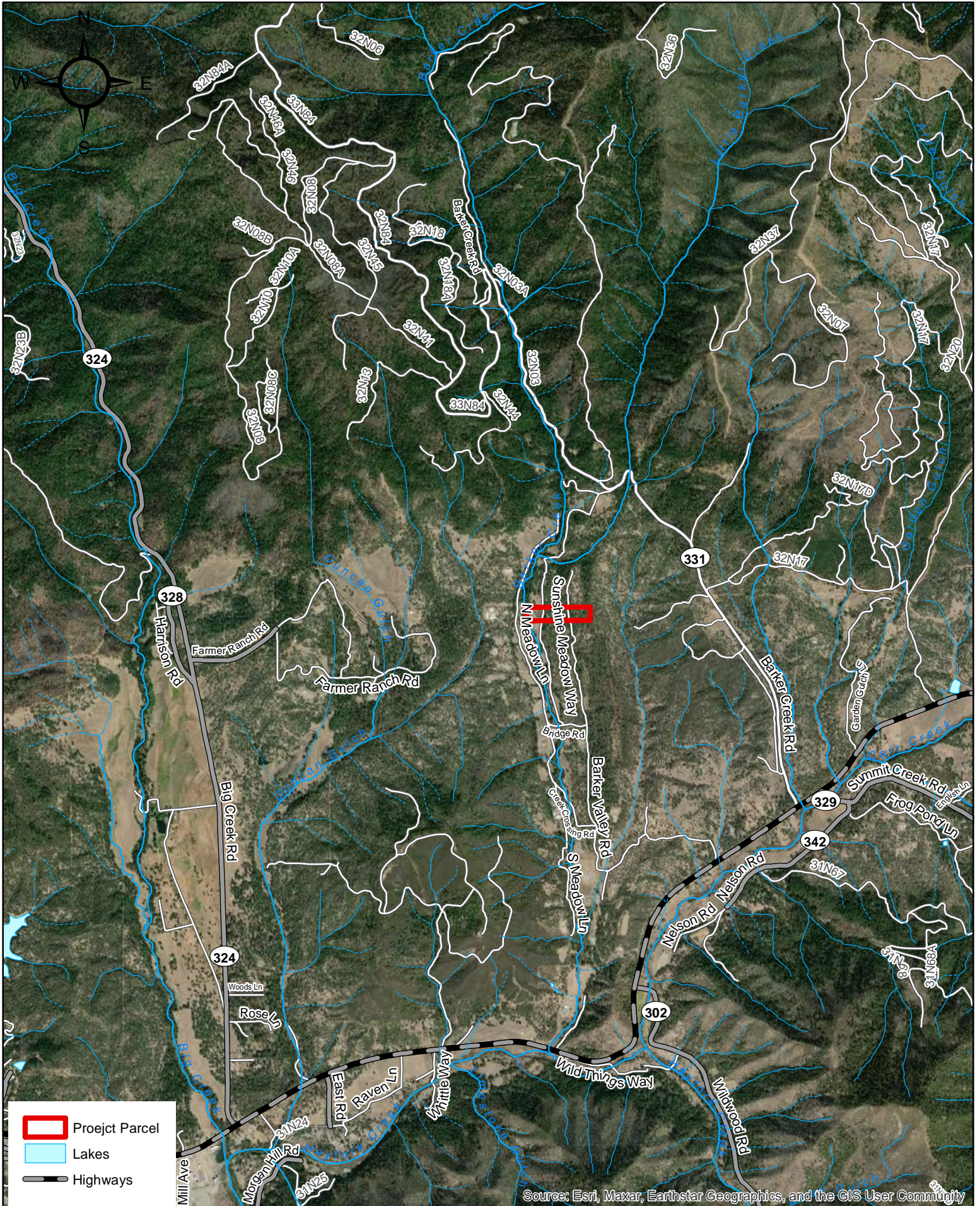


# CCV-21-36 Cultivation Setback Map



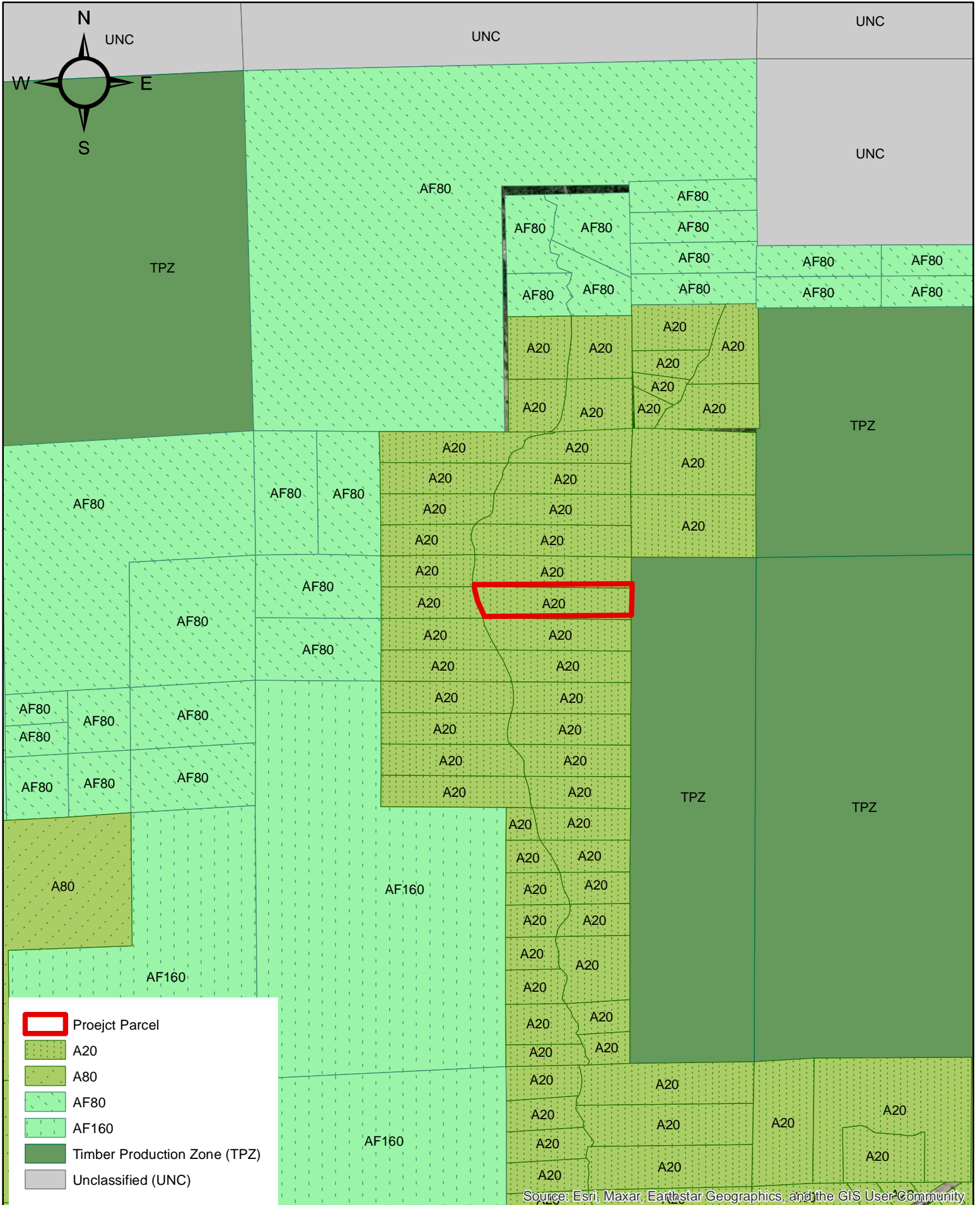


# CCV-21-36 Location Map

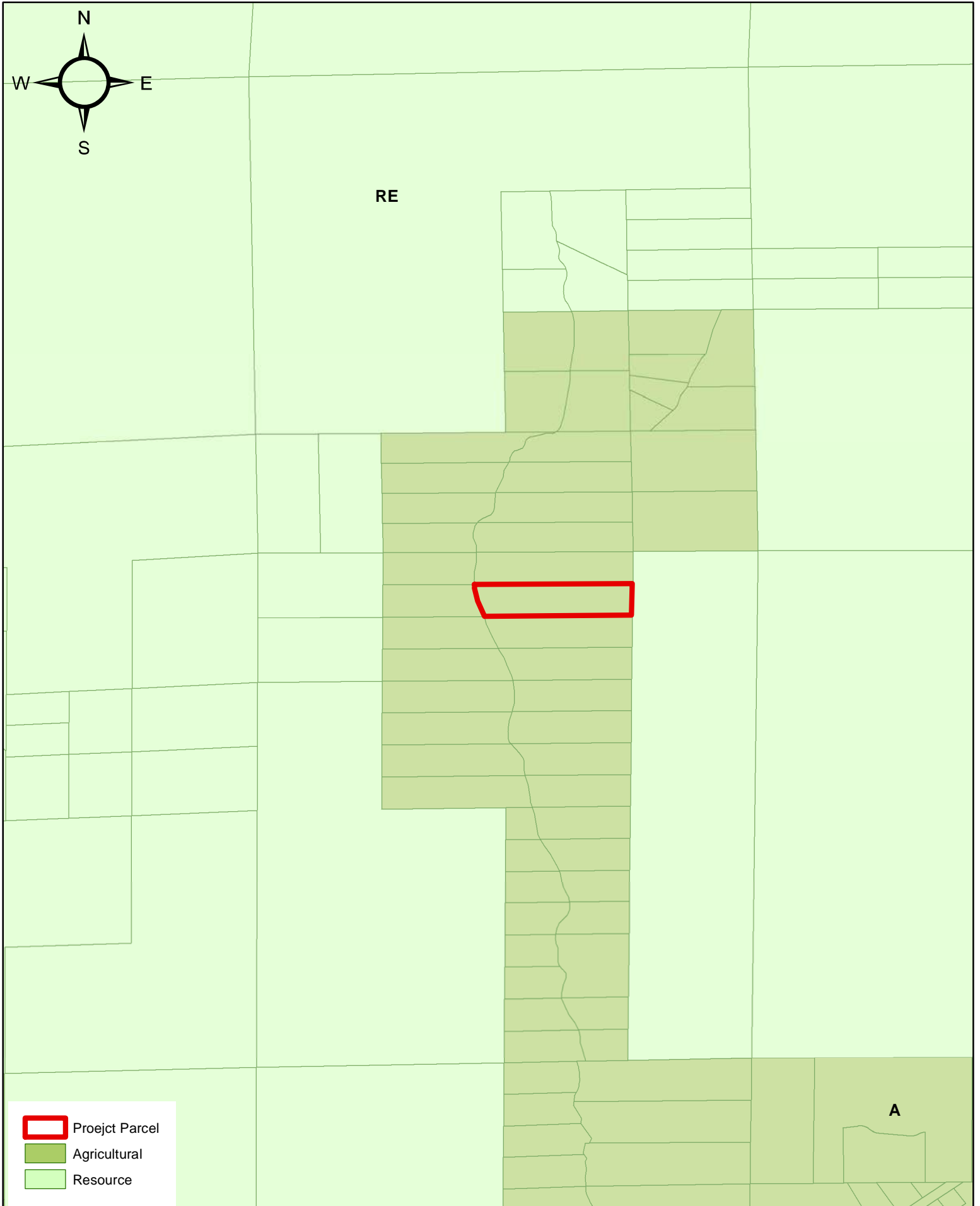




# CCV-21-36 Zoning Districts Map



# CCV-21-36 General Plan Designations Map





**RESOLUTION NO. PC-2022-14**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF TRINITY**

**Approving an Initial Commercial Cannabis Variance  
(Oren Magid, Commercial Cannabis Variance (CCV-21-36))**

**WHEREAS**, the Trinity County Planning Department has considered a request for an initial commercial cannabis variance, filed by Oren Magid, in accordance with Title 17, Trinity County Zoning Code Section 17.43.050A(8),

**WHEREAS**, for specialty cottage, specialty, and small licenses, cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels unless an initial variance is obtained by approval of the Trinity County Planning Commission,

**WHEREAS**, approved or conditionally approved commercial cannabis variances are subject to annual renewal by the Planning Director through the director's use permit process, and

**WHEREAS**, the Planning Commission held a public hearing and considered this matter at the regular meeting held on October 27, 2022,

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the County of Trinity:

1. Finds the requested commercial cannabis variance to be exempt from the requirements of the California Environmental Quality Act under exemption 15061(b)(3) on the basis that there are no substantial changes to the project or to circumstances under which the project is proposed to be undertaken, and no new information has become available or been made known showing unanalyzed environmental effects; and
2. Makes the following findings:
  - A. The applicant will not be granted a special privilege upon the approval of the proposed commercial cannabis variance;
  - B. The approval of the proposed commercial cannabis variance is not for a variance for the use of the property;
  - C. The approval of the proposed commercial cannabis variance would not be injurious to general public welfare or to the adjacent properties;
  - D. The proposed commercial cannabis variance is not in conflict with the goals, objectives, and policies of the General Plan or any specific plans;
  - E. The project parcel is not located in a Recreation Development District (RD-1) overlay zone; and

Resolution No. PC-2022-14  
October 27, 2022

3. Approves CCV-21-36 to reduce the 350-foot setback from the residences on APN 015-420-005 and APN 015-420-007, subject to the conditions set forth in Exhibit A of this resolution and incorporated herein.

**DULY PASSED AND ADOPTED** this 27<sup>th</sup> day of October, 2022 by the Planning Commission of the County of Trinity by the following vote:

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:  
RECUSE:

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WILLIAM SHARP, CHAIRMAN  
Planning Commission  
County of Trinity  
State of California

ATTEST:

By: \_\_\_\_\_  
EDWARD PRESTLEY  
Secretary of the Planning Commission  
County of Trinity, State of California



**EXHIBIT “A” to Resolution PC-2022-14**  
**COMMERCIAL CANNABIS VARIANCE CONDITIONS OF APPROVAL**

(Oren Magid, Commercial Cannabis Variance (CCV-21-36))

1. The commercial cannabis variance is approved for a period of one year and shall expire on the same date as the commercial cannabis license that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director’s Use Permit application process. The commercial cannabis renewal application shall:
  - A. Be submitted by the applicant or designated agent/consultant prior to expiration of the variance and preferably no later than 60 days in advance;
  - B. Be subject to a filing fee as specified by resolution of the Board of Supervisors;
  - C. Be approved, denied, or referred to the Planning Commission at the discretion of the Planning Director;
2. Structures on the property shall be in compliance with the California Building Code and Trinity County Code;
3. The applicant has the sole responsibility for renewing this commercial cannabis variance before its expiration. The County will not provide a notice prior to the expiration date;
4. No county permit or license shall be issued until the ten-day appeal period has expired. If the commercial cannabis variance approval is appealed, no county permit or license shall be issued while a commercial cannabis variance hearing or appeal is pending.

**END OF CONDITIONS.**