

## TRINITY COUNTY PLANNING COMMISSION

### STAFF REPORT

**PROJECT TITLE:** Appeal of Director's Decision to Approve CCL-771

**APPELLANT:** Phillip Gilman

**APPLICANT:** Severin Stoyanov, Smoking Green Valley, LLC

**AGENT:** The Flowra Platform

**PROPERTY OWNER:** Lake Valley Farms, LLC

**REPORT BY:** Drew Plebani – Cannabis Division Director, Steven Swisley - Environmental Compliance Specialist, Daniel Marvel – Lead Code Compliance Specialist

**LOCATION:** APN 020-510-020 / 10381 Ruth - Zenia Rd., Hettenshaw Valley, CA 95595

**ZONING DISTRICT:** Unclassified (UNC)

**ZONING OVERLAY DISTRICT(S):** n/a

**GENERAL PLAN DESIGNATION:** Agriculture (A)

**PROJECT DESCRIPTION:**

The Cannabis Division Director approved the application for commercial cannabis cultivation license (CCL) 771 on June 23, 2023 and was scheduled for license issuance on or after July 12, 2023 after the 10-day appeal period ended. On July 11, 2023, an application for appeal of the approval of CCL 771 was submitted to the Trinity County Planning Department, pursuant to the standards established in Trinity County Code Section 17.34.110.

Location	Land Use	Zoning District	General Plan Designation
North	Agriculture	Unclassified (UNC)	A
South	Residential and Agriculture	Unclassified (UNC)	Resource (RE)
East	Undeveloped	Unclassified (UNC)	A
West	Residential and Agriculture	Unclassified (UNC)	A

Table 1: Surrounding Land Uses to Project Site (Attachment 1)

**PROJECT BACKGROUND:**

On October 7, 2021, an application for a Commercial Cannabis License on APN 020-510-020 for was submitted to the Trinity County Planning Department, pursuant to the standards established in Trinity County Code Section 17.34.110.

The proposed cultivation project described herein (Project) includes the cultivation of up to 10,000 square feet (SF) of mixed-light located in Trinity County on Assessor's Parcel Number (APN): 020-510-020-00. The applicant is seeking a Small Mixed-Light Cannabis Cultivation License from the County (CCL-771) and holds an Adult-Use Small Mixed-Light Tier 1 Cannabis Cultivation License from the Department of Cannabis Control (DCC; CCL22-0001521, Expires on 2023-09-28). The proposed cultivation activities will include the installation of four (4) 30' x 100' greenhouses, three (3) will be utilized for mature canopy, and one (1) for immature canopy. Other supporting structures include two (2) 5' x 8' structures for solar power and battery storage and water pump; a water diversion cistern for domestic and agricultural use; and a 2,500-gallon and eleven (11) 5,000-gallon water storage tanks next to a 10' x 12' shed. Proposed reconfiguration activities include the addition of a 100' x 100' rain catchment pond for agricultural use; construction of a 32' x 80' building for harvest storage (10' x 30'), processing (30' x 80') and agricultural chemical and pesticide storage (12' x 12'); and the addition of a 20' x 20' cannabis waste area. Water will be through a Department of Water Rights, and a Fish and Wildlife LSAA agreement for water diversion; a permitted septic will serve for their wastewater needs; and energy will be provided through solar panels.

**COUNTY ORDINANCE AND CEQA COMPLIANCE:**

An Appendix C document was submitted to the Cannabis Division for CCL 771 on April 22, 2022. Throughout the Appendix C review process, two incomplete letters were sent to the applicant and their agent, followed by three resubmittals of the Appendix C document.

A pre licensure site inspection was performed by Cannabis Division compliance staff on May 19, 2023 to ensure that the site plan and project description included in the Appendix C were accurately prepared. A subsequent inspection was completed on September 26, 2023 along with CDFW staff, as a result of complaints/ reasons for appeal, which further evidenced site compliance. A completeness review was performed by Cannabis Division staff on May 26, 2023. 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). The County's contracted environmental consultant company, LACO, prepared a compliance memorandum on April 4, 2023.

Review of the Appendix C document performed by County environmental compliance staff, and contract consultants determined that approval of this project is compliant with TCC 17.43, and 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 Laco review of the Appendix C, County environmental compliance staff recommended license approval to the Cannabis Division Director on June 23, 2023.

**REASONS FOR APPEAL:**

The appellants' appeal application states "I have cattle in the adjoining pasture and the water source is used to water them and also supplement my household. The water source is located on my property. IN my pasture and in the field below their tanks the wild ketten flower grows, I understand it is a protected plant. The spring is on my property. They were pumping water from the creek with gas powered pump in mid May. This water source flows into Hetten Creek which is very low and flows into the Van Duzen river. The residents down creek from me will also be impacted."

The appeal application and September 1, 2023 letter outlined five main reasons for appealing the approval of CCL-771 (Attachment 2). The Cannabis Division has investigated each of these complaints and provided a summary of the findings below:

- 1) Proximity to the headwaters of the Van Duzen River and the potential environmental impact of contamination to our water sources. This parcel is the very head water to the Van Duzen River; therefore, any contamination will impact any and all persons, properties, animals and environments beginning at that point until it reaches the ocean. It affects the water all native wildlife and livestock have access to. It increases the nitrogen levels in the surrounding ground water and therefore into the runoff into the river.

**Response:**

Site inspection performed along with CDFW staff on 9/26/2023 determined that the headwaters of the Van Duzen River originates near APN: 020-510-09-00, roughly 0.75 miles east of the proposed project. The Applicant was advised to take a conservative approach of developing their site, proposed development will occur at greater than 150-feet (SWRCB Cannabis Cultivation Policy Attachment A, Section 1, Term 37; FEIR Mitigation Measure 3.10-1a) from the riparian area that surrounds an intermittent stream to reduce any potential impacts. Additionally, the native riparian vegetation will act as a buffer and will provide a natural filtration from any additional runoff. The applicant is required to comply with all regulations of CDFW (EPIMS No: 23550-R1) and Waterboard (WDID: 1\_53CC425894) as well as all applicable mitigation measures identified in the site specific Appendix C, which is intended to mitigate the potential environmental impacts that may be caused by the cultivation operations.

- 2) **Native American arch sites: There are known Native American archeological and cultural sites on this parcel that must be taken into consideration before further development.**

**Response:**

As established in the Cannabis Program Final Environmental Impact Report (FEIR) volume 2, section 3.5-5, "prior to land disturbance activities for new or expanded cannabis cultivation activities, the cannabis cultivator shall perform a records search of potential Native American archeological or cultural resources at a California Historical Resources Information System (CHRIS) information center". The CHRIS records search was completed and the results indicate the following: No resources were located in the project area, No resources were located within ¼ mile radius of the project, and No reports were located within the project area. The

Cultivation area is proposed on previously disturbed ground; ground disturbance is not proposed within the area.

- 3) No potential economic impact to our community. This proposed CCL offers no positive economic impact that should override the protection of the local residents and environment.**

**Response:**

Staff is unable to verify this claim. Economic Impacts are outside the scope of Trinity County Code, Chapter 17.43. However, The Statement of Overriding Considerations adopted along with the Cannabis Program Final Environmental Impact Report states: "Economic and social effects of a project shall not be treated as significant effects on the environment pursuant to State CEQA Guidelines Section 15131(a).", and therefore this reason for appeal is outside the regulatory purview of the Cannabis Division.

- 4) Visual impairment to surrounding homes. This parcel is located in the middle of Hettenshaw Valley straddling the main road and in direct view of multiple homes and properties, therefore, damaging the property value of those properties.**

**Response:**

The project as proposed would comply with all applicable regulations. Specifically, the FEIR contains mitigation measures to maintain cultivation parcel free of trash and debris piles (FEIR Mitigation Measure 3.1-1b). Furthermore, the FEIR addresses wildlife exclusionary fencing (FEIR Mitigation Measure 3.1-1c), requiring all fencing to blend with the surrounding conditions of the parcel, but the claims that this has a damaging effect on property values is outside the regulatory scope of the Cannabis Division. The Statement of Overriding Considerations adopted along with the Cannabis program Final Environmental Impact Report states: "Economic and social effects of a project shall not be treated as significant effects on the environment pursuant to State CEQA Guidelines Section 15131(a)". Therefore, this reason for appeal is outside the regulatory purview of the Cannabis Division.

- 5) They were pumping water from the creek with gas powered pump in mid May. (Illegal water diversion)**

**Response:**

Based on staff review of the project information, the applicant has an approved LSAA (EPIMS No: 23550-R1) and Point of Diversion (POD) from CDFW and Waterboard (Registration: H509566, Certificate: H100702). See Attachment 7 for additional discussion and findings of the September 26, 2023 site inspection

**PUBLIC COMMENT:**

As of October 4, 2023 at 4pm staff did not receive comments on this item.

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission make a motion to deny the appeal (P-23-19), upholding the Director's decision to approve CCL 771, with the findings referenced in this staff report.

**ALTERNATIVES:**

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

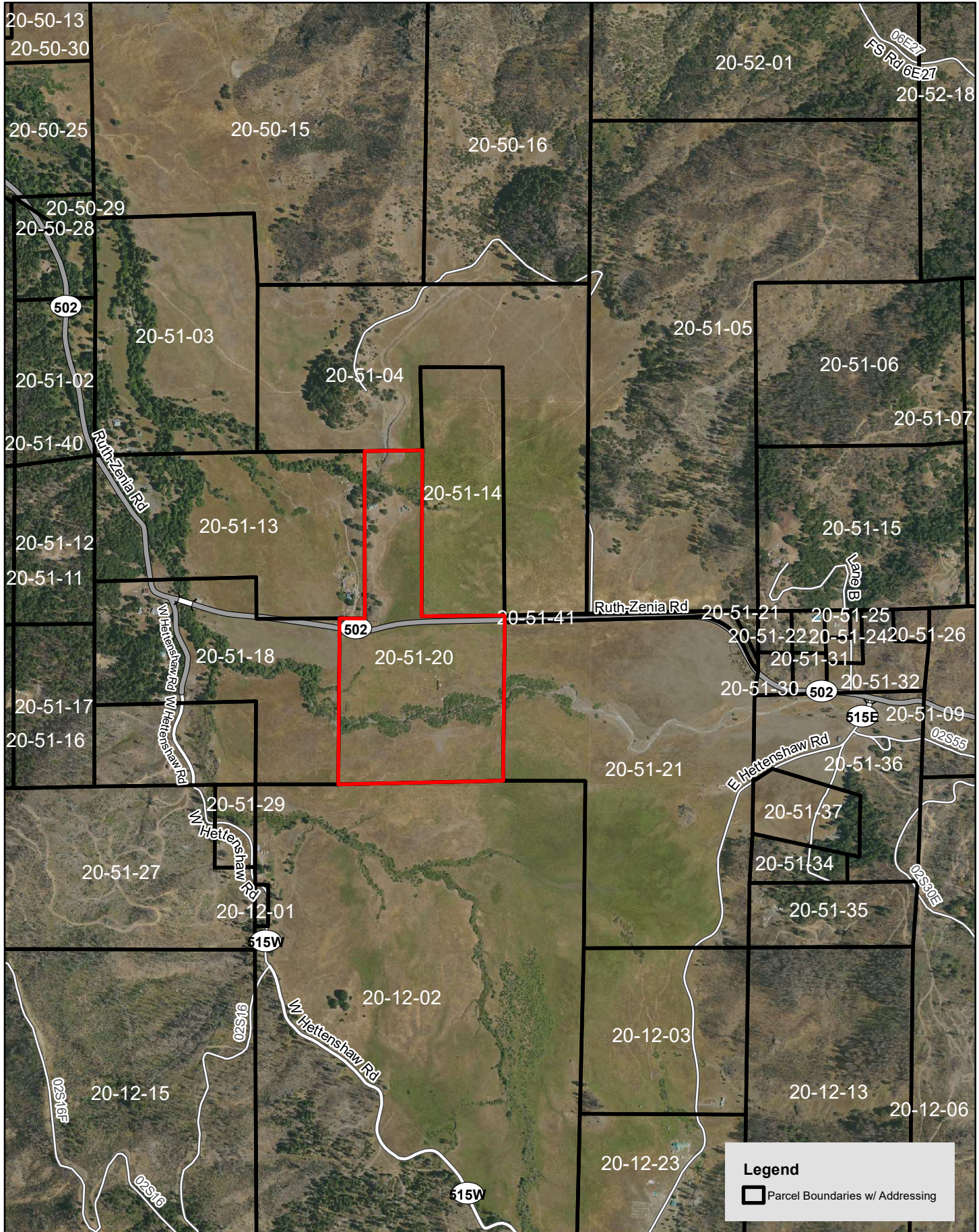
1. The Planning Commission could move to uphold the appellant's request to approve the application and process the Appendix C document for CCL 771, with findings stated by the Planning Commission.
2. In the event that more information or time is required prior to the Planning Commission making a final decision on P-23-19, the Planning Commission could move to continue to a future certain meeting date.

**ATTACHMENTS:**

- 1) Surrounding Area Uses Map
- 2) Site Map
- 3) Project Location Map
- 4) Zoning Districts Map
- 5) General Plan Designations Map
- 6) 350ft Residential Setback Map
- 7) Appeal of the Planning Director's Decision and Associated Appeal form
- 8) Compliance staff observations/ report
- 9) Biological Assessment review



Surrounding Area Uses Map



**Legend**  
 Parcel Boundaries w/ Addressing

Staff Author: BH  
 Date: 10/4/2023

This map is property of the County of Trinity, any manipulation or unauthorized use is prohibited by law and will not be accepted by the County.

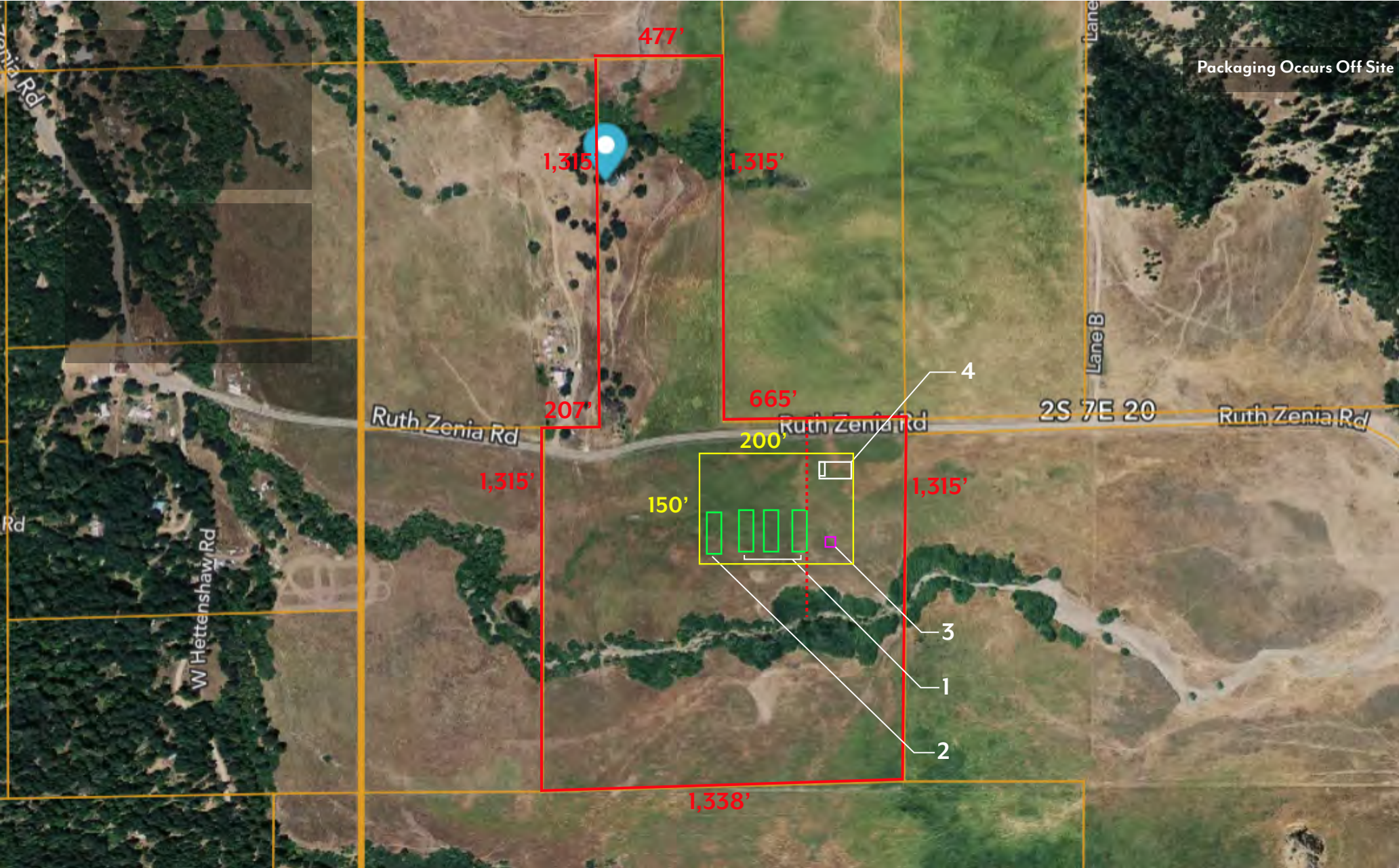
- 1.) Proposed Three 30' x 100' Greenhouses - Mature & Cannabis Waste Tilling Area
- 2.) Proposed 30' x 100' Greenhouse - Immature & Cannabis Waste Tilling Area
- 3.) Proposed 20' x 20' Cannabis Waste Area - Storage for On-Site Tilling
- 4.) Proposed 32' x 80' Building - Harvest Storage (10'x30'), Processing (80'x30'), Ag. Chemical/Pesticide Storage (12' x 12')

Parcel Boundary  
 Premises Boundary

APN:  
020-510-20-00

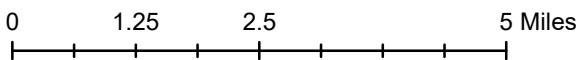
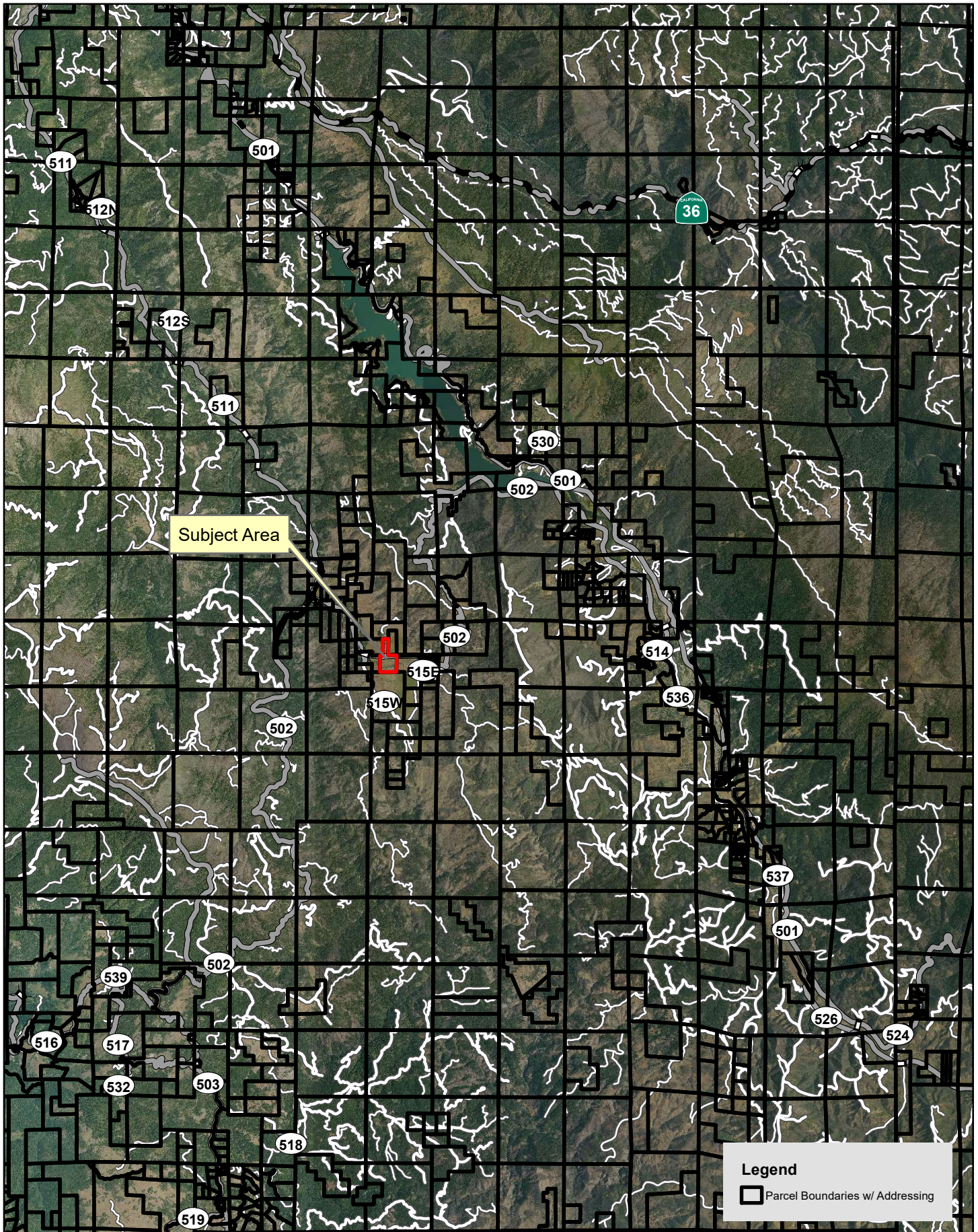
Remaining Portion of Parcel is  
Unused

Immature Canopy Area:	Mature Canopy Area:
30' x 100'	(3) 30' x 100' = 9,000
= 3,000 sq. ft.	= 9,000 sq. ft.





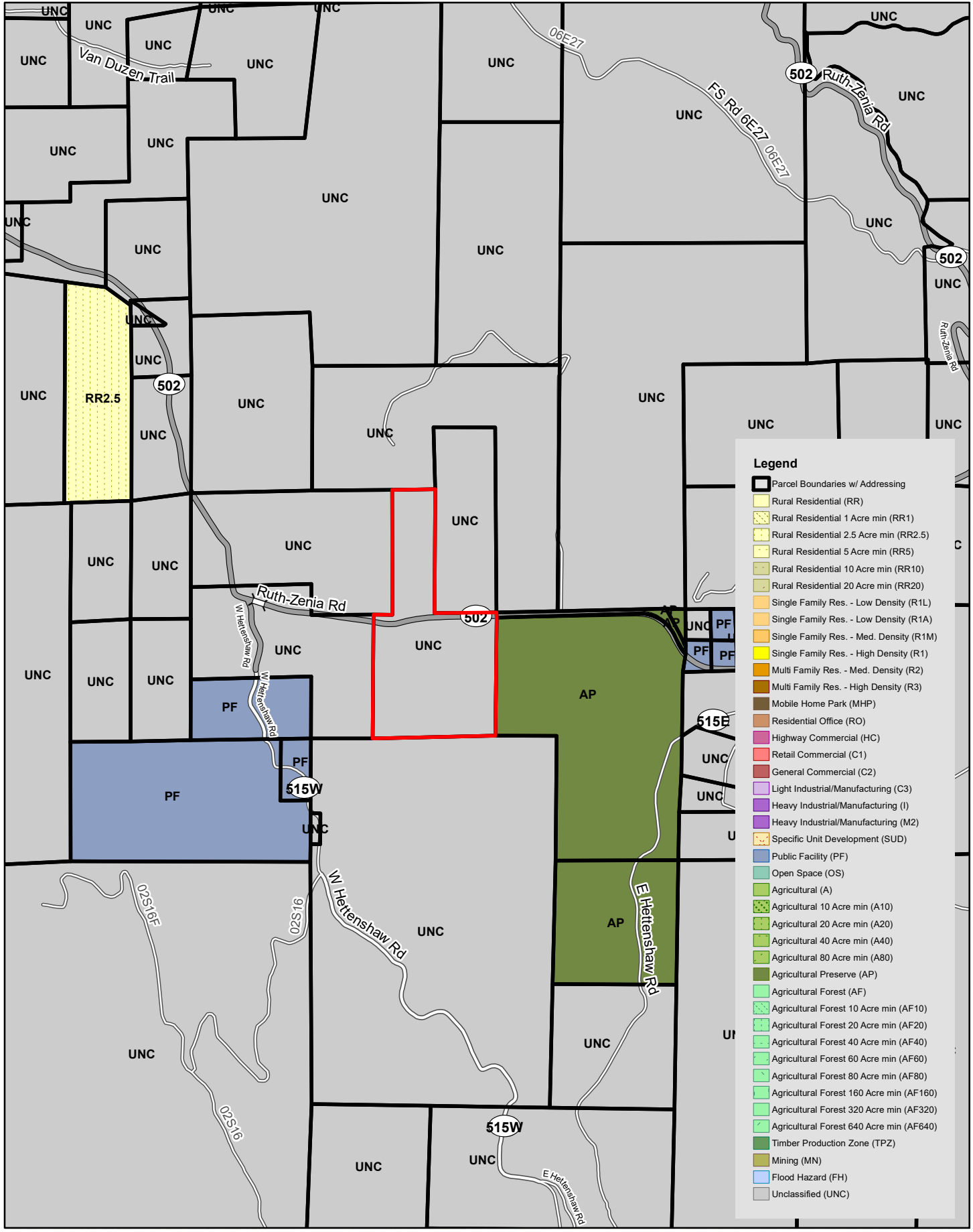
ATTACHMENT 3  
P-23-19 | CCL-771  
APN 020-510-020  
Project Location Map



Staff Author: BH  
Date: 10/4/2023

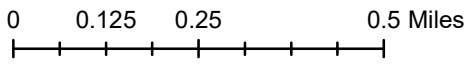


**ATTACHMENT 4  
P-23-19 | CCL-771  
APN 020-510-020  
Zoning Districts Map**



**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)

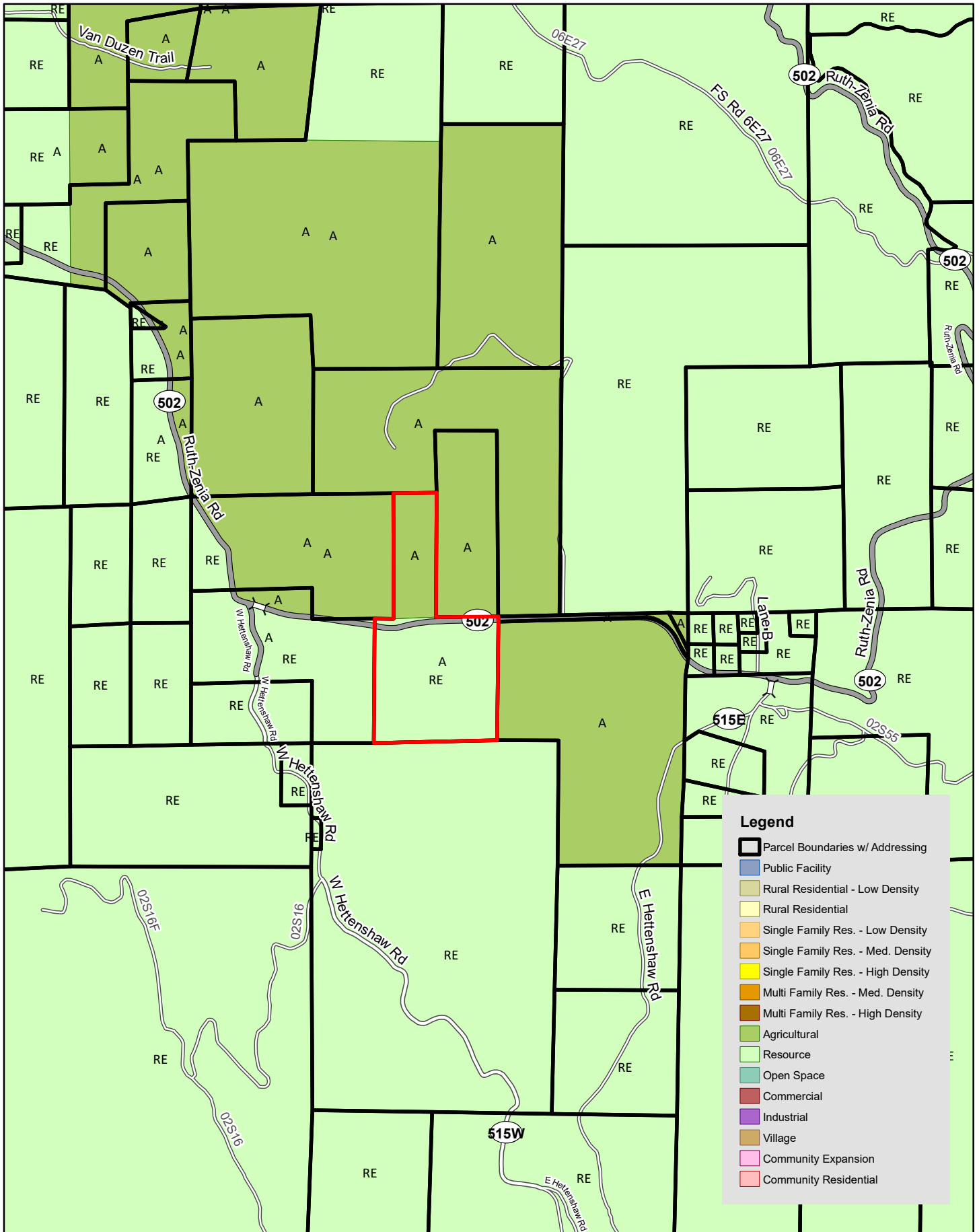


**Staff Author: BH  
Date: 10/4/2023**

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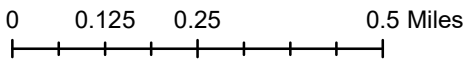


General Plan Designation Map



**Legend**

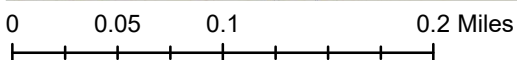
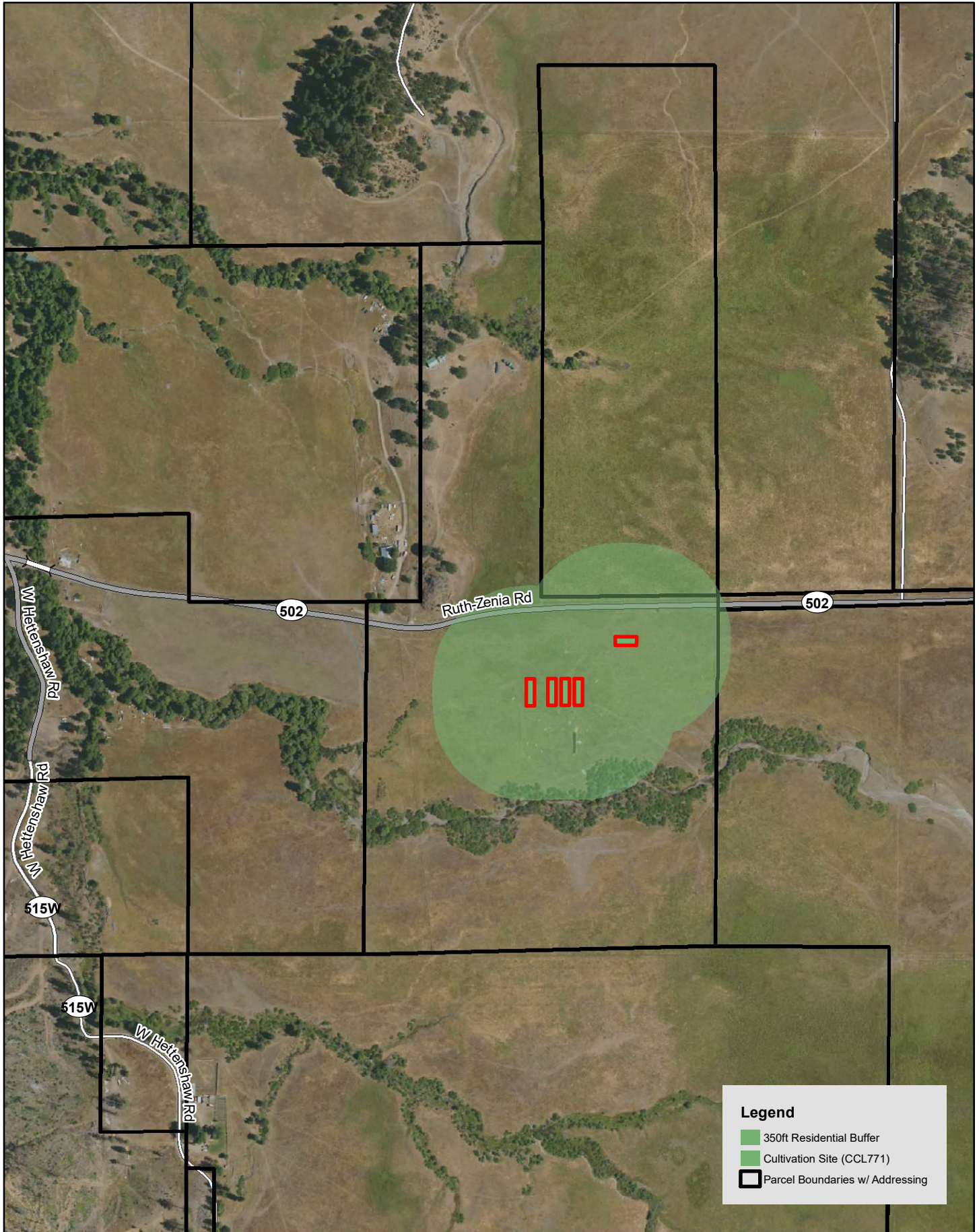
- Parcel Boundaries w/ Addressing
- Public Facility
- Rural Residential - Low Density
- Rural Residential
- Single Family Res. - Low Density
- Single Family Res. - Med. Density
- Single Family Res. - High Density
- Multi Family Res. - Med. Density
- Multi Family Res. - High Density
- Agricultural
- Resource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



Staff Author: BH  
Date: 10/4/2023



**ATTACHMENT 6**  
**P-23-19 | CCL-771**  
**APN 020-510-020**  
**350ft Buffer Map**



**Staff Author: BH**  
**Date: 10/4/2023**

Received

JUL 11 2023



TRINITY COUNTY  
COMMUNITY DEVELOPMENT SERVICES  
PLANNING & CANNABIS, 530 MAIN ST., PO BOX 2819  
WEAVERVILLE, CALIFORNIA 96093  
PHONE (530) 623-1351, FAX (530) 623-1353

APPLICATION TO APPEAL OF DIRECTOR'S DECISION  
TO PLANNING COMMISSION

DATE: 7-11-2023

APPEAL FEE: \$500- due upon filing

Project # or CCL # or CCV # of application decision being appealed: CCL-771 020-510-020

Date of Director's decision or action: June 23 July 12

Director's decision was:  Approve  Deny

A. **APPLICANT/APPELLANT INFORMATION** The following information will be used to contact you regarding the status of your appeal (e.g. hearing dates) and is considered public record.

NAME: Phillip m. Gilman

PHONE: [REDACTED] MAIL: [REDACTED]

MAILING ADDRESS: [REDACTED]

B. **REASON FOR APPEAL** Clearly state the basis for the appeal and include/attach any supporting evidence if applicable.

I have cattle in the adjoining pasture and the water source is used to water them and also supplement my household. The water source is located on my property. In my pasture and in the field below their tanks the wild Ketchen Flower grows I understand it is a protected plant. They were pumping water

Signature: Phillip m. Gilman Date: 7-11-2023

The spring is on my property

FOR OFFICE USE ONLY	
Date: <u>7-11-2023</u>	Project number: <u>P-23-19</u>
Received by: <u>D Rosge</u>	Receipt number: <u>PL2023-00046</u>
Notice Published: _____	Hearing Date: _____

They were pumping water from creek with  
gas powered pump in mid MAY.

This water source flows into Hatten Creek  
which is very low and flow into the Van Duzan  
River. The ~~old~~ residents down the creek from me  
will also be impacted.

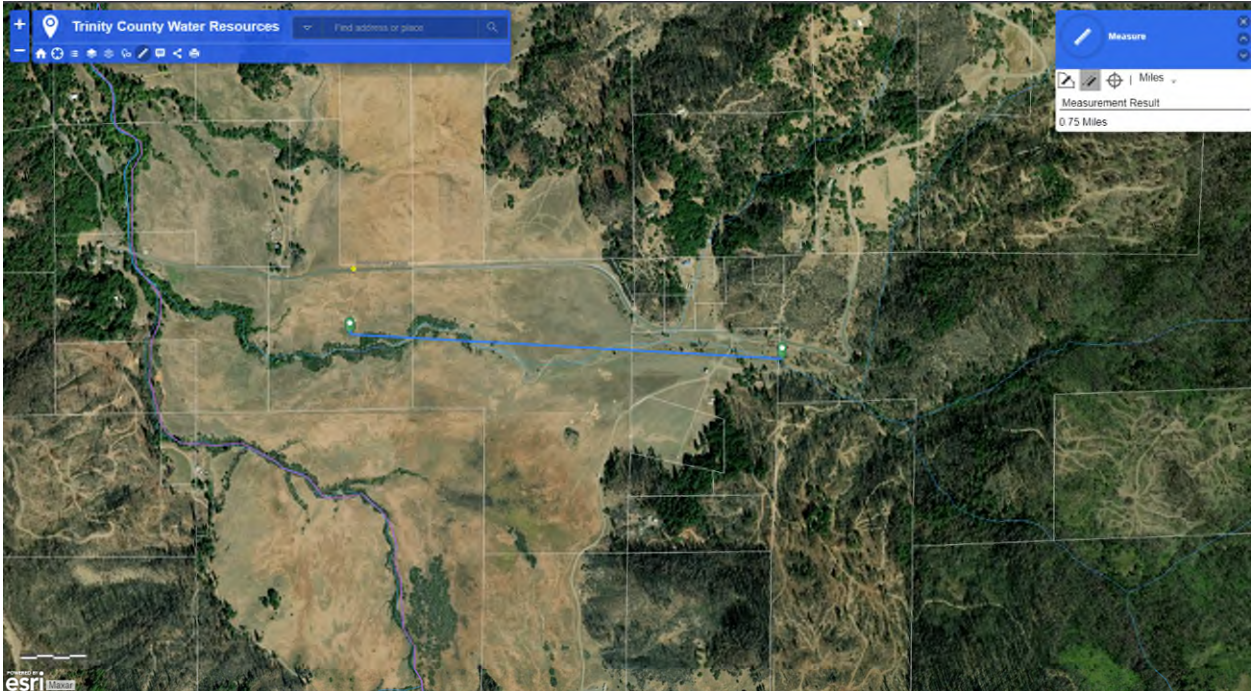
## **CCL 771 APPEAL PREP D. MARVEL**

### **REASONS FOR APPEAL:**

- Proximity to the headwaters of the Van Duzen River and the potential environmental impact of contamination to our water sources. This parcel is the very head water to the Van Duzen River; therefore, any contamination will impact any and all persons, properties, animals and environments beginning at that point until it reaches the ocean. It affects the water all native wildlife and livestock have access to. It increases the nitrogen levels in the surrounding ground water and therefore into the runoff into the river.
- Native American arch sites: There are known Native American archeological and cultural sites on this parcel that must be taken into consideration before further development.
- No potential economic impact to our community. This proposed CCL offers no positive economic impact that should override the protection of the local residents and environment.
- Visual impairment to surrounding homes. This parcel is located in the middle of Hettenshaw Valley straddling the main road and in direct view of multiple homes and properties, therefore, damaging the property value of those properties.
- Allegations of illegally diverting water from watercourse in May 2023. Appellant is also under the impression that the “wild ketten flower” found in the area is a protected plant species.

### **STAFF OBSERVATIONS D. MARVEL**

- Proximity to the headwaters of the Van Duzen River: During the Appeal Prep Site Inspection performed 9/26/2023, it was determined by CDFW staff (also present during the inspection) that the headwaters of the Van Duzen River originate on APN: 020-510-09-00, roughly 0.75 miles east of the proposed project.



The watercourse directly South of the proposed project is identified as a class 2 (intermittent) watercourse by the California Water Resources Control Board, this classification requires a 100ft setback from cultivation activities.



During the Pre-License inspection performed 5.19.23, Cannabis Division staff measured the project's perimeter fence at 89' from said watercourse. Staff advised the applicant that the proposed cultivation infrastructure (greenhouses) will need to be at least 100' from the watercourse.

- Allegations of illegally diverting water from watercourse as recent as May 2023: During the Pre-License Inspection performed 5/19/2023, Cannabis Division staff did not observe any additional POD's (points of diversion) taking place on the watercourse. Additionally, during the Appeal Prep Inspection performed 9/26/2023, Cannabis Division staff did not observe any additional POD's taking place on the watercourse. During both inspections the only POD staff observed was the legally approved cistern seep well near the watercourse.





The Formal Appeal included two photos indicating a gas-powered water pump had been located near the watercourse, possibly for additional water diversion. Staff was unable to verify these photos as they were physically submitted to the Cannabis Division office with hand written dates of May 17 2023. I believe staff should require digital photo submissions so the Cannabis Division may verify date/time via MetaData.

Additionally, staff would like to note that the water storage tanks on property during the 5/19/2023 inspection were observed to be full. During the inspection on 9/26/2023, staff observed there being additional water storage tanks on property. These tanks were empty at time of inspection on 9/26/2023, and the tanks observed full on 5/19/2023 were still full on 9/26/2023, appearing to indicate no additional diversion has taken place between 5/19/2023 and 9/26/2023.

No observations of recent/past cannabis cultivation were made during the inspections on 5/19/2023 and 9/26/2023.

## Response to P-23-19, Biological Assessment review for the “wild ketten flower”

- Follow-up was made in office with staff and appellant viewing stock photos on a cell phone, of a purple flower most similar to the *Camas* genus:



Without seeing those photos myself or having been on-site in person, I cannot make a formal botanical determination. Otherwise, given the available information, County staff has identified the “wild ketten flower” as *Camassia quamash*, otherwise potentially a similar variant, for example: *Camassia quamash* ssp. *Breviflora*

<https://www.calflora.org/app/taxon?crn=1380> , <https://www.calflora.org/app/taxon?crn=1381>

This is a common plant species that does NOT have any special-status protections. While there are only a few observations included in Trinity County on Calflora.org (only 5 in total - Also to note is that the most recent recorded observation in Trinity County was 1992, otherwise 1951 and later), there are over 350 total observations throughout California. Again, *Camassia quamash* is NOT a rare plant species.

Upon review of the biological assessment, our external CEQA technical review consultants appear to have failed to identify that the Biological Assessment is lacking one of the requirements for **Mitigation Measure 3.4-1a: Conduct Preapproval Biological Reconnaissance Surveys**. Specifically: “a list of common and special-status species and habitats observed in the proposed development area.” The biological assessment discusses various habitats on-site in great detail, however there are no lists included for any common species actually observed during the on-site field survey (4/1/2020).

- Environmental Compliance staff Recommends that an updated Biological Assessment otherwise additional survey for list plant and wildlife observed on-site – to be submitted for review in order to confirm the presence of “wild ketten flower” otherwise lupin, etc.

There was also one photo taken from site inspection 05/19/23 that included a purple flower:



Without seeing a closer view of the flower structure, I cannot make a formal botanical determination. Otherwise, given the available information, County staff has identified this flower as a member of the Lupin genus, likely *Lupinus bicolor* <https://www.calflora.org/app/taxon?crn=5118>, or another common lupin.





Additional flowers from inspection 5/19/23 are common plants, not rare or species-status species