

TRINITY COUNTY PLANNING COMMISSION

STAFF REPORT

PROJECT TITLE: Appeal of the Director’s Decision to Approve CCL 262 and CCV-22-29

APPLICANT: Vincent Sharp

REPORT BY: Skylar Fisher, Associate Planner

LOCATION: 311 Ward Placer Pl., Weaverville (APN 024-680-035)

APPEALED PROJECT APPLICANT: D’Andre Caldwell-Johnson

ZONING DISTRICT: Unclassified

GENERAL PLAN DESIGNATION: Rural Residential

PROJECT DESCRIPTION:

The planning director approved applications for commercial cannabis cultivation license (CCL) 262 and commercial cannabis cultivation variance (CCV) CCV-22-29 on September 28, 2022. On October 3, 2022, an application for appeal of this decision was submitted to the Trinity County Planning Department. The appeal application was submitted within ten-business-days of the planning director’s decision, pursuant to the standards established in Trinity County Code Section 17.34.110.

Location	Land Use	Zoning District	General Plan Designation
North	Single Family Residential	Unclassified	Rural Residential
South	Single Family Residential	Rural Residential	Rural Residential
East	Residential Mobile/Manufactured Homes	Unclassified	Rural Residential
West	Single Family Residential	Unclassified	Rural Residential

Table 1: Surrounding Land Uses to Project Site

PROJECT BACKGROUND:

The cultivation area includes ten hoop houses dedicated to mature canopy, three greenhouses dedicated to mature canopy, and a steel building with processing, harvest storage, and an immature plant area. Other development within the project site includes a cannabis waste area,

a shed for agricultural chemical/pesticide storage and administrative hold, a storage shed, and a pump house.

CCL 262 was originally issued in August 2018. The license and variance renewal were approved by the planning director on September 28, 2022. A compliance memo was prepared for CCL 262 on August 23, 2022 by cannabis environmental consultants LACO. This compliance memo states CCL 262's Appendix C is accurate, adequately evaluates all potential environmental impacts, and scopes in the Trinity County Cannabis Programmatic Environmental Impact Report.

The compliance memo has been reviewed by cannabis division environmental compliance staff who recommended license approval to the planning director. Environmental compliance staff's recommendation of license approval also includes, but not is limited to, review of the cannabis ordinance and verification that a site inspection was performed. There have been multiple site inspections on the property performed by cannabis staff starting in March 2022 in response to concerns of unpermitted cultivation activity. There has not been unpermitted cultivation activity documented by cannabis staff as of the writing of this staff report.

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 Unclassified 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) of mixed-light cultivation, it is required to have all cultivation activity be at least 350-feet from a residence on an adjoined parcel. The applicant has acknowledged this and secured an initial variance from the Planning Commission in May 2018 and has been renewing since through director's approval.

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 guidelines are to be applied when 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 granting of the proposed variance would not grant a special privilege to the property owner. After a site inspection by cannabis staff, it was determined that the size and shape of the parcel do not allow for the relocation of cultivation activities outside the 350-foot residential buffer.

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 and commercial cannabis cultivation are both 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 safety. Within the appeal narrative, there is concern about transportation impacts of the cultivation on the surrounding roads. The approved Appendix C document for the CCL discusses potential transportation impacts of the cultivation. There are two mitigation measures in place requiring that the project provide site access free of hazards due to geometric roadway design and provide adequate emergency access. The project is found to be consistent with applicable CEQA guidelines, local ordinances, and design standards regarding transportation.

4. **Not Adverse to General or 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 an appeal 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 move to continue this item to the next Planning Commission date (November 10, 2022) as the project applicant who is being appealed is unable to attend this hearing.

ALTERNATIVES

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

1. The Planning Commission move to uphold the planning director's decision to approve CCL 262 and CCV-22-29.
2. The Planning Commission move to uphold the appeal of the planning director's decision to approve CCL 262 and CCV-22-29.

ATTACHMENTS:

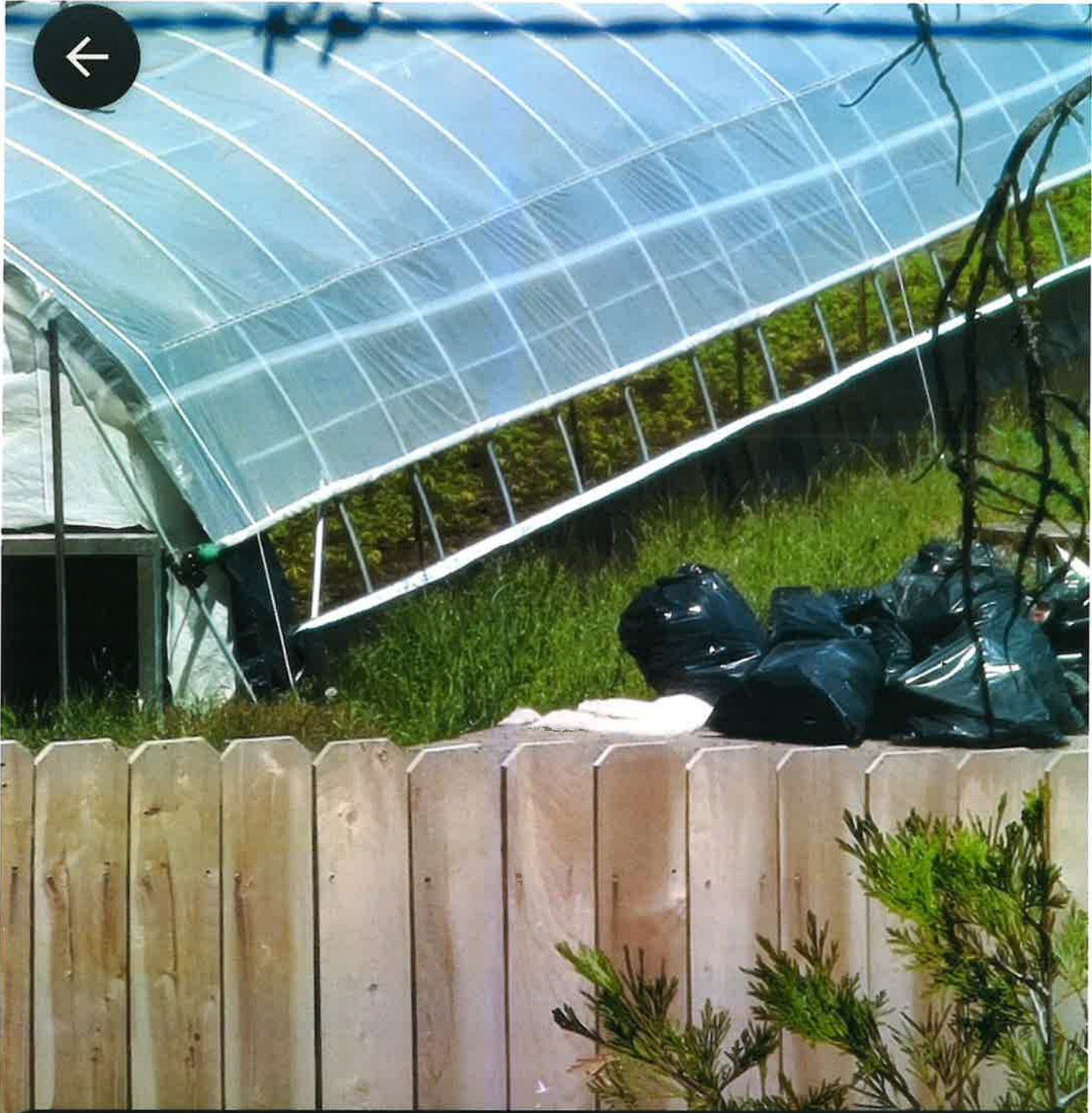
- A. Appeal of the Planning Director's Decision Narrative and Photos
- B. CCL 262 Appendix C Transportation Excerpt
- C. CCL 262 Site Plan
- D. CCV-22-29 Residential Setback Map
- E. Project Location Map
- F. Project Zoning Districts Map
- G. Project General Plan Designations Map

Reason for Appeal

Ward placer place is a private rural residential dirt road that is poorly maintained with currently no commercial business located on the road and contains only 8 residents. Having a commercial business operating in this area would negatively affect the residents and add more damage and maintenance to the road. The applicant also hires multiple subcontractors to facilitate the labor needs of this business, which adds wear and tear on the road which is an easement through multiple neighbors' properties.

Furthermore the applicant has proven that he is not willing to follow the rules and regulations put forth by our county. The applicant was growing cannabis without a license during the year 2022, and was reported to the planning department at 11:30 am on June 1st 2022. I have attached pictures with a time stamp of the cannabis operation that were also submitted to the county. The owner has also been reported this year for another unlicensed grow on a nearby, but separate piece of property owned by DeAndre Johnson or "Levingston holdings" at 3791 Oregon mountain road.

With our county not having the proper resources to enforce local codes involving cannabis, I believe that this applicant will continue to run his commercial business without any regard to the local codes and regulations, and without any regard to the people around him.



Add to album



Move to Archive



Delete from device



Order photo

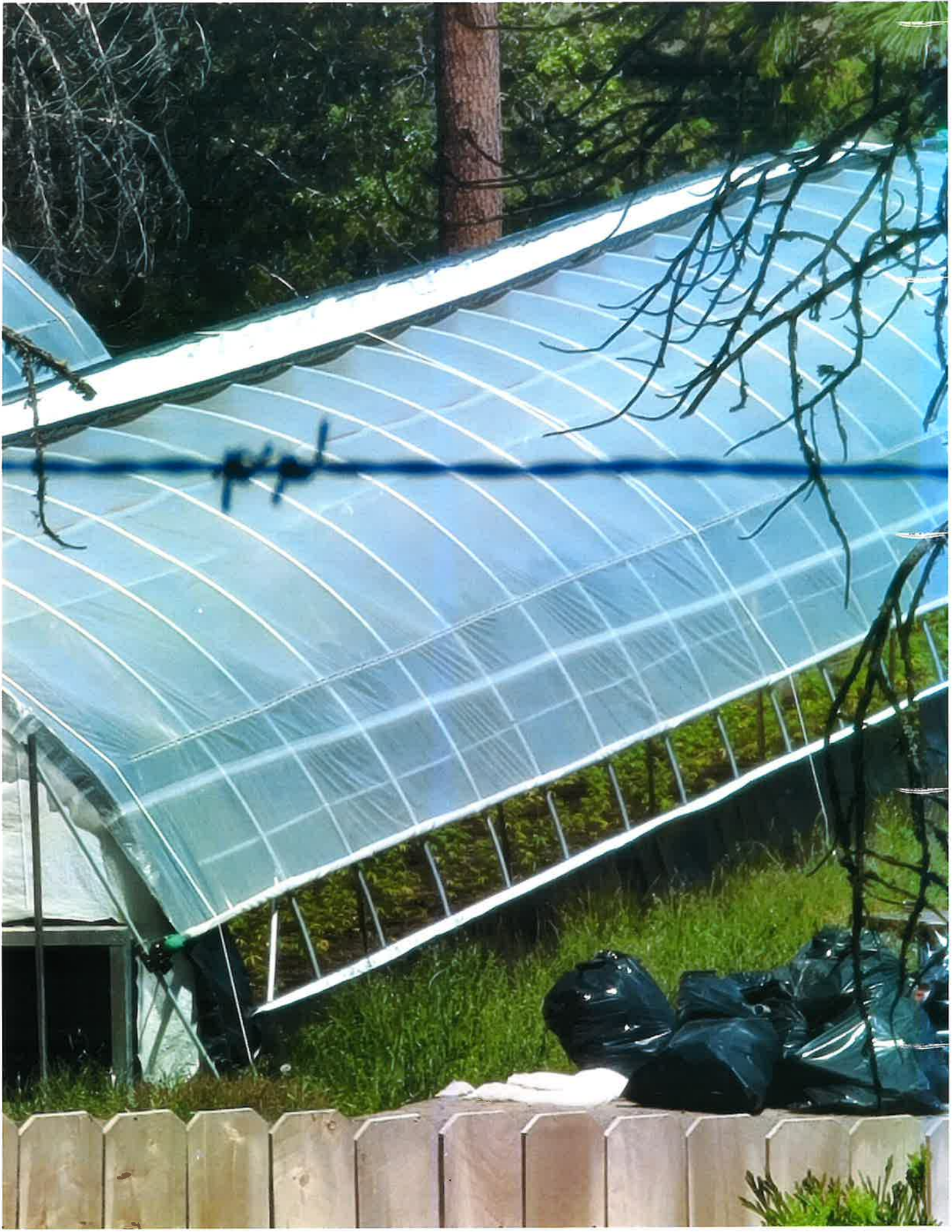


Move Location
Folder

Bill word
Placer

Wed, Jun 1, 2022 • 11:54 AM





Transportation

Mitigation Measure 3.14-3: Provide Site Access Free of Hazards Due to Geometric Roadway Design

This mitigation measure is applicable, and will be satisfied by the following:

- Applications for new commercial cannabis activities and license renewals for existing cannabis operations will, where appropriate, provide documentation showing that roadways providing site access are in compliance with Chapter 12.10: Design Policies of the Trinity County Code of Ordinances. New roadway water quality control and drainage features or new drainage features on existing roadways will be designed to accommodate peak flow conditions and will be consistent with the Road Handbook, per CCR Title 14, Chapter 4 and SWRCB Order WQ 2019-0001-DWQ.

Mitigation Measure 3.14-4: Provide Adequate Emergency Access

This mitigation measure is applicable, and will be satisfied by the following:

- Applications for new commercial cannabis activities and license renewals for existing cannabis operations will provide documentation showing that site access is in compliance with Chapter 8.30 – Fire Safe Ordinance of the Trinity County Code.

Utilities and Service Systems

Mitigation Measure 3.15-3: Implement a Cannabis Waste Composting Management Plan

This mitigation measure applies and is satisfied by the following:

The Applicant has developed and implements a cannabis waste composting management plan, which is found at Attachment G. The plan meets all state requirements and the following requirements to be confirmed by the County during inspections, which is not limited to but includes the following:

- designation of the composting area on a site plan that is contained within the site boundaries (must be located within the Designated Area for cultivation operations) that is of adequate size to accommodate site cannabis waste needs;
- identification of water quality control features that ensure no discharge of cannabis waste or other pollutants; and
- details on routine management and equipment used in the composting.

Wildfire

Mitigation Measure 3.16-1: Implement Mitigation Measure 3.1-1b: Maintain Cultivation Parcel

This mitigation measure applies and is satisfied by compliance with Mitigation Measure 3.1-1b.

Mitigation Measure 3.16-2b: Implement Fire Prevention Measures for Onsite Construction and Maintenance Activities

This mitigation measure applies and will be satisfied by placing Fire Extinguishers in the following areas: all greenhouses, support buildings, the residence and water storage area. Appropriate defensible space will be maintained around all buildings.

Mitigation Measure 3.16-3: Implement Mitigation Measure 3.10-1a: Demonstrate Compliance with Water Resource Standards

This mitigation measure applies, and is satisfied by compliance with Mitigation Measure 3.10-1a.

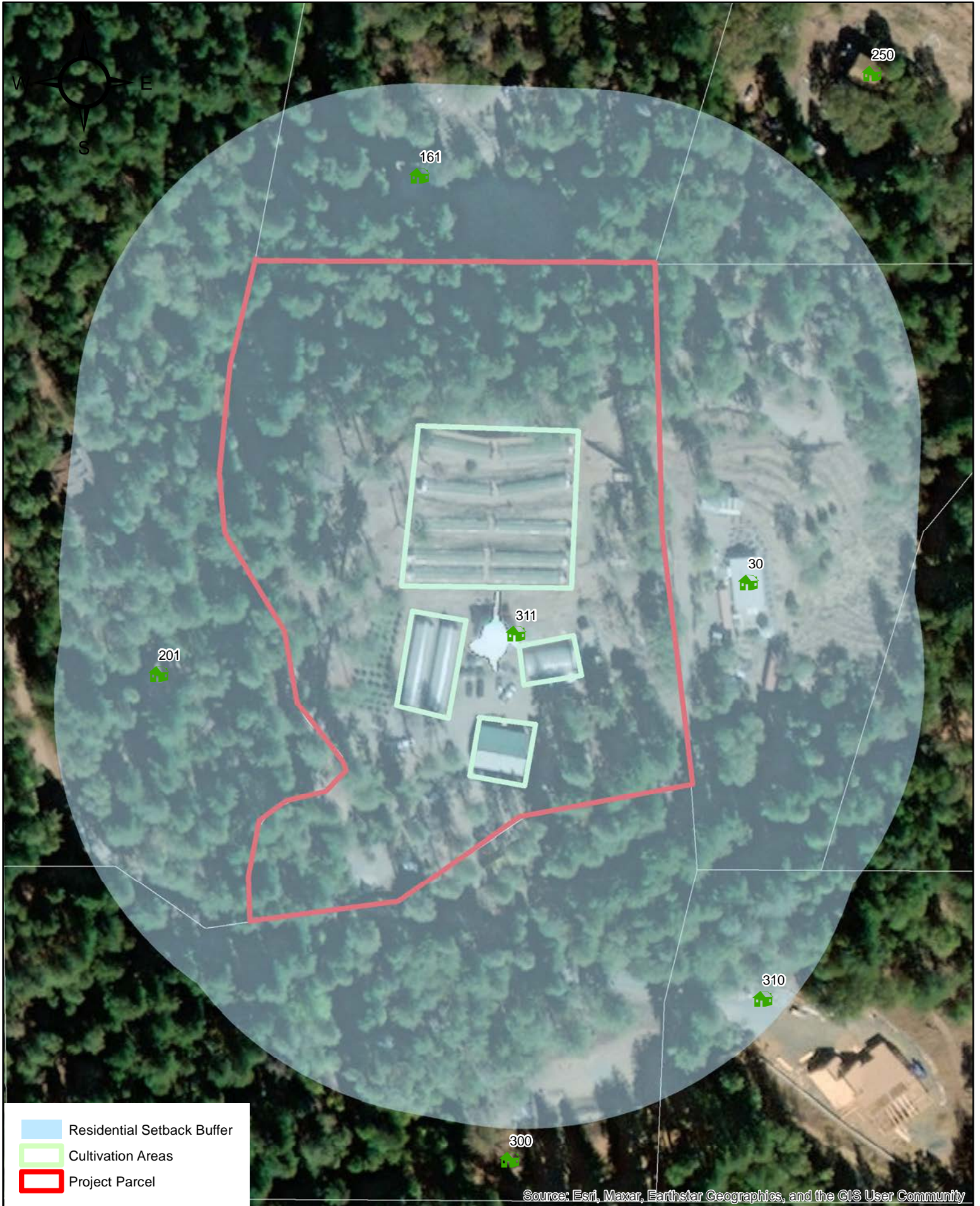
Figure 3: Property Diagram



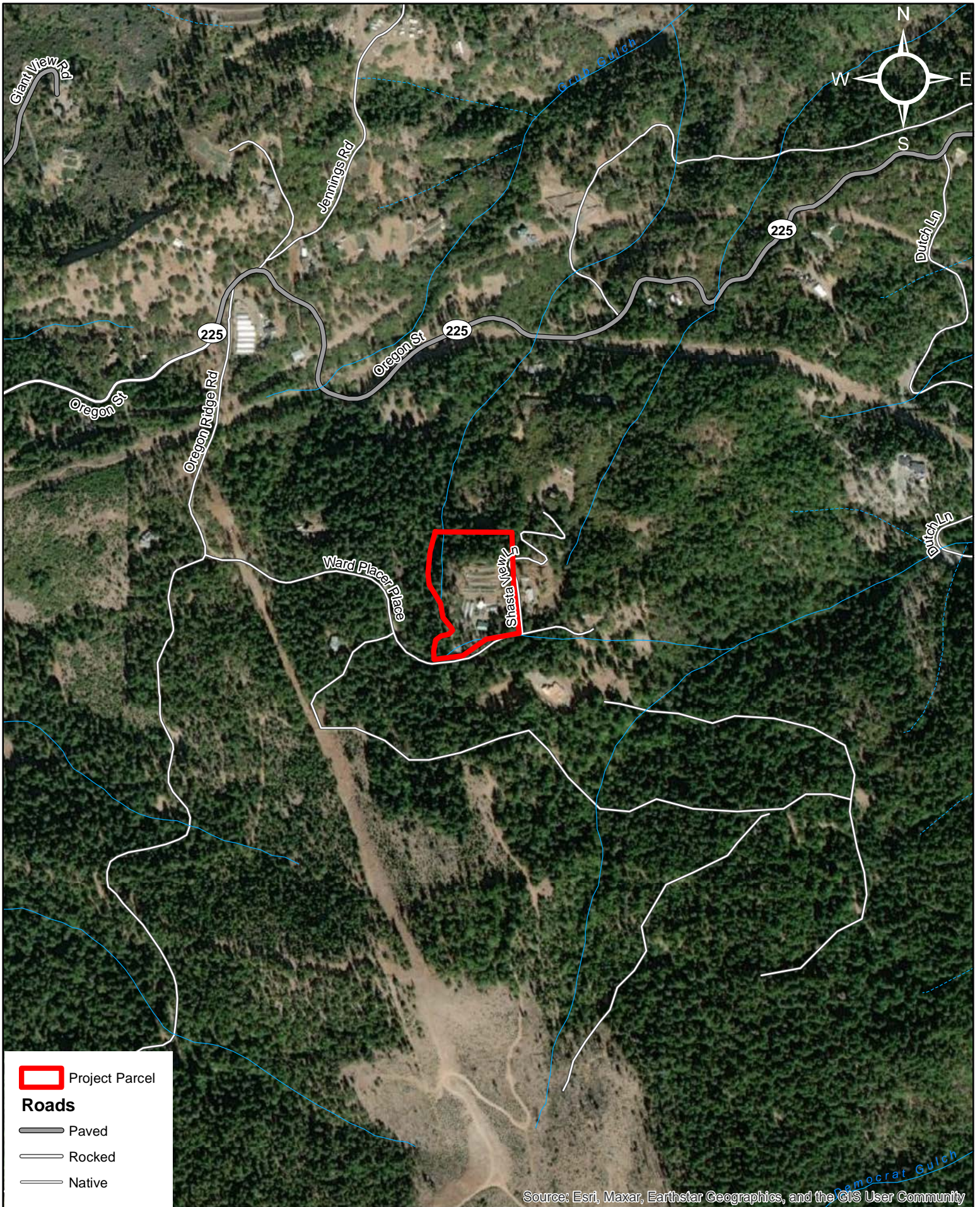
Figure 4: Project Diagram



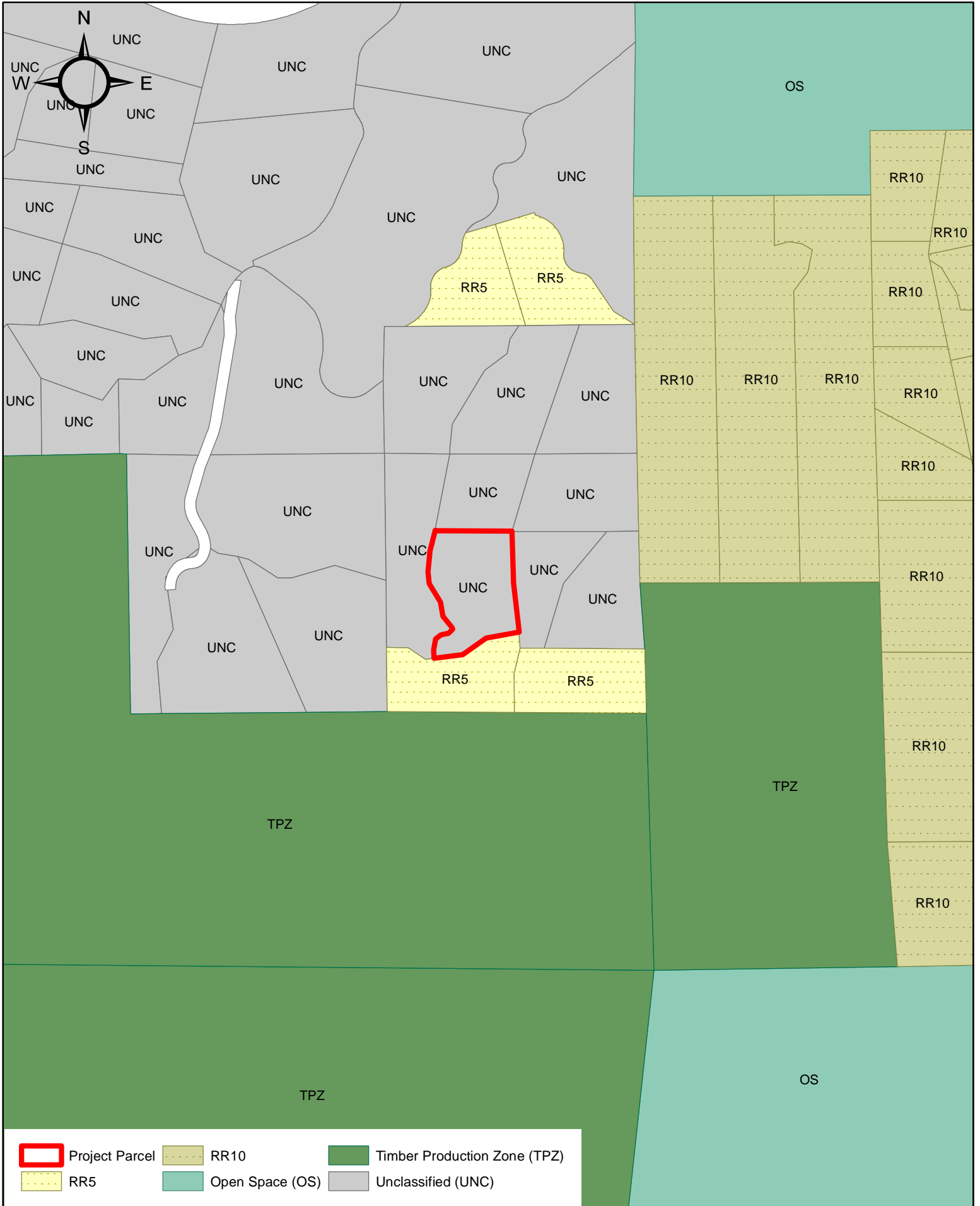
CCV-22-29 Residential Setback Map



P-22-22 Location Map



P-22-22 Zoning Districts Map



- Project Parcel
- RR5
- RR10
- Timber Production Zone (TPZ)
- Open Space (OS)
- Unclassified (UNC)

P-22-22 General Plan Designations Map

