

TRINITY COUNTY PLANNING COMMISSION

STAFF REPORT

PROJECT TITLE: Appeal of Director's Decision to Approve CCL-106

APPELLANT: John Coogan, Cedar Brunette and Bruce Gardiner

APPLICANT: Petko Petkov (NatureFarm., Inc).

AGENT: Tom Ballanco, and the Flowra Platform

PROPERTY OWNER: Petko Petkov

REPORT BY: Drew Plebani – Cannabis Division Director, Colton Trent – Environmental Compliance Specialist – Cannabis Division

LOCATION: APN 019-280-003-000

ZONING DISTRICT: Unclassified (UNC)

ZONING OVERLAY DISTRICT(S): N/A

GENERAL PLAN DESIGNATION: Rural Residential (RR)

PROJECT DESCRIPTION:

The Cannabis Division Director approved the application for commercial cannabis cultivation license (CCL) 106 on March 31, 2023 and was scheduled for license issuance on or after April 19, 2023 after the 10-day appeal period ended. On April 17, 2023, an application for appeal of the approval of CCL 106 was submitted to the Trinity County Planning Department, pursuant to the standards established in Trinity County Code Section 17.34.110.

The Directors license approval and related Environmental document were rescinded on June 22, 2023 in order for the applicant's agent to update the Appendix C document to provide additional discussion.

Location	Land Use	Zoning District	General Plan Designation
North	Vacant	UNC	RR
South	Vacant/ Residential	UNC	RR
East	Residential	UNC	RR

West	Vacant	UNC	RR
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Table 1: Surrounding Land Uses to Project Site (Attachment 1)

PROJECT BACKGROUND:

The proposed cultivation project described herein (Project) includes the cultivation of up to 10,000 square feet (SF) of mixed-light cannabis located in Trinity County on Assessor’s Parcel Number (APN): 019-280-003-00. The designated area currently totals 18,520.5 SF, with an additional 2,440 SF proposed, for a total of 20,960.5 SF. The applicant is seeking a Small Mixed-Light Tier 1 Cannabis Cultivation License from the County (CCL-106) and a Small Mixed-Light Tier 1 Cannabis Cultivation License from the Department of Cannabis Control (DCC; CCL19-0000087, expires 2023-10-22). Cultivation activities include 8,160 SF of mixed-light canopy and 2,880 SF of immature plant area. The proposed project includes use of two (2) groundwater wells for cultivation and domestic water source.

COUNTY ORDINANCE AND CEQA COMPLIANCE:

An Appendix C document was submitted to the Cannabis Division for CCL 106 on March 9, 2022. Throughout the Appendix C review process, two incomplete letters were sent to the applicant and their agent, followed by resubmittals of the Appendix C document.

A site inspection was performed by Cannabis Division compliance staff on June 1, 2022 to ensure that the site plan and project description included in the Appendix C were accurately prepared. Subsequent inspections were completed as a result of complaints received through the online complaint portal. Complaint verification inspections were completed by staff on October 11, 2022 and May 31, 2023 in order to verify claims of trash and commercial cultivation without a valid county license. All outstanding deficiencies identified during the site visit were completed by July 2, 2022. A completeness review was performed by Cannabis Division staff on July 11, 2022 and determined to be complete on October 13, 2022. 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 March 24, 2023.

The Director’s approval and related Environmental document were rescinded on June 22, 2023 in order for the applicant’s agent to update the Appendix C document to provide additional discussion. Subsequently a review of the updated Appendix C document performed by County environmental compliance staff, 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 Helix’s 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 letter outlined three main complaints for appealing the approval of CCL-106 (Attachment 1). The Cannabis Division has investigated each of these complaints and provided a summary of the findings below:

1) Inadequate Environmental Review

Response:

The review performed by County Staff, 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 LACO's review of the Appendix C, County environmental compliance staff recommended license approval to the Cannabis Division Director on 06/23/2023.

2) CEQA Violations:**Response:**

No specific violations of the California Environmental Quality Act (CEQA) were specified by the appellant in the appeal form submitted to the Planning Department. Based on staff's review of the associated project documents, application materials and Appendix C environmental document no violations of CEQA were identified.

3) Numerous nuisances ranging from noise, dust, lights, traffic and dogs:**Response:**

-Noise

The approved Appendix C Checklist for CCL-106 includes a detailed discussion of noise impacts related to the construction and implementation of proposed cultivation activities. The project is required to meet the standard of mitigation measure 3.12-1 of the FEIR, which prohibits the generation of construction related noise between 7 p.m. and 7 a.m. Long term sources of noise related continual operation of the project include a diesel-powered generator that supplies the project with power. In compliance FEIR discussion of impact 3.12-2: Creation of Long-Term Nontransportation Operational Noise and Chapter 17.43.060(B) of the Trinity County Code the generator

was measured below the maximum ambient daytime noise level of 55 dB, at 43.1 dB at the property line. Furthermore, in compliance with the above referenced sections, the generator is prohibited from and will not be operated during the nighttime hours of 10 p.m. to 7 a.m. The project proposes the use shielding to further reduce potential impacts related to long term operational noise from the generator.

-Dust,

The approved Appendix C Checklist for CCL-106 states that the project will generate two (2) vehicle trips per week for long term operation, with an increase to four (4) vehicle trips during construction. Travel on unpaved roads is projected to be approximately 7.6 miles per trip. The North Coast Unified Air Quality Management District (NCUAQMD) and the FEIR have identified thresholds of significance for PM₁₀ and PM_{2.5} generation as 80lb/day and 50lb/day respectively. The project is applicable to mitigation measure 3.3-1b: Implement Diesel Engine Exhaust Control Measures and Dust Control, which requires dust control measures to be in place during construction activities. Due to the limited number of trips and amount of travel on unpaved roads and implementation of mitigation measure 3.3-1b, it is unlikely that the project will produce significant levels of particulate matter from dust.

-Lights,

The FEIR includes the following requirements that ensure nighttime lighting and glare impacts are avoided:

- All lighting associated with the operation shall be downcast, shielded and/or screened to keep light from emanating off-site or into the sky (Section 315-843[6][l]).
- Those cultivations using artificial lighting from mixed-light cultivations shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise (Section 315-843[6][m]).

The approved Appendix C Checklist for CCL-106 states that the project will utilize blackout tarps to meet the above requirements.

-Traffic

The approved Appendix C Checklist for CCL-106 states that the project will generate two (2) vehicle trips per week for long term operations, with an increase to four (4) vehicle trips during construction. The project will combine cultivation-related trips with domestic trips, thus reducing VMT. The project is located in a remote region with very little traffic. Due to the limited number of trips and the location of the project, it is not anticipated that vehicle trips generated by cultivation operations would result in congestion at any intersection that experiences high volumes of vehicles or long wait times.

-Dogs

Dogs, and nuisances related to dogs, are not included or addressed in the FEIR or Chapter 17.43 of the Trinity County Code and are not within the purview of the Trinity

County Cannabis Program, and therefore does not have any bearing on approval and subsequent licensure of a project under the Trinity County Cannabis Program.

PUBLIC COMMENT:

As of July 6, 2023 at 4pm staff received several comments via email on this item. (Attachments 7,8,9)

STAFF RECOMMENDATION:

All complaints referenced in the appellant's letter, within the purview of the Cannabis Division and TCC 17.43, which are related to the site specific environmental review have been deemed by Staff to have been adequately evaluated and analyzed within the associated resource categories of the Appendix C Environmental document for this project which was approved on 06/23/2023. Staff recommends that the Planning Commission make a motion to deny the appeal (P-23-12), upholding the Director's decision to approve CCL 106, 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 106, 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-23-12, the Planning Commission could move to continue to a future certain meeting date.

ATTACHMENTS:

- 1) Appeal of the Planning Director's Decision and Associated Letter
- 2) CCL 106 Appendix C Site Plan
- 3) Project Location Map
- 4) Surrounding Area Uses Map
- 5) Zoning Districts Map
- 6) General Plan Designations Map
- 7) Public Comment from John Coogan
- 8) Public Comment from Cedar Brunette
- 9) Public Comment from Bruce Gardiner



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

APR 17 2023

Trinity County
 Planning/Cannabis

**APPLICATION TO APPEAL OF DIRECTOR'S DECISION
 TO PLANNING COMMISSION**

DATE: _____

APPEAL FEE: \$500- due upon filing

Project # or CCL # or CCV # of application decision being appealed: CCL-106

Date of Director's decision or action: 4/05/2023

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: John Coogan, Cedar Brunette, Bruce Gardiner

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.*

Inadequate environmental review, CEQA violations, numerous nuisance

ranging from noise, dust, lights, traffic, and dogs.

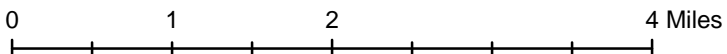
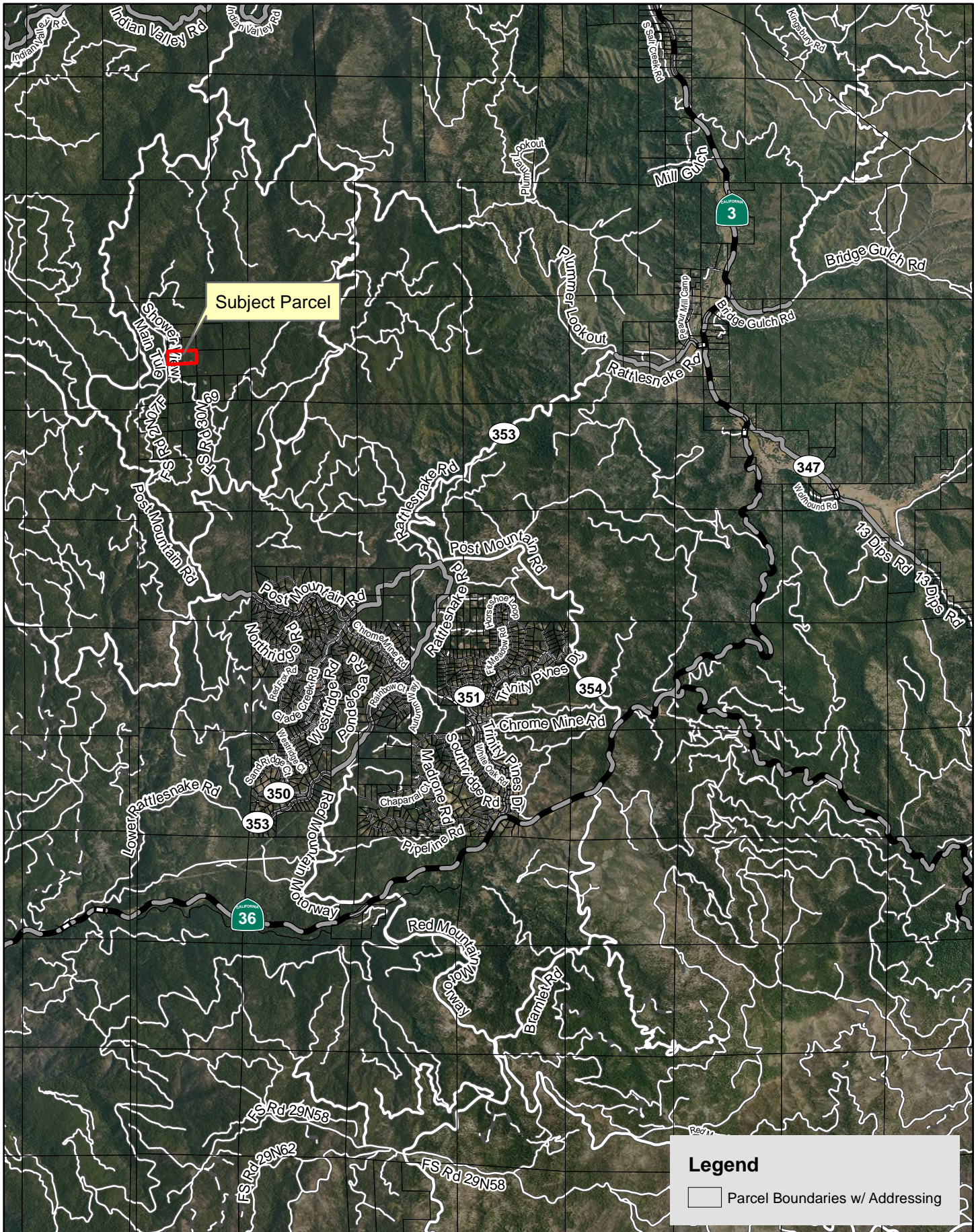
(We have already done this process and because of County suspension of licensing process we did not get to appeal to the Board even though we paid our \$500. We should not have to pay a second time) to restart process.)

Signature: John Coogan Date: 4/17/2023

FOR OFFICE USE ONLY	
Date: <u>4-17-23</u>	Project number: <u>P-23-12</u>
Received by: <u>Bear + Debbie</u>	Receipt number: _____
Notice Published: _____	Hearing Date: _____



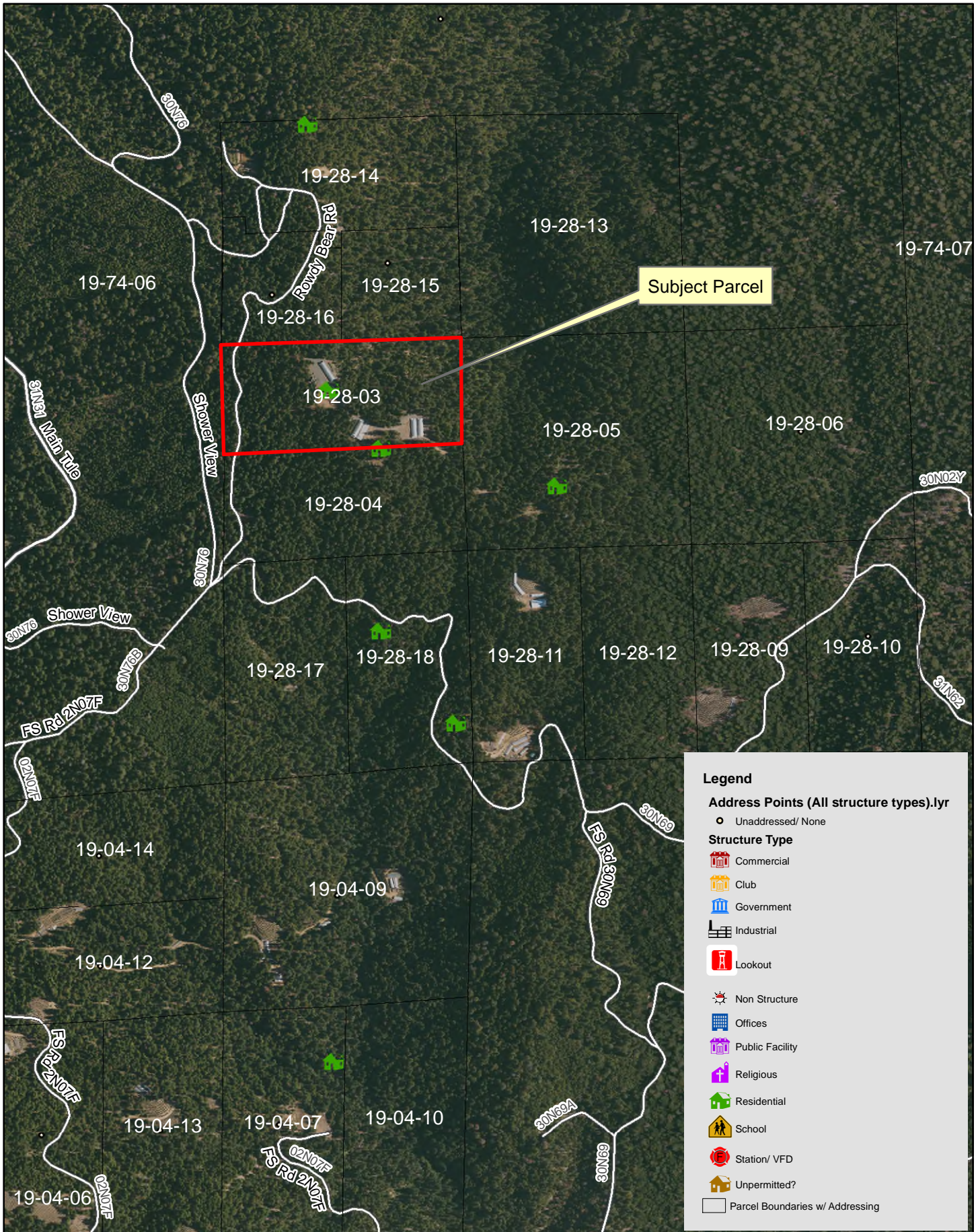
P-23-12 | CCL-106
 APN 019-280-003-000
 Project Location Map



Staff Author: BH
 Date: 7/7/2023



P-23-12 | CCL-106
 APN 019-280-003-000
 Surrounding Uses Map



Legend

Address Points (All structure types).lyr

- Unaddressed/ None

Structure Type

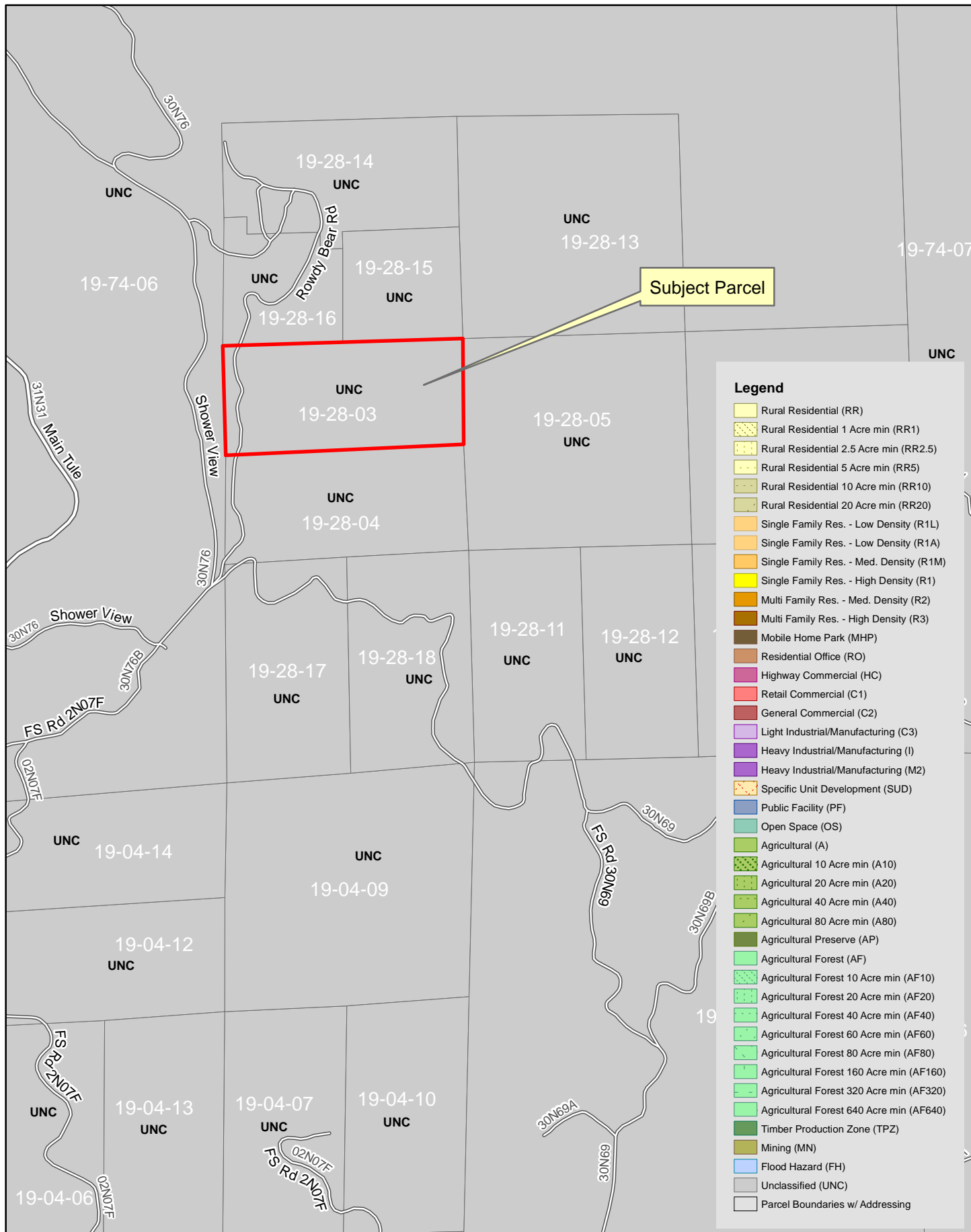
- Commercial
- Club
- Government
- Industrial
- Lookout
- Non Structure
- Offices
- Public Facility
- Religious
- Residential
- School
- Station/ VFD
- Unpermitted?

Parcel Boundaries w/ Addressing

0 0.125 0.25 0.5 Miles

Staff Author: BH
 Date: 7/7/2023

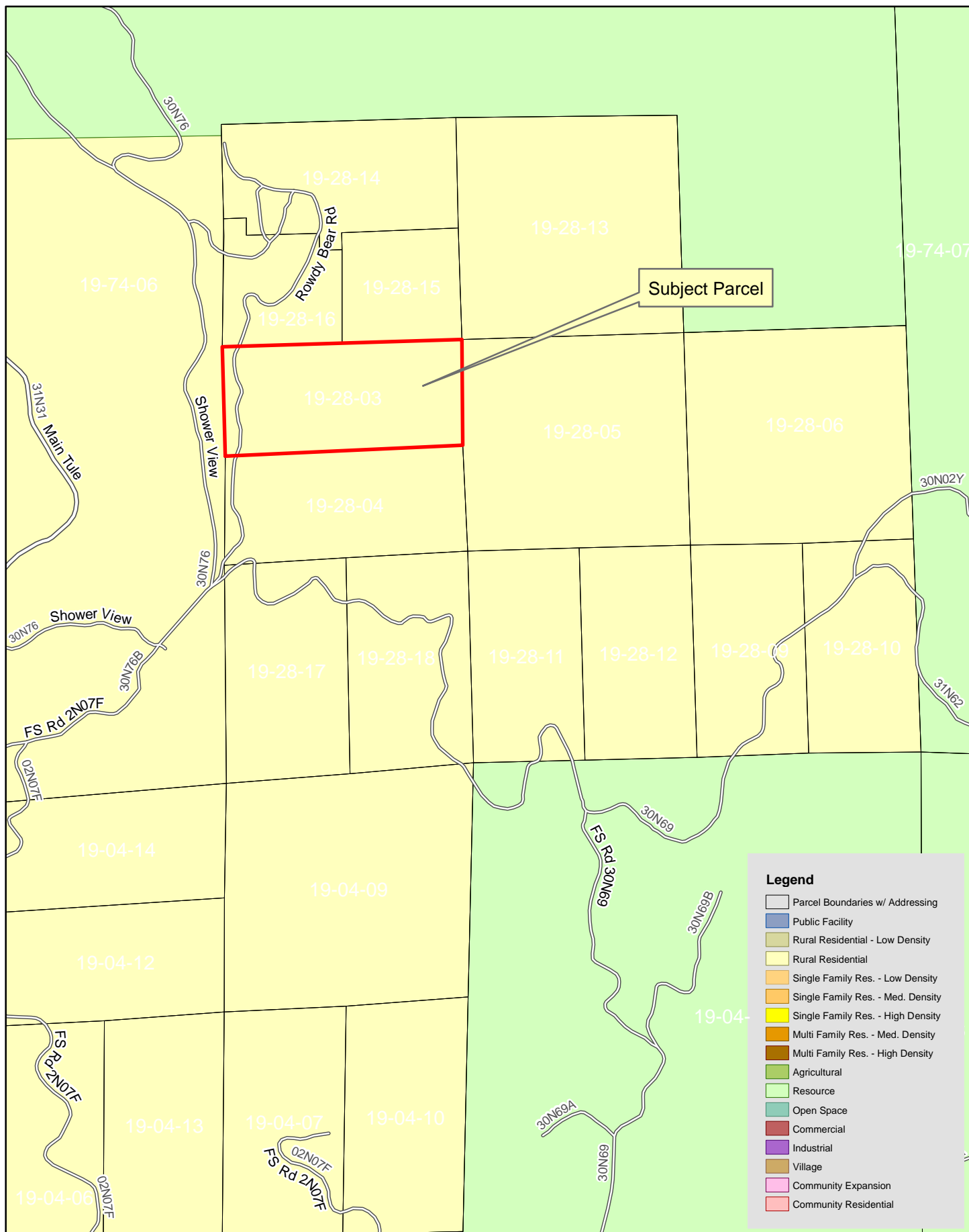
P-23-12 | CCL-106
 APN 019-280-003-000
 Zoning Map



- Legend**
- 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)
 - Parcel Boundaries w/ Addressing

0 0.125 0.25 0.5 Miles

Staff Author: BH
 Date: 7/7/2023



Subject Parcel

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

0 0.125 0.25 0.5 Miles

Staff Author: BH
Date: 7/7/2023

Colton Trent

From: JC 99 [REDACTED]
Sent: Friday, June 30, 2023 8:04 AM
To: Drew Plebani
Cc: Edward O. Prestley; Rachel Doughty; Cedar Brunette; Bruce Gardiner
Subject: Appeal of CL-106

Mr Plebian:

Please be advised that I, and my neighbors who comprise the "Rowdy Bear Preservation Sanctuary" as represented by Greenfire Law PC is still appealing CL-106 (106 280 003 000), scheduled for July 13th. You will be receiving a letter from Rachel Doughty outlining the issues to be raised on our behalf no less than five business days prior to that appeal meeting.

Our representative will be coming to county offices today (6/30) with a request for file review including the most recently amended Appendix C, the original, the abatement history, and the license rescinding decision.

We continue to look for the county's investigation (Daniel Marvel) of the landfill and grading as documented through emails and photographs by the county (begun 10/23). My most recent request for this information to the county was May, 24 2023.

We would request that if we cannot get the relevant files in time, that the appeal be pushed forward until, as outlined in the agreement with the TAA, we can review them.

Thank you,

Sincerely,
John Coogan

Colton Trent

From: Cedar Brunette [REDACTED]
Sent: Tuesday, July 4, 2023 2:50 PM
To: Drew Plebani; Bear Banonis; Rachel Doughty; James Underwood; Bruce Gardiner; John Coogan
Subject: Comments to Appeal-CCL-106

To: Mr.Plebani and Whom It May Concern,

I am submitting these comments today to explain why I'm on an appeal to Petkov's CCL-106.

I will be outlining several issues, as well as addressing non-compliance with applicable county ordinances and whether the CEQA determination concerning the license application is appropriate.

The issues I will address here are;

Location, roads, grading. Nuisances such as guards, dogs. Fencing, generators, illegal dumping, burial and burning, and lastly, threats.

Firstly. I am not anti- cannabis, I am anti- bad neighbor.

Let's start with location.

The property I live on was purchased in 1979. Initially a 300 acre parcel, it was broken up into smaller parcels that extend down to Upper Post Mtn. Originally zoned agricultural for Christmas tree farms, then later changed to rural residential.

There are five separate parcels that share the same forest service road into our area. We all access our respective properties through a single lane dirt road called 31N31. We all share a forest service driveway called 30N76A.

Our address is linked to Rd 7/ Post Mtn Rd, as our road 31N31 ends there.

We are an isolated community, on a long ridge top at 4,500ft, equal distance to Hayfork, Trinity Pines, Peanut and with Indian Valley the closest to us. Our ridge top is between two watersheds. Philpot and Tule creeks.

ROADS;

Petkov brings trucks and trailers, heavy loads of soil, amendments, plants and diesel fuel trucks through this one lane with blind curves dirt road going at speeds exceeding 20mph, often in the past running my elderly parents, myself and children and neighbors into the ditch or perilously close to a cliff.

All commercial trucking is required to carry a Forest Service permit to travel on this road.

Meeting a diesel fuel truck on a blind curve on a single lane dirt road, in the middle of fire season, speaks volumes to the danger and unsustainable nature of this operation!

I would like to know if the fire department in charge was provided information about access and reliance, apparently upon diesel- fueled generators.

GRADING;

In the past few years Petkov and his renters have apparently felt at ease grading and widening our roads without prior consent from surrounding property owners, to enable him to bring up the big trucks, trailers, and diesel fuel at his convenience.

This issue has a lack of a " good neighbor" approach.

I seriously doubt Petkov has obtained a forest service permit to grade their roads. 30N76A and 31N31.

NUISANCES;

Dogs: in previous years, Petkov has kept dogs tied up outside and they would bark all night. When they have occasionally broken free, the dogs run onto our property creating chaos with my dogs. Once such instance, Petkov and Co. allowed a roaming Pitt bull mama to frolick with their dogs. Who then came onto our property together and attacked my old mama dog. She almost died before the vet saved her. No monetary nor compassionate response received from the neighbors who caused the problem.

GUARDS;

There has been problems with overhead shots fired onto our property, scaring our friends and visitors. There has been non- English speaking armed guards patrolling our shared property boundaries. I am concerned they won't understand us. In order to check the level of our water tanks, we must shout our arrival in fear we may be targeted.

FENCING;

There is no fencing to separate Petkov's operations from the neighbors.

Fencing would help to eliminate the problems I experience like dogs, patrols, noise, dust, light etc. I believe the fencing costs should be borne by Petkov. I would like him to build one of solid wood on our shared boundary as well as the property boundary he shares with Coogan.

GENERATOR;

Petkov runs a high powered diesel generator to power his operations. Although the County's stipulations in its CCL regulates allowable times for running the generator, Petkov runs it twenty- four seven. The justification given is that it powers the mansion of a house on his property too. The decibel levels of this generator are far in excess of those allowed by the County's compliance code. This noise effects my elderly parents, leading to sleeplessness and other health threats.

Every three weeks or so, Petkov puts an additive into the fuel, that I believe, cleans the engine. The smell floats downwind to my children and I, filling the front yard where it perfumes the air with a toxic chemical smell all day and night.

I have asked Petkov to enclose the generator and add an extra filter. His response was unfriendly and unsupportive. He said he can do whatever he wants on his private property and if I have a problem I could move. Neighborly? I think not!

ILLEGAL DUMPING, BURIAL & BURNING;

Last year Petkov piled up the remains of infrastructure like plastic grow bags, plastic ties, plastic netting, metal from a deconstructed greenhouse and old plant stalks. He preceded to bury part of the pile and later burned the rest.

There was a request made to the county to come up and document this infraction.

A Mr. Daniel Marvel, a county representative, came and took pictures.

Since then, Petkov has further graded the area, covering up remains of the burn pile and buried materials.

Over the years there have been dumped piles of cannabis waste put onto our property close to our shared boundaries.

This is a very troubling problem. We are on a mountain top, a long ridge. Everything else is downhill, watersheds and animals.

I believe Petkov is not meeting the county's EIR, nor CEQA in engaging in this sort of destructive activity.

I believe the county needs to do further investigation into this situation, denying his license until the site can be remedied.

THREATS;

There have been threats made by Petkov to me upon learning that I am on an appeal to his CCL.

Unfortunately I have felt threatened in his presence in the past and I no longer feel comfortable to be in the same room with him nor to have a conversation with him. This year, threats were expressed in text messages through my boyfriend.

In conclusion, I believe Petkov's CCL needs further investigation and review before granting him a license. There needs to be a remedy to these problems to the benefit of the greater community that resides here and the environment we all share.

For seven plus years our community has reached out to Petkov to find an agreeable solution to manage the transformation of our area with a industrial agricultural zone.

These efforts, which involved numerous members of our community, began with conversations, emails, phone calls, dinners, meetings and eventually led to letters between counsel. And now the appeal process.

I was part of the most recent offer to find a compromise asking Petkov to conform to county, state and federal ordinances and laws. In exchange we would drop all current and future legal challenges to his grow.

Despite our being encouraged to draft a proposal quickly and at our expense, there was no meaningful response addressing the issues we raised; which would be fixed or when or how.

Sincerely,

A member of the Rowdy Bear Sanctuary Perservationists

Colton Trent

From: Bruce Gardiner [REDACTED]
Sent: Wednesday, July 5, 2023 7:50 AM
To: [REDACTED] Drew Plebani
Cc: Edward O. Prestley; Cedar Brunette; Rachel Doughty
Subject: Re: Bruce Gardiner's Comments on CL-106 APPEAL

I just noticed a typo that I would like to correct:

In the first paragraph of General Considerations it should read "we consider that this is an INAPROPRIATE location for a commercial size cannabis farm"

Thank you,
Bruce Gardiner

[Sent from Yahoo Mail on Android](#)

On Wed, Jul 5, 2023 at 6:53 AM, JC 99

<john.coogan99@gmail.com> wrote:

Sent per Bruce by John Coogan due to internet issues on Post Mountain

TO WHOM IT MAY CONCERN

I am party to the appeal of the Cannabis License of Peter Petkov for the following reasons:

I have a common property border with the Petkov cannabis farm and I am negatively affected in multiple ways:

- 1) During heavy rains, there is considerable runoff from the Petkov farm on to my property. We have reason to believe that this runoff contains fertilizer and toxic chemicals such as rodenticide. At one time, Petkov's brother Emile, boasted to us that they used toxic chemicals that were banned in the US, and had to be imported from Mexico.
- 2) On occasions I am disturbed by the noise of the generator on the Petkov farm, running late at night. Later in the growing season, the thick, sticky odor of cannabis wafts from the Petkov farm across to my cabin.
- 3) The access road to my cabin includes one section of steep grade, which is quite vulnerable to erosion if used by heavy vehicles. Petkov has used this road without permission to haul out logs and to deliver soil. Once, three very large soil trucks turned up on my property, lost and looking for Petkov. One the occasion of the log hauling, the padlock was cut by persons unknown.
- 4) In the past, we have seen armed guards walking the perimeter of the Petkov farm and we have heard gunshots after dark.

General Considerations:

The Rowdy Bear properties sit at the top of two watersheds (Philpot Creek and Tule Creek) and we consider that this is an appropriate location for a commercial size cannabis farm. We know that Petkov has pumped dry his well in past seasons and has resorted to deliveries in large water trucks, hauling over Forest Service roads.

Rowdy Bear has traditionally been an enclave of seasonal cabins providing peace and quiet for almost 40 years. It is inappropriate to site and license a commercial cannabis farm here. I strenuously oppose the renewal of the Perkov cannabis license.

Bruce Gardiner
[REDACTED]
[REDACTED]