

TRINITY COUNTY PLANNING COMMISSION

STAFF REPORT

PROJECT TITLE: Appeal of Director's Decision to Approve CCL-132

APPELLANT: Friends of the Lewiston Grass Valley Creek (Represented by Laurie Wills)

APPLICANT: Emerald Choice, Inc. (Natalie (Koehler) McNamara and Patrick McNamara)

AGENT: The Flowra Platform

PROPERTY OWNER: Emerald Creek, LLC

REPORT BY: Drew Plebani – Cannabis Division Director, Bella Hedtke – Associate Planner, Daniel Marvel – Lead Code Compliance Specialist, and Colton Trent – Environmental Compliance Specialist

LOCATION: APN 025-180-038-000 / 200 Coffin Rd., Lewiston, CA 96052

ZONING DISTRICT: Rural Residential 5-Acre Minimum (RR5)

ZONING OVERLAY DISTRICT(S): Flood Hazard (100-Year, No BFEs, Zone A)

GENERAL PLAN DESIGNATION: Rural Residential (RR)

PROJECT DESCRIPTION: The Cannabis Division Director approved the application for commercial cannabis cultivation license (CCL) 132 February 17, 2023 and was scheduled for license issuance on or after March 9, 2023 after the 10-day appeal period ended. On March 9, 2023, an application for appeal of the approval of CCL 132 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	Residential	RR5	RR
South	Residential and Commercial Cannabis	RR5	RR
East	Undeveloped	A10 and AF10	A
West	Commercial Winery	RR5	RR

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

PROJECT BACKGROUND:

The proposed cultivation project described herein (Project) includes the cultivation of 10,000 square feet (sf) of mature mixed-light cannabis and 2,951 sf of support area located in Trinity County on Assessor's Parcel Number (APN) 025-180-038-00. The applicant is seeking renewal of a Small Mixed-Light Cannabis Cultivation License from the County (CCL-132), to cultivate up to 10,000SF of cannabis mature canopy, and currently holds a provisional Small Mixed-Light Cannabis Cultivation License from the Department of Cannabis Control (DCC; CCL19-0002038). The project site originally received an approved CCL in 2017, transfer application received on June 14, 2021 for the current applicants and received a UO Extension on September 1, 2021, see below for additional project information.

COUNTY ORDINANCE AND CEQA COMPLIANCE:

An Appendix C document was submitted to the Cannabis Division for CCL 132 on February 24, 2022. Throughout the Appendix C review process, two incomplete letters were sent to the applicant and their agent, followed by two resubmittals of the Appendix C document on March 6, 2022 and September 8, 2022.

A site inspection was performed by Cannabis Division compliance staff on June 15, 2022 to ensure that the site plan and project description included in the Appendix C were accurately prepared. All outstanding deficiencies identified during the site visit were completed by September 8, 2022. A completeness review was performed by Cannabis Division staff on July 15, 2022 and determined to be complete on February 17, 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, Helix, prepared a compliance memorandum on February 17, 2023 with 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 February 17, 2023.

REASONS FOR APPEAL:

The appellants' appeal letter outlined six main complaints for appealing the approval of CCL 132 (Attachment 2). The Cannabis Division has investigated each of these complaints and provided a summary of the findings below:

- 1) Cumulative Impacts: Based on a review of the above referenced cannabis file, it appears the County continues to violate the TAA Settlement Agreement and Judgment in whole or in part by continuing its practice to approve and issue commercial cannabis licenses while ignoring its duty to identify, consider and mitigate

cumulative impacts in accordance with CEQA Guidelines. As a comparison, similar findings were discovered after a review of CCL-133 that was approved August 17, 2022. During a recent meeting with staff on March 2, 2023, they acknowledged they do not have the "tools" they need to evaluate and/or measure cumulative impacts. The FEIR is either deficient in this regard or the County is unwilling or unable to address cumulative impacts on a localized or vicinity basis for project specific site inspections before approving projects. This pattern of ignoring cumulative impacts as part of the EIR Appendix C checklist review process is disconcerting on many levels.

Response:

Staff directs the reader to **Trinity County Cannabis Program FEIR Vol.2.- ES.3.2 Significant and Unavoidable Impacts and Cumulative Impacts.** Mitigation measures have been identified in Sections 3.1 through 3.16 of this EIR that are intended to mitigate project effects to the extent feasible. For the following environmental issue areas, one or more impacts are considered significant and unavoidable; that is, no feasible mitigation is available to reduce the project's impacts or the project's contribution to cumulative impacts to a less-than-significant level.

The reference to not having "tools" to evaluate cumulative impacts is erroneous/ misleading, during a file review and in person meeting with the appellant, staff conveyed that we were unable to quantify odor concerns for two reasons 1) operation is currently not operating and therefore not generating cannabis related odors, and 2) at the time of the meeting we did not have an olfactometer (or other analytical device) to quantify odor concerns.

Furthermore, The FEIR addresses Odor in **3.24 Master Response: Odors associated with Cannabis Cultivation**, and the concern stated by the appellant that odors from multiple cultivation sites are cumulative. "Odors with distinct odor characteristics emanating from proximate sources are generally not additive or amplified. However, odors with the same or similar odor characteristics emanating from proximate sources may be additive. Therefore, multiple odor sources in a given geographic area would not necessarily increase the strength of an odor, although a higher frequency of odor detection would be expected." This evidences that without active cultivation the cumulative effects vs additive effects cannot discerned, and statements related to past odor concerns without quantified data cannot be used to evaluate the subjective concerns stated by the appellant.

- 2) **Precedence:** Based on a small sampling of approved commercial cannabis licenses within the Lewiston Expansion Opt Out area, it appears the County is once again setting a precedence of not fully and properly analyzing localized and vicinity cumulative impacts in accordance with CEQA Guidelines on a project by project basis. The County is not allowed to limit its identification, analysis and mitigation of significant adverse immediately adjacent or vicinity impacts. This includes sensitive residential, commercial and public facility receptors. As a result, the County's effort to limit the

CEQA analysis for area impacts, while disregarding clearly adjoining receptors, cannot simply disregard its obligation to fully and fairly analyze and mitigate significant impacts by limiting such a review to the narrowly and improperly defined "immediate vicinity."

Response:

No specific impacts/ resource categories are referenced.

As discussed above an Appendix C document was submitted to the Cannabis Division for CCL 132 on February 24, 2022. Throughout the Appendix C review process, two incomplete letters were sent to the applicant and their agent, followed by two resubmittals of the Appendix C document on March 6, 2022 and September 8, 2022. The Appendix C for CCL-132 followed the standardized review process, including an initial review by external consultants LACO Associates and a full technical review and subsequent compliance of determination by external consultants Helix Environmental Planning.

Staff directs the reader to the response to **Reason for Appeal 1: Cumulative Impacts** for a discussion of the environmental review of cumulative impacts for CCL-132.

- 3) **Sensitive Receptors:** After repeated attempts to work with both staff and the ad hoc committee regarding sensitive receptors identified in the applicant's Appendix C application, we found appropriate action was not taken to correct these inaccurate findings prior to the approval of this license.

Response:

Sections 2.3: Existing Setting, and 4.3: Air Quality listed the nearest community with sensitive receptors inaccurately, and was corrected in the final approved Appendix C document.

- 4) **Habitual Violations:** Despite code enforcement violations that were investigated and acted upon by the Trinity County Sheriffs Office (TCSO), no evidence of these violations were found in the official cannabis file under the Violations Tab. Appellants obtained written confirmation that the applicants continued to operate without a license and were forced to self abate their plants in February 2022 and again in August 2022. The applicants have disregarded any and all instructions from the cannabis division to cease operations until which time their license was approved under the EIR Appendix C review process. In addition, the applicants have a history of code compliance nuisance complaints, some of which are in the cannabis file, but the majority are not. Also, some members of the group reviewed the applicant's Hayfork cannabis file (CCL-006 which is currently unlicensed and undergoing its Appendix C review process). Contents of that file include a Warning Notice dated 3/1/2023 that indicated failure to correct the violation within 10 days would result in the violation being sent to the District Attorney's

office. Cumulatively, these are prime examples why fines and self-abatement remedies prescribed in the Ordinance allowing for a 7-day correction period are not working. This pattern of habitual violations is very troublesome. As stakeholders, we have publicly requested increased penalties up to and including suspension or revocation of a license for those licensees who habitually violate, especially if they are located within a designated opt out area. We've raised these concerns at appeal hearings, opt-out meetings, ad hoc meetings and with cannabis staff To date no action has been taken to effect change.

Response:

- 1) The Cannabis Division does not keep record of TCSO/CODE citations in cannabis applicant/licensee physical files. The violations tab in a CCL physical file is designated for violations issued by a department or agency with regulatory measures and performance standards pertaining to commercial cannabis operations. Not monetary citations issued by law enforcement organizations.
- 2) Cannabis Division staff visited the appellant's property in August of 2022. During this visit staff was able to confirm unlicensed cannabis cultivation was taking place on the parcel associated with CCL-132. On August 24, 2022, Cannabis Division staff requested input from County Counsel on the legality of requiring evidence of cannabis plant destruction as the only option for resolving a Notice of Non-Compliance for unlicensed cannabis cultivation. No license for cultivation also means no license to transport or relocate cannabis off property. On September 2, 2022 County Counsel provided clarification to Cannabis Division staff that evidence of cannabis plant destruction is acceptable as the only option for resolving a Notice of Non-Compliance pertaining to unlicensed cannabis cultivation. The week of September 5, 2022, former Cannabis Division Director Sean Connell was out of the office on sick leave. Additionally, Code Compliance Lead Daniel Marvel (responsible for writing the Notice of Non-Compliance Notifications) tested positive for Covid-19 on September 5, 2022. Daniel Marvel would return to work on September 26, 2022. Director Connell did not return and ultimately resigned from his position in late November 2022. On October 18, 2022, while still uncertain of Director Connell's return, the Cannabis Division forwarded the received complaints to CODE Enforcement Officer Rob Barcellona for resolution/action.
- 3) Received CODE complaints are not kept in applicant/licensee physical files, as they often contain sensitive information (name, address, phone, email, etc.) related to the complaining party/individual. These complaints are stored digitally, and upon request, redacted copies are provided for individuals requesting CCL physical file review.
- 4) The Warning Notice dated March 1, 2023 referenced/found in the physical file for CCL-006 was issued by the Trinity County Building Department for unpermitted structure(s) on a separate property, and plays no role in determining compliance for the parcel associated with CCL-132.
- 5) Variance Regulations: The site map found in the cannabis file for CCL-132 shows the distance between the designated cannabis cultivation area and the neighbor's

residence is less than 350 feet which according to County regulations should require a variance. However, the 6/15/2022 Cannabis Division Site Inspection Form shows the distance exceeds the 350 feet requirement. As a comparison, our research found the neighboring farm (CCL-133) on the contiguous property, located on Coffin Rd, was required to obtain a variance. These inconsistencies are cause for concern and therefore are being included in our reasons for appeal.

Response:

Per TCC Code Section (§) 17.43.050(A)(8) and as recently clarified during the April 27, 2023 Planning Commission Meeting, measurements are taken from “cultivation”, and not from “designated area”. The distances referenced are taken from permitted greenhouse structures and processing/drying structure. All activities identified under “cultivation” were found to be compliant with the 350ft setback when measured on the ground using a range finder during the June 15, 2022 CEQA inspection and using desktop aerial imagery (Attachment 8).

- 6) Failure to Comply with State and Local Reporting Requirements: No records were found indicating the applicant is complying with their requirement to file annual reports with the CA State Water Resources Control Board for the years 2021, 2022 and 2023. Not only is this a State agency requirement, it is a requirement pursuant to County Ordinance 315-849, Section 17.43.060 Performance standards for commercial cultivation of cannabis.

Response:

The site is considered active and in good standing based on the State Water resources Control Board (SWRCB) California Integrated Water Quality System (CIWQS) database (Attachment 9). This meets the requirements outlined in TCC §17.43.060 (D) and FEIR mitigation measure 3.10-1a: Demonstrate Compliance with Water Resource Standards.

Mitigation measure 3.10-1a includes two primary aspects: 1) enrollment under SWRCB General Order WQ 2019-0001-DWQ (Order) and 2) identification of drainage and water quality controls for the site, and the prevention of sedimentation or other pollutants from leaving the site as part of project construction and operation. The project has met 1) through the active enrollment of WDID: 1_53CC415130 under the Order. 2) is interpreted and understood to have been met through this same enrollment under the Order; enrollment requirements under Order include the identification of drainage and water quality control, and the prevention of sedimentation or other pollutants through the identification and implementation of best practicable treatment or control (BPTC) measures included in the Site Management Plan (SMP).

PUBLIC COMMENT:

As of May 18, 2023 at 4pm staff did not receive comments on this item.

STAFF RECOMMENDATION:

Given that all complaints referenced in the appellant's letter were found to be unsubstantiated, staff recommends that the Planning Commission make a motion to deny the appeal (P-23-06), upholding the Director's decision to approve CCL 132, with the findings referenced in this staff report.

ALTERNATIVES:

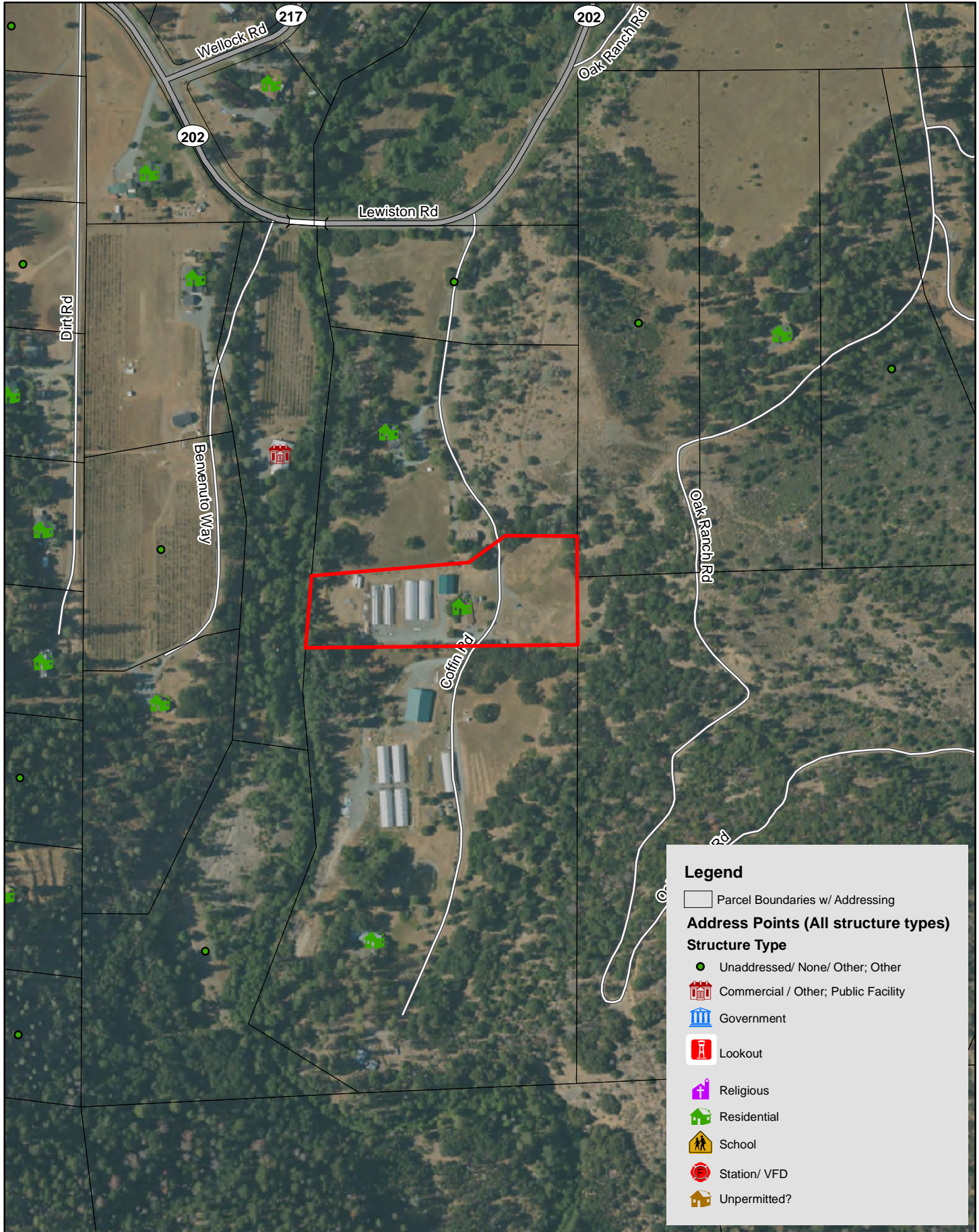
If the Planning Commission does not wish to deny the appeal, the following alternatives are available:

1. The Planning Commission could move to uphold the appellant's request to deny CCL 132, 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-23-06, the Planning Commission could move to continue to a future certain meeting date.

ATTACHMENTS:

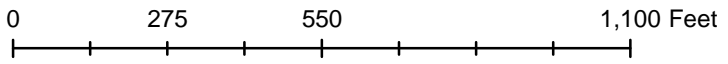
- 1) Surrounding Area Uses Map
- 2) Appeal of the Planning Director's Decision and Associated Letter
- 3) Project Location Map
- 4) CCL 132 Appendix C Site Plan
- 5) Zoning Districts Map
- 6) General Plan Designations Map
- 7) FEMA Layer Map
- 8) 350ft Residential Setback Map
- 9) California Integrated Water Quality System (CIWQS) database - Facility Report
- 10) CCL 132 Appendix C Mitigation Measure Applicability Table (MMAT)

APN 025-180-038-000
P-23-06 Appeal of CCL-132
Surrounding Area Uses Map



Legend

- Parcel Boundaries w/ Addressing
- Address Points (All structure types)**
- Structure Type**
- Unaddressed/ None/ Other; Other
- Commercial / Other; Public Facility
- Government
- Lookout
- Religious
- Residential
- School
- Station/ VFD
- Unpermitted?



Staff Author: BH
Date: 5/18/2023

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TRINITY COUNTY
COMMUNITY DEVELOPMENT SERVICES

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

Received

MAR 9 2023

Trinity County
Planning/Cannabis

APPLICATION TO APPEAL OF DIRECTOR'S DECISION
TO PLANNING COMMISSION

DATE: 3/9/2023

APPEAL FEE: \$500- due upon filing

Project # or CCL # or CCV # of application decision being appealed: CCL-132, APN 025-180-038-00

Date of Director's decision or action: 2/17/2023

Director's decision was: [X] Approve [] Deny

A. APPLICANT/APELLANT 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: Friends of the Lewiston Grass Valley Creek

PHONE: [REDACTED] EMAIL: [REDACTED]

MAILING ADDRESS: [REDACTED]

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

Failure to comply with CEQA and the TAA Settlement Agreement and Judgment.

Refer to the attached letter prepared by Laurie Wills dated 3/9/2023 with related details.

Signature: [Handwritten Signature] Date: 3/9/2023

FOR OFFICE USE ONLY
Date: 3-9-23
Received by: [Handwritten Signature]
Notice Published:
Project number: P-23-06
Receipt number: PL-2023-00012
Hearing Date:

Thursday, March 9, 2023

HAND-DELIVERED

Mr. Drew Plebani
Cannabis Director
Trinity County Cannabis Division
P.O. Box 2819
Weaverville, CA 96093

RE: Notice of Appeal of the Approved License for CCL-132 (APN 025-180-038-000)

Dear Mr. Plebani,

On behalf of an interested group of property owners organized as the Friends of the Lewiston Grass Valley Creek (hereafter “Appellants”), I hereby submit a timely Notice of Appeal of the above-referenced commercial cannabis license approval for a project located at 200 Coffin Road, in Lewiston.

Reasons for Appeal:

1. **Cumulative Impacts:** Based on a review of the above referenced cannabis file, it appears the County continues to violate the TAA Settlement Agreement and Judgment in whole or in part by continuing its practice to approve and issue commercial cannabis licenses while ignoring its duty to identify, consider and mitigate cumulative impacts in accordance with CEQA Guidelines. As a comparison, similar findings were discovered after a review of CCL-133 that was approved August 17, 2022. During a recent meeting with staff on March 2, 2023, they acknowledged they do not have the “tools” they need to evaluate and/or measure cumulative impacts. The FEIR is either deficient in this regard or the County is unwilling or unable to address cumulative impacts on a localized or vicinity basis for project specific site inspections before approving projects. This pattern of ignoring cumulative impacts as part of the EIR Appendix C checklist review process is disconcerting on many levels.
2. **Precedence:** Based on a small sampling of approved commercial cannabis licenses within the Lewiston Expansion Opt Out area, it appears the County is once again setting a precedence of not fully and properly analyzing localized and vicinity cumulative impacts in accordance with CEQA Guidelines on a project by project basis. The County is not allowed to limit its identification, analysis and mitigation of significant adverse immediately adjacent or vicinity impacts. This includes sensitive residential, commercial and public facility receptors. As a result, the County’s effort to limit the CEQA analysis for area impacts, while disregarding clearly adjoining receptors, cannot simply disregard its obligation to fully and fairly analyze and mitigate significant impacts by limiting such a review to the narrowly and improperly defined “immediate vicinity.”
3. **Sensitive Receptors:** After repeated attempts to work with both staff and the ad hoc committee regarding sensitive receptors identified in the applicant's Appendix C application, we found appropriate action was not taken to correct these inaccurate findings prior to the approval of this license.

4. Habitual Violations: Despite code enforcement violations that were investigated and acted upon by the Trinity County Sheriff's Office (TCSO), no evidence of these violations were found in the official cannabis file under the Violations Tab. Appellants obtained written confirmation that the applicants continued to operate without a license and were forced to self abate their plants in February 2022 and again in August 2022. The applicants have disregarded any and all instructions from the cannabis division to cease operations until which time their license was approved under the EIR Appendix C review process. In addition, the applicants have a history of code compliance nuisance complaints, some of which are in the cannabis file, but the majority are not. Also, some members of the group reviewed the applicant's Hayfork cannabis file (CCL-006 which is currently unlicensed and undergoing its Appendix C review process). Contents of that file include a Warning Notice dated 3/1/2023 that indicated failure to correct the violation within 10 days would result in the violation being sent to the District Attorney's office. Cumulatively, these are prime examples why fines and self-abatement remedies prescribed in the Ordinance allowing for a 7-day correction period are not working. This pattern of habitual violations is very troublesome. As stakeholders, we have publicly requested increased penalties up to and including suspension or revocation of a license for those licensees who habitually violate, especially if they are located within a designated opt out area. We've raised these concerns at appeal hearings, opt-out meetings, ad hoc meetings and with cannabis staff. To date no action has been taken to effect change.
5. Variance Regulations: The site map found in the cannabis file for CCL-132 shows the distance between the designated cannabis cultivation area and the neighbor's residence is less than 350 feet which according to County regulations should require a variance. However, the 6/15/2022 Cannabis Division Site Inspection Form shows the distance exceeds the 350 feet requirement. As a comparison, our research found the neighboring farm (CCL-133) on the contiguous property, located on Coffin Rd, was required to obtain a variance. These inconsistencies are cause for concern and therefore are being included in our reasons for appeal.
6. Failure to Comply with State and Local Reporting Requirements: No records were found indicating the applicant is complying with their requirement to file annual reports with the CA State Water Resources Control Board for the years 2021, 2022 and 2023. Not only is this a State agency requirement, it is a requirement pursuant to County Ordinance 315-849, Section 17.43.060 Performance standards for commercial cultivation of cannabis.

Summary:

Some members of the group have actively participated in the County's cannabis ad hoc committee meetings, led by Supervisors Frasier and Groves. As stakeholders, we provided input and raised concerns regarding the County's Final Environmental Impact Report (FEIR) and Appendix C Checklist. In these private ad hoc meetings, key cannabis staff members, Sean Connell and Ed Prestley, often participated; as did CAO Kuhns and an attorney from Prentice Long as needed at the request of the Supervisors. Members of the group have repeatedly raised some of the above referenced concerns in an attempt to work collaboratively with the County to resolve issues in advance of the EIR site specific review. In doing so, it was our ultimate goal to mitigate the need for future appeals in the best interest of all parties involved.

As recently as March 2, 2023, members of the group conducted a review of the official cannabis file for CCL-132 (once again) after learning that a *Notice of Cultivation Licenses* was published in the Trinity Journal on February 22, 2023; whereby the Cannabis Director approved the license on February 17,

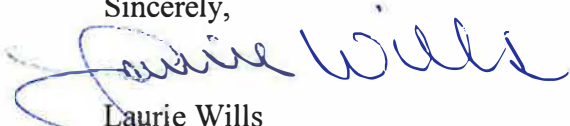
2023, in accordance with the California Environmental Quality Control Act (CEQA Guidelines Section 15168(c) & (e)). The notice indicated the above referenced license has been determined to be later activities and fall within the scope of the certified Environmental Impact Report adopted by the Trinity County Board of Supervisors which adequately describes the activity for purposes of CEQA.

Much to our dismay, we discovered no changes or corrective actions were taken by the County to address many of the above referenced concerns. At our meeting on March 2, 2023, staff acknowledged they did not have the tools needed to evaluate or measure cumulative impacts. We asked staff to withdraw their approval of CCL-132 until which time these issues could be addressed. They stated they could not do that and indicated our only recourse was to file an appeal.

Based on a file review of the two recently approved commercial cannabis licenses (CCL-132 & CCL-133) located on two contiguous parcels on Coffin Rd, in the Lewiston Expansion Opt Out Area (Ordinance No. 315-851); there is no evidence that cumulative impacts were 1.) identified, 2.) taken into consideration on a site-specific basis, or 3.) taken into consideration on a localized vicinity basis, during the EIR Appendix C evaluation process. Furthermore, in this densely populated residential area, there is a long-term vineyard and two commercial cannabis projects; all three of these businesses have adjoining property lines and are situated along a sensitive watershed - the Grass Valley Creek. By approving licenses for the two commercial cannabis projects identified, the County has merely gone through the exercise of accepting Appendix C applications and continues to be deficient in their obligation to conduct a thorough CEQA evaluation that includes environmental cumulative impacts.

For these reasons, we are appealing the Cannabis Director's decision to approve CCL-132, and request that the decision be reversed by the Planning Commission, with possible future license issuance to be considered only at such time that a complete and proper CEQA review has been completed for this project.

Sincerely,



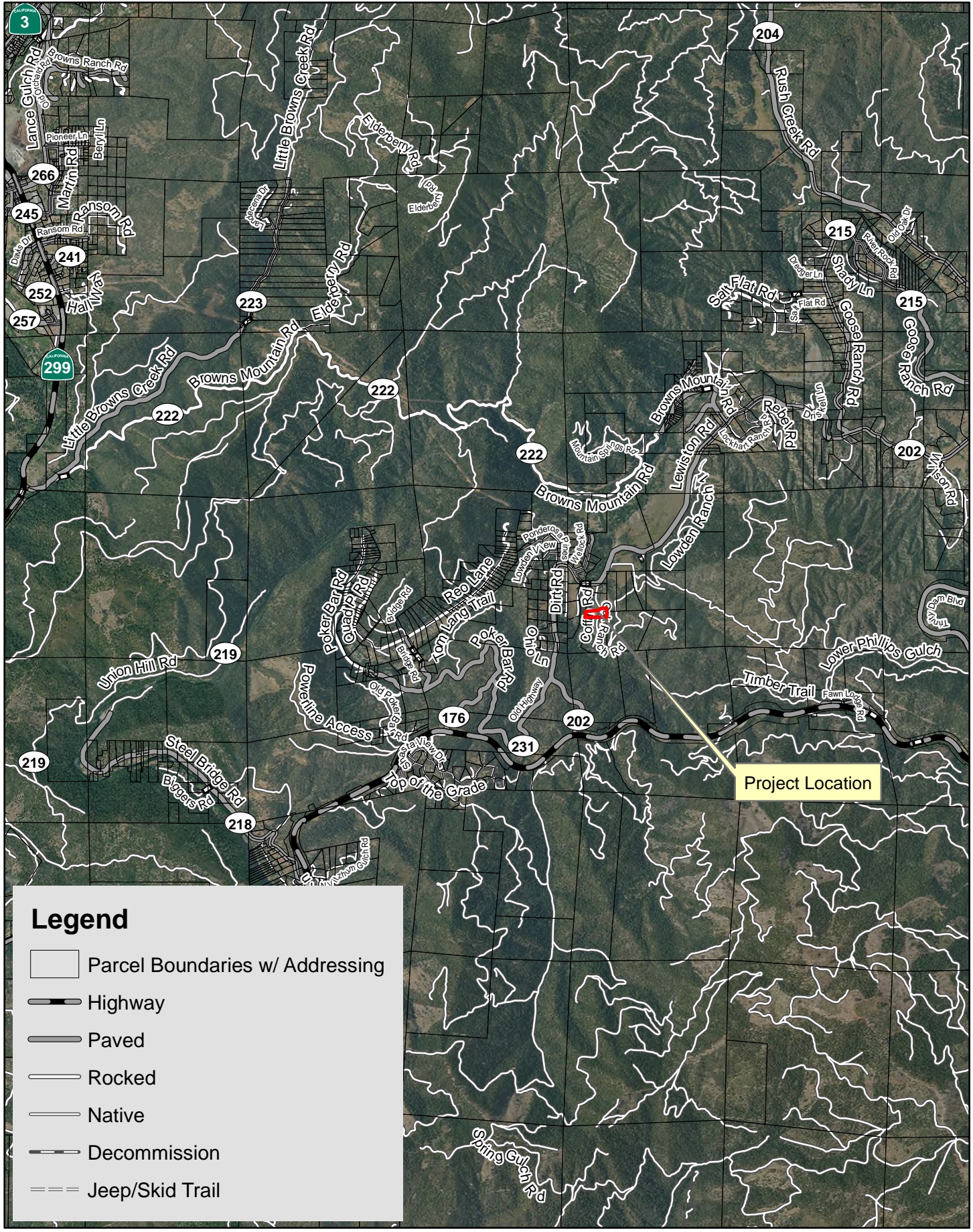
Laurie Wills

On behalf of the Friends of the Lewiston Grass Valley Creek

Enclosures: Application to Appeal of Director's Decision to Planning Commission Form
Appeal Filing Fee

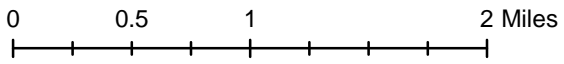
cc: Friends of the Lewiston Grass Valley Creek

APN 025-180-038-000
 P-23-06 Appeal of CCL-132
 Project Location Map



Legend

- Parcel Boundaries w/ Addressing
- Highway
- Paved
- Rocked
- Native
- Decommission
- Jeep/Skid Trail



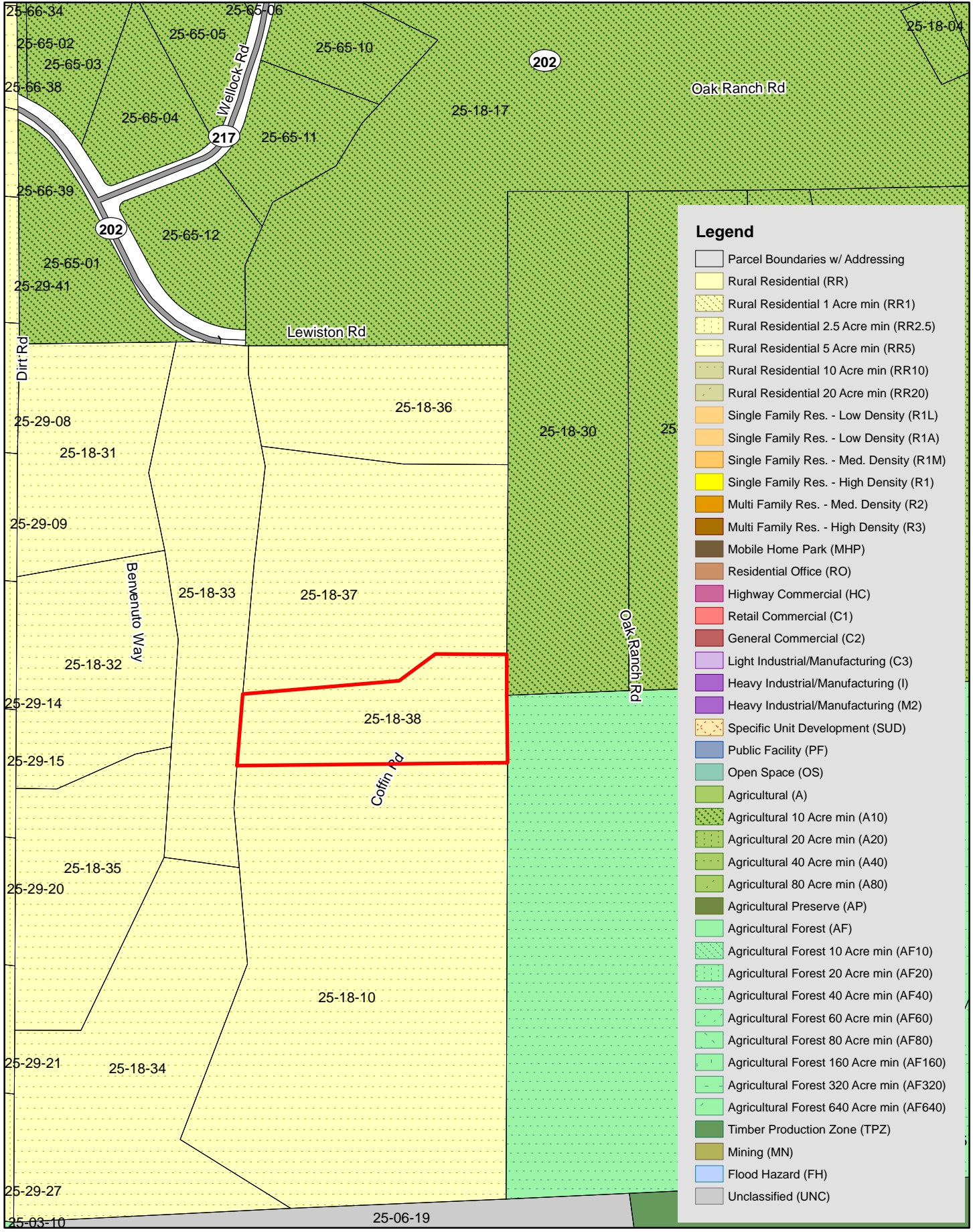
Staff Author: BH
 Date: 5/18/2023

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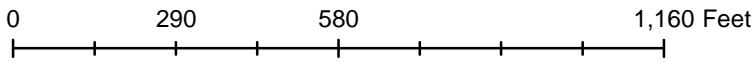
Figure 4: Project Diagram



APN 025-180-038-000 P-23-06 Appeal of CCL-132 Zoning District Map



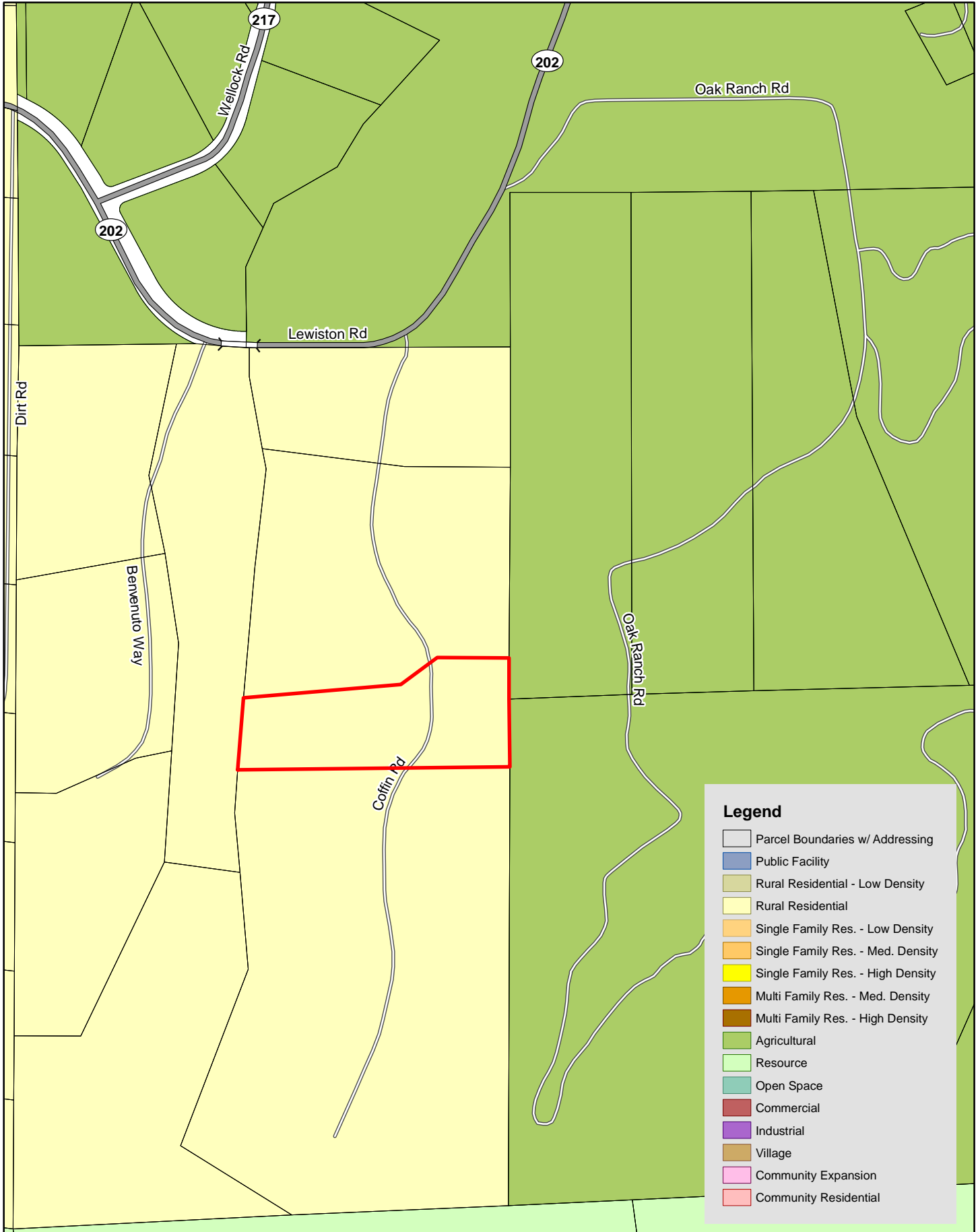
- Legend**
- Parcel Boundaries w/ Addressing
 - Rural Residential (RR)
 - Rural Residential 1 Acre min (RR1)
 - Rural Residential 2.5 Acre min (RR2.5)
 - Rural Residential 5 Acre min (RR5)
 - Rural Residential 10 Acre min (RR10)
 - Rural Residential 20 Acre min (RR20)
 - Single Family Res. - Low Density (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: 5/18/2023

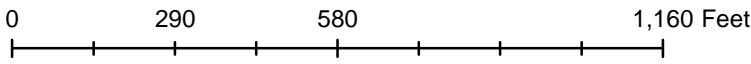
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APN 025-180-038-000
P-23-06 Appeal of CCL-132
GPD Map



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: 5/18/2023

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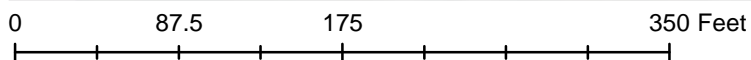


APN 025-180-038-000
P-23-06 Appeal of CCL-132
FEMA Layer Map



Legend

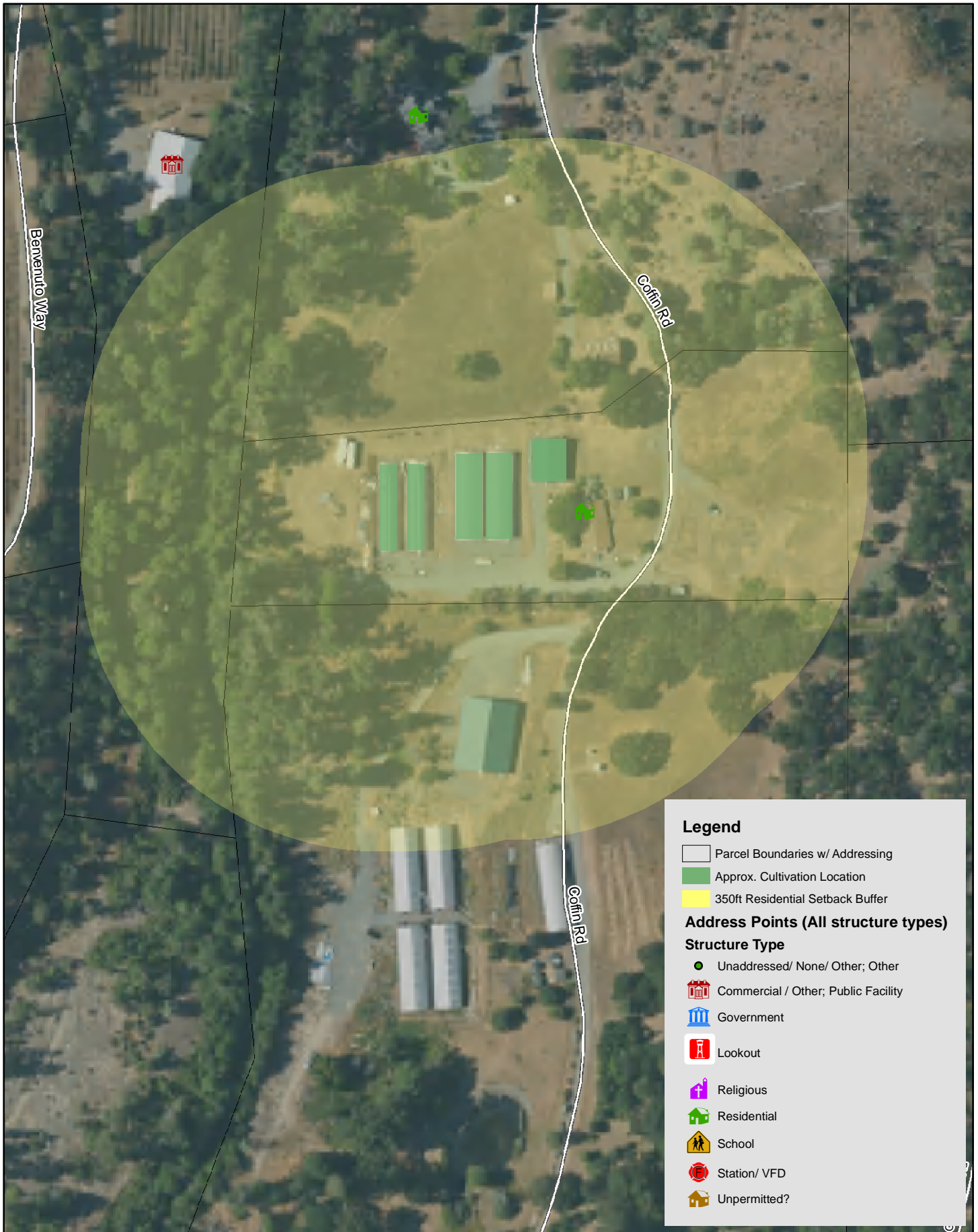
-  Parcel Boundaries w/ Addressing
-  Floodway (Zone AE)
-  100 Year Floodplain ~ BFEs (Zone AE)
-  100 Year Floodplain ~ No BFEs (Zone A)
-  100 Year Floodplain ~ BFE 1-3' (Zone AO)
-  500 Year Floodplain
-  Area Protected by Levee



Staff Author: BH
Date: 5/18/2023



APN 025-180-038-000
 P-23-06 Appeal of CCL-132
 350ft Residential Setback Map



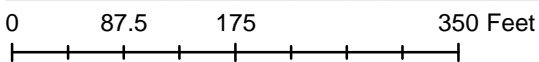
Legend

- Parcel Boundaries w/ Addressing
- Approx. Cultivation Location
- 350ft Residential Setback Buffer

Address Points (All structure types)

Structure Type

- Unaddressed/ None/ Other; Other
- Commercial / Other; Public Facility
- Government
- Lookout
- Religious
- Residential
- School
- Station/ VFD
- Unpermitted?



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Facility At-A-Glance Report

SEARCH CRITERIA:

DRILLDOWN HISTORY:

Place ID 834402



General Information					
Region	Place ID	Place Name	Place Type	Place Address	Place County
1	834402	Emerald Choice Inc.	Cannabis Site	Lewiston, CA, 96052	Trinity



Related Parties						
Party	Party Type	Party Name	Role	Classification	Relationship Start Date	Relationship End Date
624645	Organization	Emerald Choice, Inc	Owner and Operator	Privately-Owned Business	05/21/2021	
624646	Person	Natalie Koehler	Contact		05/21/2021	
614217	Person	Marsha Lack	Contact		04/26/2019	05/21/2021
614218	Organization	Jake Davis	Operator	Privately-Owned Business	04/26/2019	05/21/2021
574710	Organization	Jacob Mason-Davis	Owner and Operator	Privately-Owned Business	07/12/2018	05/21/2021
563397	Organization	Brinkley, Sam	Owner and Operator	Private-Individual	03/09/2017	07/12/2018

Total Related Parties: 6



Regulatory Measures									
Reg Measure ID	Reg Measure Type	Region	Program	Order No.	WDID	Effective Date	Expiration Date	Status	Amended?
430189	Enrollee - WDR	1	IRRICANNABIS	2019-0001-DWQ	1_53CC415130	06/04/2019	04/15/2024	Active	N
412651	Enrollee - Waiver	1	IRRICANNABIS	R1-2015-0023	1A170220CTRI	02/27/2017	08/13/2020	Historical	N

Total Reg Measures: 2



Violations							
Violation ID	Occurred Date	Violation Type	(-) Violation Description	Corrective Action	Status	Classification	Source
Report displays most recent five years of violations. Refer to the Interactive Violation Report for more data.							
Total Violations: 0				Priority Violations: 0			

*Click the "(+/-) Violation Description" link to expand and contract the violation description.
 *As of 5/20/2010, the Water Board's Enforcement Policy requires that all violations be classified as 1, 2 or 3, with class 1 being the highest. Prior to this, violations were simply classified as Yes or No. If a 123 classification has been assigned to a violation that occurred before this date, that classification data will be displayed instead of the Yes/No data.

Violation Types



Enforcement Actions				
Enf Id	Enf Type	Enf Order No.	Effective Date	Status
Total Enf Actions: 0				



Inspections						
Inspection ID	Inspection Type	Lead Inspector	Actual End Date	Planned	Violations	Attachment
Total Inspections: 0			Last Inspection: None			

The current report was generated with data as of: 05/18/2023

Implementation of the following applicable mitigation measures will be for the life of the Project, adjusted as practicable for seasonal fluctuations of the cultivation project. Frequency of implementation will be on an ongoing basis, with the exception of Mitigation Measure 3.10-2, Conduct Groundwater Monitoring and Adaptive Management, which will be conducted on a monthly basis.

Aesthetics
<p>Mitigation Measure 3.1-1b: Maintain Cultivation Parcel This mitigation measure applies. This Project will maintain the parcel clear of trash and debris piles. No trash or debris, including abandoned cars, various woody materials, plastic tarps, cannabis waste, or household appliances, will be allowed to accumulate on this parcel for a period greater than two weeks for the life of the license.</p> <p>Mitigation Measure 3.1-1c: Fence Cultivation Site This mitigation measure only applies if the Project applicant desires to fence their cultivation area. If the Project applicant chooses to fence their cultivation site, covered and solid fencing shall be designed to blend with the surrounding rural or natural conditions of the parcel and will be maintained in good working condition. If topography prevents fencing from being adequate screening, a vegetative fence will be maintained in good condition to comply with screening requirements.</p>
Air Quality
<p>Mitigation Measure 3.3-2a: Limit the Use of Fossil Fuel-Powered Outdoor Power Equipment at All Commercial Cannabis Cultivation and Noncultivation Sites This mitigation measure applies. The Project applicant will do the following to satisfy this mitigation measure:</p> <ul style="list-style-type: none"> • Limit the use of off-road equipment that is powered by gasoline, diesel, or other fossil fuels where available. This requirement does not apply to generators. <p>Mitigation Measure 3.3-2b: Require Use of Low Emission Diesel Back-Up Generators at All Commercial Cannabis Cultivation and Noncultivation Sites This mitigation measure applies as the Project applicant may use in the future back-up diesel generator(s) for their cultivation operations. The applicant will apply the following mitigation measure:</p> <ul style="list-style-type: none"> • All generators shall meet EPA’s Tier 4 emission standards as defined in 40 CFR 1039 and comply with the exhaust emission test procedures and provisions of 40 CFR Parts 1065 and 1068. Tier 3 models or best available model can be used if a Tier 4 version of the equipment type is not available. This measure can also be achieved by using battery-electric off-road equipment as it becomes available. Implementation of this measure shall be required in the contract the Project applicant establishes with its construction contractors. <p>Mitigation Measure 3.3-3: Implement Odor Control Plan for the Growing, Cultivating, Processing, Handling of Cannabis The Project in question has no sensitive receptors in the vicinity of the Project site, as stated in the Project Description. The property is 5.6 air miles southeast of Weaverville, the nearest community with sensitive receptors such as schools, parks, medical clinics and churches. However, in the event sensitive receptors do move into the Project vicinity, the Odor Control Plan found at Attachment A will be implemented. The Odor Control Plan contains the following elements to satisfy this mitigation measure:</p> <ul style="list-style-type: none"> • Identify and describe odor-emitting activities and the nature and characteristics of the emissions.

- Location and distance of sensitive receptors (e.g., residents, youth-oriented facilities, schools, churches, residential treatment centers) from the site.
- Demonstrate that the cannabis site's distance to receptors, wind direction, and local topographic conditions would not result in detection of cannabis odors by off-site sensitive receptors that would create a nuisance.
- If off-site odor nuisance impacts cannot be avoided without odor controls, identify procedures and controls for reducing/controlling odors on-site, including the following as applicable to the cannabis use and license type (outdoor, mixed-light, and indoor). The operator may propose a numeric odor detection threshold for on-site operations (such as dilution-to-threshold standard that is verified by persons of normal odor sensitivity as defined by European Standard EN 13725) subject to County review and approval.¹
- All fully enclosed and secure structures that contain cannabis plants or products that generate odors will employ mechanical ventilation controls, carbon filtration, or other equivalent or superior method(s) to eliminate the detection of cannabis off the parcel. This will include all drying and processing of cannabis plant material recently harvested.
- Outdoor operations may include different plant strains and smaller grow areas or relocation of outdoor activities indoors or, in a mixed-light facility contained within an enclosed structure, use of site design or other technology and/or use of odor easements to address odor impacts.
- Corrective actions to address County-verified off-site odor complaints will be identified. This may include immediate and complete harvest of the cannabis plants or identification of other methods to be applied as part of the current harvest or the next harvest to minimize off-site odor impacts so that they would not conflict with other applicable standards of the County's Cannabis Program or State license requirements.

Biological Resources

Mitigation Measure 3.4-1a: Conduct Preapproval Biological Reconnaissance Surveys

This mitigation measure applies and is satisfied as a reconnaissance-level survey was conducted by a qualified biologist with Siskiyou Restoration Group (SRG) on the Project site September 24, 2020, in order to determine whether there is potential for 2 special-status plants, 25 special-status fish and wildlife species, or sensitive habitats identified in the Biological Assessment prepared for the Project (found at Attachment B) to be present onsite.

The biological reconnaissance survey was conducted by a qualified biologist with SRG. The Biological Assessment report has been provided to the Project applicant and to the County as Attachment B of this CEQA compliance document and provides evidence supporting a conclusion that no special-status plant species, wildlife and sensitive habitats are present or likely to occur within the proposed development area. Evidence supporting findings of existing or non-existing suitable habitat, and detailing the technical analysis of said findings, are found in the Potential for Special Status Species Occurrences Tables 2 and 3 of the Biological Assessment found at Attachment B. The project description in the Biological Assessment may not match the project description in this document, as the project description in the Assessment was relevant to the time of the survey. The validity of the Biological Assessment should not be challenged by this, as these assessments were conducted parcel-wide, as opposed to only Project area assessments. Therefore, the Biological Assessment found at Attachment B is valid even though the project description contained therein may be out of date.

There is the potential for one special-status animal species to occur onsite due to the presence of suitable habitat, though none of these species or any evidence of their presence was seen and identified during the reconnaissance survey. The Biological Assessment report found at Attachment B includes a discussion of potential direct and

¹The use of a dilution-to-threshold (D/T) standard is based on scientific publications on odor pollution control that have identified that odors above 7 D/T will often result in complaints (i.e., objectionable), with 15 D/T often described as a nuisance, and odors above 30 D/T described as a serious nuisance (i.e., nauseating) (McGinley 2000; Huey et al. 1960).

indirect impacts on these resources, as well as a comprehensive list of cannabis cultivation Best Management Practices that when implemented will avoid any potential adverse impacts to special-status species.

Mitigation Measure 3.4-1b: Conduct Special-Status Plant Surveys and Implement Avoidance Measures and Mitigation

This mitigation measure applies and has been satisfied. See discussion above for Mitigation Measure 3.4-1a; no special-status plant species are present or likely to occur within the proposed development area.

Mitigation Measure 3.4-1c: Implement Measures to Avoid Introduction or Spread of Invasive Plant Species

This mitigation measure applies to the Project, and will be satisfied by the following:

- The application will include identification of invasive plant species, as applicable, that occur on the site to the extent practicable and where they are located, including noxious weed species prioritized by the Trinity County Weed Management Association. The application will identify specific measures to be employed for the removal of invasive species and on-site management practices.
- All invasive plant species introduced to the site from commercial cannabis activities and/or from land disturbances caused by commercial cannabis activities shall be removed from the site using measures appropriate to the species to the extent practicable. For example, species that cannot easily reroot, resprout, or disperse seeds may be left on site in a debris pile. Species that resprout readily (e.g., English ivy) or disperse seeds (e.g., pampas grass) should be hauled off-site and disposed of appropriately at a landfill site.
- Applicants shall monitor annually to ensure successful removal and prevention of new infestations of invasive species.
- Heavy equipment and other machinery shall be inspected for the presence of invasive species before on-site use, and shall be cleaned before entering the site, to reduce the risk of introducing invasive plant species.
- Only weed-free erosion control materials and mulch shall be used on-site.

Mitigation Measure 3.4-2a: Conduct Preconstruction Surveys for Special-Status Amphibians

This mitigation measure applies. According to the Biological Assessment prepared for the Project and provided at Attachment B, in concurrence with the results of the biological reconnaissance survey conducted by a qualified biologist on the Project site September 24, 2020, this mitigation measure applies as there is suitable habitat along the western border of the property with Grass Valley Creek, and the following will be implemented to satisfy:

- If special-status amphibians are detected during the initial biological reconnaissance survey (see Mitigation Measure 3.4-1a) or are determined to be likely to occur based on the presence of suitable habitat, consultation with CDFW shall be initiated to determine whether mitigation measures, such as Project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, will be necessary and appropriate.
- Regardless of detection during the initial biological reconnaissance survey, if suitable habitat for special-status amphibians is present within the proposed development area, a qualified biologist familiar with the life cycle of Cascades frog, foothill yellow-legged frog, Pacific tailed-frog, southern long-toed salamander, and southern torrent salamander shall conduct preconstruction surveys of proposed new development activities 24 hours before new development activities. Preconstruction surveys for special-status amphibians shall follow widely used and accepted standardized protocols that control for habitat type, seasonality, and environmental conditions, including the methods described in *Considerations for Conserving Foothill Yellow-Legged Frog* (CDFW 2018b), and *Visual Encounter Survey Protocol for Rana Boyleii in Lotic Environments* (UC Davis 2017). Preconstruction surveys for special-status amphibian species shall be conducted throughout the proposed construction area and at least a 400-foot buffer around the proposed development area. Surveys shall consist of “visual encounter” as well as “walk and turn” surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for salamanders, and visual searches for frogs. Preconstruction surveys shall be conducted within the appropriate season to maximize potential for observation for each species, and

appropriate surveys will be conducted for the applicable life stages (i.e., eggs, larvae, adults).

- If special-status amphibians are not detected during the preconstruction survey, then further mitigation is not required.
- If special-status amphibians are detected during the preconstruction survey, work on the site shall not commence until the applicant has consulted with CDFW as described above. Injury to or mortality of special-status amphibians will be avoided by modifying Project design, relocating the cultivation site, or relocating individual animals. If impacts to Cascades frog or foothill yellow-legged frog (both listed under CESA) are unavoidable, then the applicant will submit an incidental take permit (ITP) application to CDFW and receive take authorization before commencing development of the cultivation site. Conditions of incidental take authorization may include minimization measures to reduce impacts to individual Cascades frogs or foothill yellow-legged frogs, or compensation for loss of the species including but not limited to purchasing credits from a CDFW-approved mitigation bank.

Mitigation Measure 3.4-2n: Implement Generator Noise Reduction Measures

This mitigation measure applies, and the following will be implemented in order to satisfy this condition:

- The cultivation of cannabis will not exceed the noise level standards as set forth in the County General Plan: 55 A-weighted decibels (dBA) from 7:00 a.m. to 7:00 p.m. and 50 dBA from 7:00 p.m. to 7:00 a.m. measured at the property line, except that generators associated with a commercial grow are not to be used between 10:00 p.m. and 7:00 a.m. (Section 315-843[6][b]). The following additional noise performance standards will apply to generator use:
 - Project-generated sound must not exceed ambient nesting conditions by 20-25 dBA.
 - Project-generated sound, when added to existing ambient conditions, must not exceed 90 dBA.

Mitigation Measure 3.4-6c: Implement Mitigation Measure 3.1-1b: Maintain Cultivation Parcel

This Mitigation Measure applies as Mitigation Measure 3.1-1b applies. The satisfaction of Mitigation Measure 3.1-1b thus satisfies the requirements of this mitigation measure, and the project is in compliance.

Geology and Soils

Mitigation Measure 3.7-2: Implement Mitigation Measure 3.10-1a: Demonstrate Compliance with Water Resource Standards

This mitigation measure applies and is satisfied by the implementation of Mitigation Measure 3.10-1a.

Greenhouse Gas Emissions

Mitigation Measure 3.8-1b: Implement Mitigation Measures 3.3-2a and 3.3-2b

This mitigation measure applies and is satisfied by the implementation of 3.3-2a and 3.3-2b.

Mitigation Measure 3.8-1c: Renewable Electricity Requirements

This mitigation measure applies, and will be satisfied through the following conditions:

- As the power supply to Applicant's property and Project site is via a permanent connection to the TPUD grid, which has been providing 100% renewable hydroelectricity to its customers in the Project area since 1982, supplied by power that is generated at Trinity Dam, the Project is therefore already renewable-energy compliant and meeting the requirements of this mitigation measure.

Mitigation Measure 3.8-1d: Lighting Efficiency Requirements

This mitigation measure applies as the Project proposes to utilize artificial lighting in their cultivation site. The following conditions will be implemented to satisfy this mitigation measure:

- Only light-emitting diodes (LEDs) or double-ended high-pressure sodium (HPS) fixtures will be used in all existing and new mixed-light cultivation operations (i.e., sites not seeking relicensing).
- Only high efficacy lighting will be used in all existing and new noncultivation operations (i.e., sites not seeking relicensing). Examples of high efficacy lighting include:
 - Pin-based linear fluorescent or compact fluorescent light sources using electronic ballasts;
 - Pulse-start metal halide light sources;

- HPS light sources;
- Luminaries with hardwired high frequency generator and induction lamp; and
- LEDs.

Hazards and Hazardous Materials

Mitigation Measure 3.9-6: Implement Mitigation Measures 3.14-3 and 3.14-4.

This mitigation measure applies due to Mitigation Measures 3.14-3 and 3.14-4 are being applicable. Satisfaction of Mitigation Measures 3.14-3 and 3.14-4 thus satisfies this mitigation measure.

Hydrology and Water Quality

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

This mitigation measure applies. The Applicant and the Project are enrolled under the State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ (“Cannabis Cultivation Policy- Principles and Guidelines for Cannabis Cultivation (Policy), and the General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities”) (WDID#L53CC415130). Documentation is provided at Attachment E.

The onsite septic system is permitted and has more than enough capacity to accommodate the two year-round resident employees of the operation. There are to be no seasonal employees onsite other than these two individuals. Therefore, the Project is in compliance with this mitigation measure.

Mitigation Measure 3.10-1b: Restrict Cultivation Operations in Floodplains

This mitigation measure applies as a floodplain associated with Grass Valley Creek runs along the western border of the property. However, cultivation activities are outside established SWRCB setbacks and not in the floodplain or designated floodway (see Trinity County Water Resources map at Attachment F). Cultivation sites will not place any structures or involve any grading that alters the capacity of the 100-year floodplain. No storage of pesticides, fertilizers, fuel, or other chemicals will be allowed within the 100-year floodplain. All cultivation uses (plants, planter boxes and pots, and related materials) will be removed from the 100-year floodplain between November 1 and April 1 each year.

Mitigation Measure 3.10-2: Conduct Groundwater Monitoring and Adaptive Management

This mitigation measure applies. Both watercourses and the onsite well are sited outside of all stream setbacks as set forth in SWRCB Order WQ 2019-0001-DWQ. The Applicant currently submits to the SWRCB regular annual Cannabis Water Quality Monitoring & Reports as required per their current enrollment under Order WQ 2019-0001-DWQ and will continue to do so as required for the life of the Project. By adhering to the requirements of the SWRCB General Order, groundwater draft volumes will be recorded, reported, and monitored such that the intent of this mitigation measure will be met and thereby with which the proposed project will be kept in compliance.

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

This mitigation measure applies, see Mitigation Measure 3.10-1a for how this mitigation measure is satisfied.

Mitigation Measure 3.10-4: Implement Mitigation Measure 3.10-1b: Restrict Cultivation Operations in Floodplains

See discussion above in Mitigation Measure 3.10-1b.

Public Services

Mitigation Measure 3.13-1: Implement Mitigation Measures 3.14-3 and 3.14-4.

This mitigation measure applies and is satisfied by the application of Mitigation Measures 3.14-3 and 3.14-4.

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 structures, 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.