

TRINITY COUNTY PLANNING COMMISSION

STAFF REPORT

PROJECT TITLE: Initial Commercial Cannabis Cultivation Variance (CCL 746)

APPLICANT: Xuevue Ha / Yaj Farm, LLC

PROPERTY OWNER: Mai Youa Lee

REPORT BY: Bella Hedtke – Associate Planner, Cannabis Division & Environmental Compliance Specialist, Aida Tavakoli

LOCATION: 860 Top of the Grade, Douglas City (APN 025-530-032-000)

ZONING DISTRICT: Rural Residential with a 5-acre minimum (RR5)

ZONING OVERLAY DISTRICT(S): N/A

GENERAL PLAN DESIGNATION: Rural Residential (RR)

PROJECT DESCRIPTION: A request for an initial commercial cannabis cultivation variance (CCV) to reduce the required 350-foot commercial cannabis variance setback from two neighboring residences for pending commercial cannabis cultivation license (CCL) 746, pursuant to Trinity County Code Section 17.43.050(A)(8). The Project would operate 8,960 square feet (sf) of new mature outdoor cannabis canopy cultivation in a premises area measuring approximately 62,000 sf, with 500 sf of support buildings and reconfiguration of support buildings totaling 600 sf. Water for the Project would be provided from an onsite well. An onsite septic system would serve the Project's domestic wastewater needs. The proposed cultivation area would be accessed from Top of the Grade Road via a well-drained, gravel driveway.

Location	Land Use	Zoning District	General Plan Designation
North	Residential Single Family/ Licensed Commercial Cannabis	Rural Residential with a 5-acre minimum (RR5)	Rural Residential (RR)
South	SPI	Timberland Protection Zone (TPZ)	Resource (RE)
East	Residential Single Family/ Pending Commercial Cannabis	Rural Residential with a 5-acre minimum (RR5)	Rural Residential (RR)
West	Residential Single Family	Rural Residential with a 5-acre minimum (RR5)	Rural Residential (RR)

Table 1: Surrounding Land Uses to Project Site

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 and zoning districts where commercial cannabis is not allowed in the county. The Rural Residential zoning district is not listed as a location that restricts 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 sf) outdoor cultivation, it is required to have all cultivation activity be at least 350-feet from a residential structure on any adjoined parcel, unless a variance is obtained.

Furthermore, a site inspection was performed by Cannabis Division compliance staff on April 5, 2022 to ensure that the site plan and project description included in the Appendix C were accurately prepared. The only deficiency identified during this visit was the need for an initial CCV. A completeness review was performed by Cannabis Division staff and determined to be complete on March 28, 2022 and again on October 3, 2023, after the Division found that the property ownership had changed from the original owners listed on the original variance and license application. The only remaining deficiency for licensure is to obtain an approved CCV from the Planning Commission. Both the site inspection and completeness review processes are designed to verify site and application compliance with Trinity County Code Chapter 17.43 (Commercial Cannabis Cultivation Regulations).

Project Consistency with the General Plan and Community Plan

The property is within a Rural Residential (RR) land use designation. The General Plan and Douglas City Community Plan describes these areas as the following:

“Rural Residential intends to describe location of rural type residential development. Minimal county services would be provided and, in general, are not desirable in this area. Densities are designed to ensure the long-term opportunity for individual water and sewer systems. High density will be on dwelling unit per acre or larger as determined the county sanitarian and the Regional

Water Quality Control Board to allow the use of both individual water and sewer systems on the same parcel. Low density will be on dwelling unit per ten acres. This is to allow limited residential development in outlying areas of the county where minimal impacts are desirable and the overall character of the landscape as well as potential for open space, recreation, or resource production is to be preserved. Special attention should be directed toward the protection of sensitive environmental resources such as water quality, unstable slopes, critical wildlife habitat, etc. This designation should not be construed as discouraging resource production activities, such as logging or grazing. This description should also provide for small home businesses, for small-scale agriculture, and for small industrial operations, subject to controls to prevent nuisances (County, Trinity County General Plan, Land Use Element, 1988) (County, Douglas City Community Plan, 1987).”

Given that the Rural Residential land use designation is intended for parcels that would allow for resource production and small-scale agriculture, subject to controls to prevent nuisance, this proposed commercial cannabis license project, with applicable mitigation measures, is an appropriate activity for the rural residential land use designation per the Trinity County General Plan.

Project Consistency with the California Environmental Quality Act (CEQA)

On May 16, 2023 the Boards of Supervisors approved and adopted Resolution No. 2023-071 Commercial Cannabis Variance (CCV) renewal process. Variance Appendix C Policy Memo “Background and Guidance for the Implementation of Resolution No. 2023-071” was posted on the County website on May 26, 2023 to help facilitate applicants. As a result of the resolution, additional evaluation to Aesthetics, Air Quality, and Noise resource categories would be scoped into the applicant’s environmental document to offset any potential negative impacts to sensitive receptors. On June 14, 2023 the County received an Appendix C resubmission that incorporated the addition mitigation measures within their Appendix C. Environmental Review performed on August 17, 2023 identified a minor discrepancy within the document, and a resubmission was received later that day. A final review performed by County environmental compliance staff, that determined that approval of this project is a “later activity” associated with the Cannabis Program EIR, as defined by subsection (c) of Section 15168, in that (i) all impacts associated with the approval of this project are within the scope of environmental review previously studied, and (ii) the requirements and mitigations required by Chapter 17.43 and 17.43G of the Trinity County Code, adequately serve to mitigate the impacts associated with approval of this project, it adequately evaluates all potential environmental impacts, and can be appropriately tiered within the Trinity County Cannabis Programmatic Environmental Impact Report. Based on the application review, site inspection and HELIX’s review of the Appendix C, County environmental compliance staff recommended license approval to the planning director on August 24, 2023.

The proposed project is seeking a small outdoor license with a residential setback reduction. There are two sensitive receptors identified approximately 274-feet north and 123-feet east of the cultivation site. Cannabis Cultivation will occur in 140 (4’ x4’) planter boxes for mature canopy, immature plants will be purchased from an off site nursery. The project is fully outdoor and will not utilize supplemental lights; therefore, a light attenuation plan is not required. The project is on an electrical grid on Trinity Public Utility District with no back-up generators or fans; therefore, a noise attenuation plan is not required. An Odor Control Plan was submitted to mitigate odor if it becomes a nuisance.

Commercial Cannabis Variance (CCV) Site Visit

In preparation for this staff report, an inspection was performed on August 29th, 2023 to measure the distance, using a hand-held rangefinder, from the closest cultivation elements to the neighboring residential structures and take pictures of the site to provide Planning Commissioners with a better understanding of the site. The proposed cultivation site is located approximately 145-feet from the residence on APN 025-530-033-000 and 235-feet to the residence on APN 025-530-034-000 (Attachment 8).

Trinity County Code Chapter 17.31 – Variances

Trinity County Code Section 17.31.010 states that, “A variance is a waiver or modification of some requirement contained in the zoning ordinance. The statutory justification for a variance is 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.”

In considering a variance, the following guidelines shall be observed:

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 property has topographic constraints which would make it difficult for the applicant to develop outside of the required 350-ft residential setback. Primarily, the only portion of the parcel that would potentially comply with the 350ft setback is on undeveloped steep terrain (Attachment 7).

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 granting of this variance does not create a “use variance” because commercial cultivation licenses are allowed in the RR Zoning District.

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

Finding: In preparation of this staff report, County staff mailed a form to all adjacent properties on August 11th, 2023 that provided a two-week comment period for adjacent neighbors to either provide consent or opposition to the commercial cannabis variance (CCV) application request. This communication is in addition to the required public hearing notice that is sent out to all properties within 300ft of the subject property. As of the date of this staff report, no responses were received from adjacent neighbors nor from the general public. Therefore, it can be assumed that the granting of this CCV would not be injurious to the public welfare, nor to adjacent properties.

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: As discussed in this staff report, the project is found to be consistent with the General Plan and Douglas City Community Plan.

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.

STAFF RECOMMENDATION:

Planning staff recommends that the Planning Commission moves to:

- A. Adopt Resolution PC 2023-07 subject to Exhibit A – Conditions of Approval to reduce the 350-foot setback to approximately 145-foot from the residence on APN 025-530-033-000 and to approximately 235-foot to the residence on APN 025-530-034-000 (Attachment 8).

ALTERNATIVES:

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

1. In the event that more information or time is required prior to the Planning Commission making a final decision on CCV-22-01, the Planning Commission could move to continue to a future certain meeting date.
2. The Planning Commission could deny the applicant's request for a CCV, with findings stated by the Planning Commission.

ATTACHMENTS:

1. Site Plan from Appendix C Environmental Document
2. Residential Setback Map
3. Location Map
4. Surrounding Uses Map
5. Zoning Districts Map
6. General Plan Designations Map
7. Site Visit Photos
8. PC Resolution No. 2023-07

REFERENCES:

County, T. (1987). *Douglas City Community Plan*. Douglas City, CA: County of Trinity.

County, T. (1988). *Trinity County General Plan, Land Use Element*. Weaverville, CA: County of Trinity.

Attachment 1 – Figure 4: Project Diagram

- 1.) Outdoor Cultivation Area - 140 8'x8' Canopy Areas (4' x 4' boxes)
- 2.) 10'x10' Shed - Ag Chemical/Pesticide Storage Area
- 3.) 20'x20' Cannabis Waste Area - Compost
- 4.) Proposed 20'x30' Building - 10'x15' Processing Area, 10'x15' Harvest Storage Area, 10'x15' Packaging Area, and 10'x15' Admin Hold Area
- 5.) Dwelling

Parcel Boundary
 Premises Boundary

APN:
 025-530-32-00

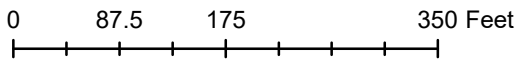
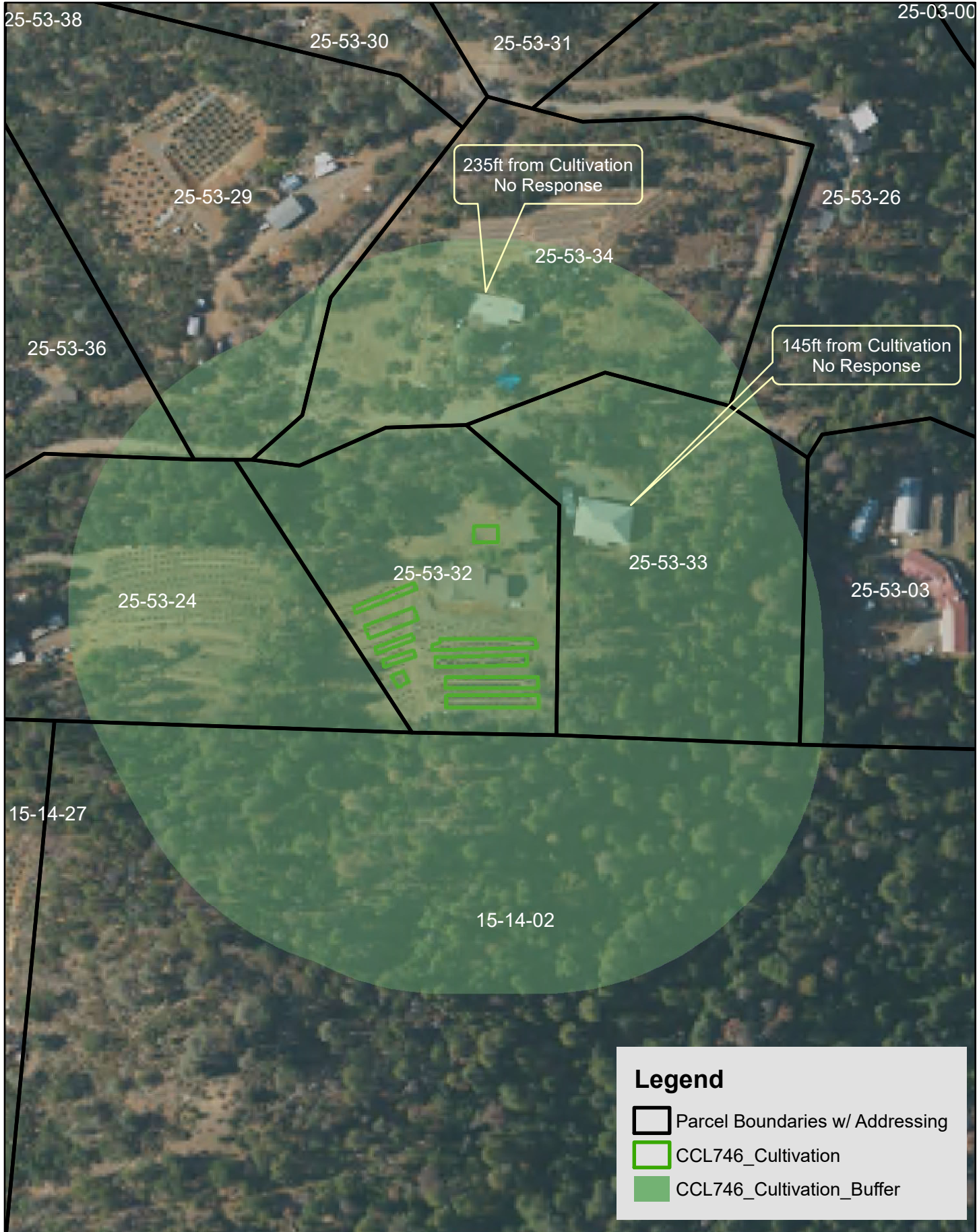
 Remaining Portion of Parcel is Unused

Mature Canopy Area:
 (8'x8') = 64'(140)
 = 8,960 sq ft





ATTACHMENT 2
CCV-2022-01 | CCL-746
APN 025-530-032
Residential Setback Map

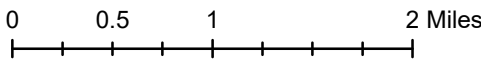
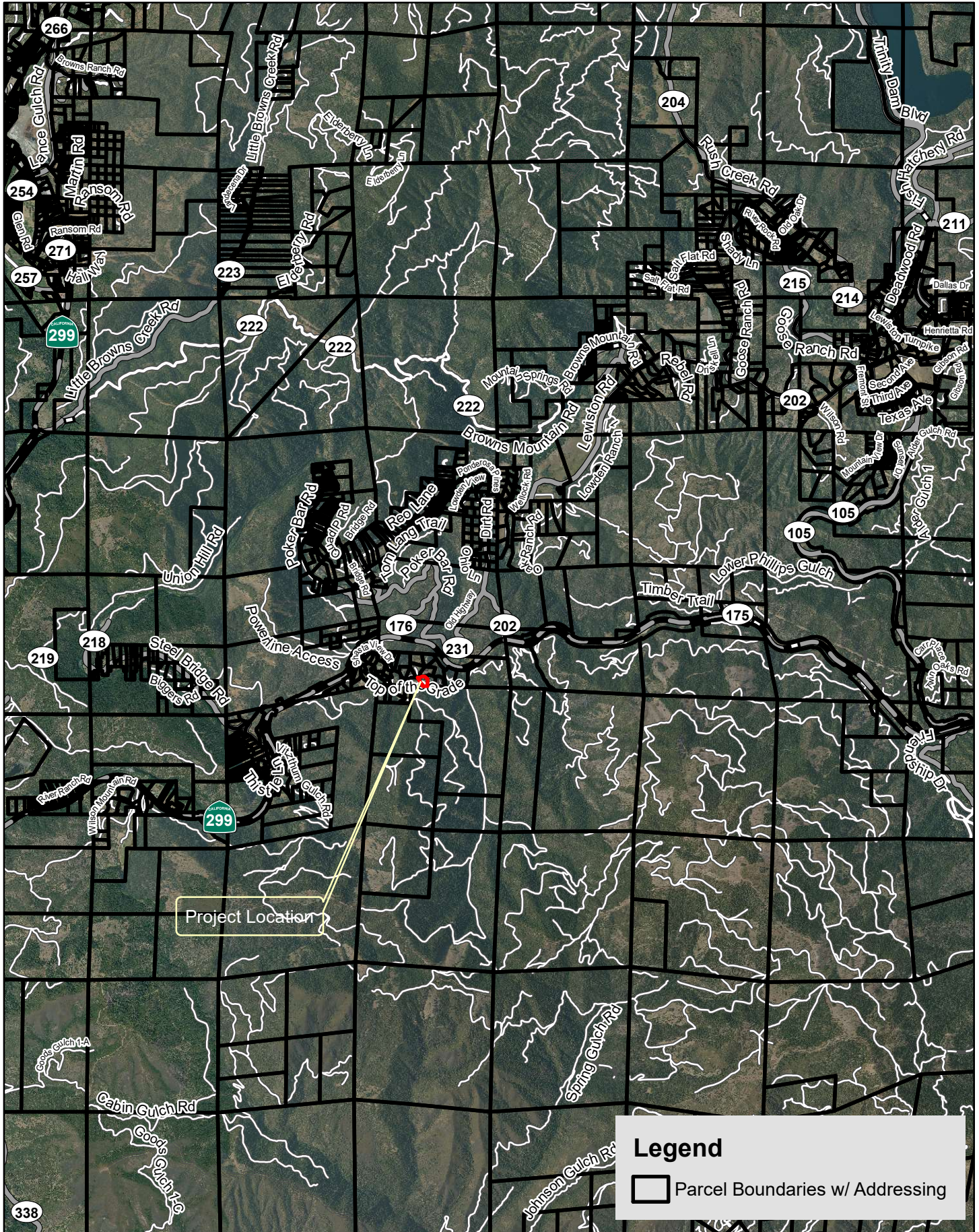


Staff Author: BH
Date: 10/2/2023

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ATTACHMENT 3
CCV-2022-01 | CCL-746
APN 025-530-032
Location Map

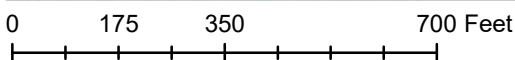
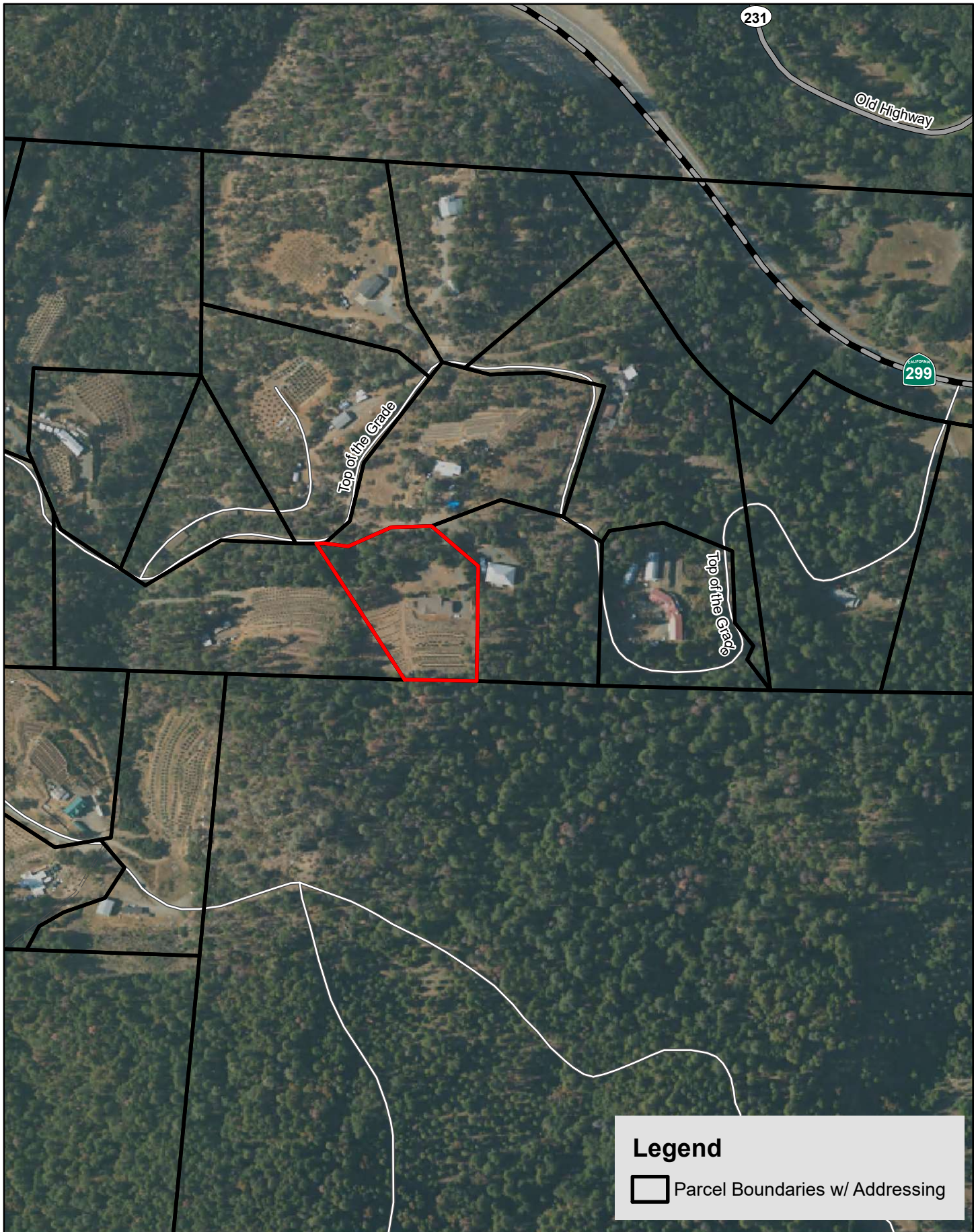


Staff Author: BH
 Date: 10/3/2023

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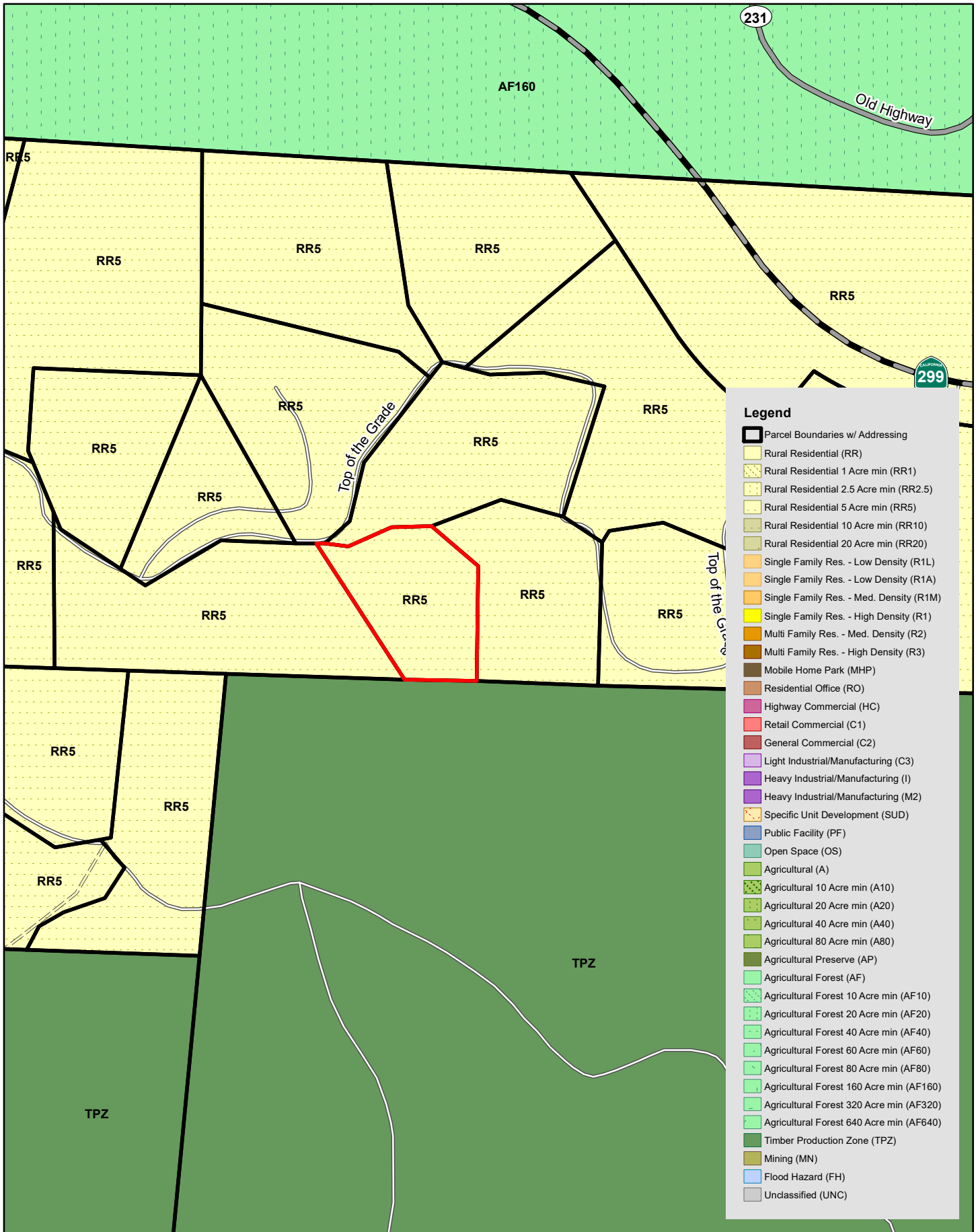
ATTACHMENT 4
CCV-2022-01 | CCL-746
APN 025-530-032
Surrounding Uses Map



Staff Author: BH
Date: 10/3/2023

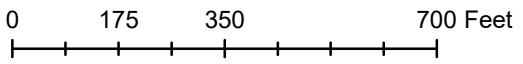


**ATTACHMENT 5
CCV-2022-01 | CCL-746
APN 025-530-032
Zoning District Map**



Legend

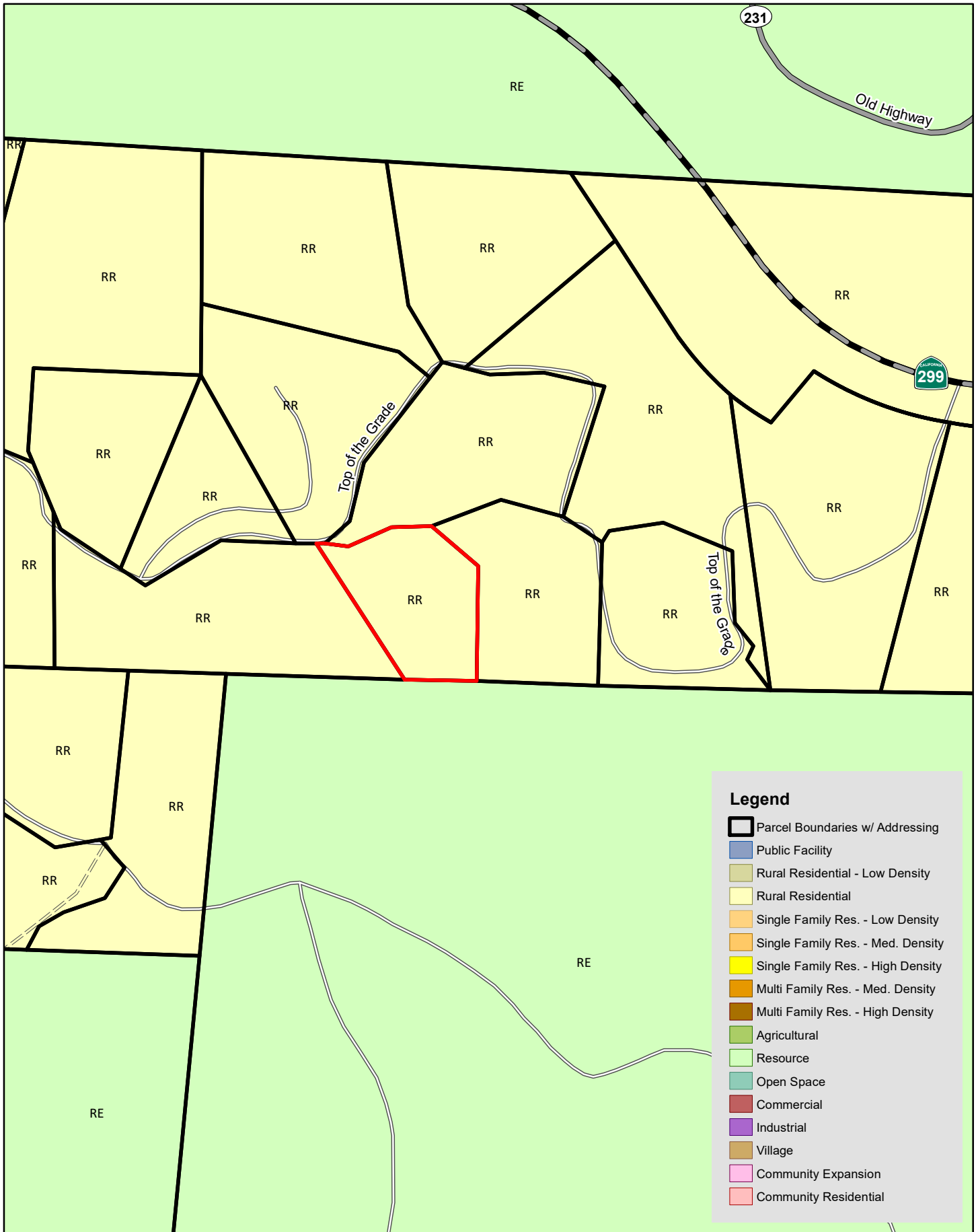
- Parcel Boundaries w/ Addressing
- Rural Residential (RR)
- Rural Residential 1 Acre min (RR1)
- Rural Residential 2.5 Acre min (RR2.5)
- Rural Residential 5 Acre min (RR5)
- Rural Residential 10 Acre min (RR10)
- Rural Residential 20 Acre min (RR20)
- Single Family Res. - Low Density (R1L)
- Single Family Res. - Low Density (R1A)
- Single Family Res. - Med. Density (R1M)
- Single Family Res. - High Density (R1)
- Multi Family Res. - Med. Density (R2)
- Multi Family Res. - High Density (R3)
- Mobile Home Park (MHP)
- Residential Office (RO)
- Highway Commercial (HC)
- Retail Commercial (C1)
- General Commercial (C2)
- Light Industrial/Manufacturing (C3)
- Heavy Industrial/Manufacturing (I)
- Heavy Industrial/Manufacturing (M2)
- Specific Unit Development (SUD)
- Public Facility (PF)
- Open Space (OS)
- Agricultural (A)
- Agricultural 10 Acre min (A10)
- Agricultural 20 Acre min (A20)
- Agricultural 40 Acre min (A40)
- Agricultural 80 Acre min (A80)
- Agricultural Preserve (AP)
- Agricultural Forest (AF)
- Agricultural Forest 10 Acre min (AF10)
- Agricultural Forest 20 Acre min (AF20)
- Agricultural Forest 40 Acre min (AF40)
- Agricultural Forest 60 Acre min (AF60)
- Agricultural Forest 80 Acre min (AF80)
- Agricultural Forest 160 Acre min (AF160)
- Agricultural Forest 320 Acre min (AF320)
- Agricultural Forest 640 Acre min (AF640)
- Timber Production Zone (TPZ)
- Mining (MN)
- Flood Hazard (FH)
- Unclassified (UNC)



**Staff Author: BH
Date: 10/3/2023**

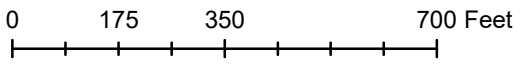
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ATTACHMENT 6
CCV-2022-01 | CCL-746
APN 025-530-032
GPD Map



Legend

- Parcel Boundaries w/ Addressing
- Public Facility
- Rural Residential - Low Density
- Rural Residential
- Single Family Res. - Low Density
- Single Family Res. - Med. Density
- Single Family Res. - High Density
- Multi Family Res. - Med. Density
- Multi Family Res. - High Density
- Agricultural
- Resource
- Open Space
- Commercial
- Industrial
- Village
- Community Expansion
- Community Residential



Staff Author: BH
Date: 10/3/2023

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Attachment 7 – CCV Site Visit Photos

Existing Site Conditions & Example of Steep Undeveloped Terrain:



Bird's-eye View of Proximity of Nearby Residences:



Attachment 7 – CCV Site Visit Photos

View of Residential Structure on APN 025-530-033-000 (145-feet from cultivation site):



View of Residential Structure on APN 025-530-034-000 (235-feet from cultivation site):



ATTACHMENT 8

Resolution No. 2023-07
October 12, 2023

RESOLUTION NO. PC-2023-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF TRINITY

Approving an Initial Commercial Cannabis Variance (Xuevue Ha / Yaj Farm, LLC (CCV-2022-01))

WHEREAS, the Trinity County Planning Department has considered a request for an initial commercial cannabis variance, filed by Xuevue Ha / Yaj Farm, LLC, 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 12, 2023,

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

1. The approval of this project is a "later activity" associated with the Cannabis Program EIR, as defined by subsection (c) of Section 15168, in that (i) all impacts associated with the approval of this project are within the scope of environmental review previously studied, and (ii) the requirements and mitigations required by Chapter 17.43 and 17.43G of the Trinity County Code, adequately serve to mitigate the impacts associated with approval of this project, it adequately evaluates all potential environmental impacts, and can be appropriately tiered within the Trinity County Cannabis Programmatic Environmental Impact Report; 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
3. Approves CCV-22-01 to reduce the 350-foot setback requirement to approximately 145-feet from the residence on APN 025-530-033-000 and to approximately 235-feet to the residence on APN 025-530-034-000, subject to the conditions set forth in Exhibit A of this resolution and incorporated herein.

DULY PASSED AND ADOPTED this Thursday, October 12, 2023 by the Planning Commission of the County of Trinity by the following vote:

ATTACHMENT 8

Resolution No. 2023-07

October 12, 2023

AYES:
NAYS:
ABSENT:
ABSTAIN:
RECUSE:

CAROL FALL, CHAIR
Planning Commission
County of Trinity
State of California

ATTEST:

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

ATTACHMENT 8

Resolution No. 2023-07

October 12, 2023

EXHIBIT "A" to Resolution PC-2023-07 COMMERCIAL CANNABIS VARIANCE CONDITIONS OF APPROVAL

(Xuevue Ha / Yaj Farm, LLC, Commercial Cannabis Variance (CCV-22-01))

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:

1. Be submitted by the applicant or designated agent/consultant prior to expiration of the variance and preferably no later than 60 days in advance;
2. Be subject to a filing fee as specified by resolution of the Board of Supervisors;
3. Be approved, denied, or referred to the Planning Commission at the discretion of the Planning Director;

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