

TRINITY COUNTY PLANNING COMMISSION

STAFF REPORT

PROJECT TITLE: Initial Commercial Cannabis Variance

APPLICANT: Robert Brown

PROPERTY OWNER: Robert Brown

REPORT BY: Skylar Fisher, Associate Planner

LOCATION: 200 Quail Valley Rd., Hayfork (APN 016-230-004)

ZONING DISTRICT: Agricultural Preserve

GENERAL PLAN DESIGNATION: Agricultural

PROJECT DESCRIPTION:

The applicant is requesting an initial commercial cannabis variance (CCV) for commercial cannabis cultivation license (CCL) 696, pursuant to Trinity County Code Section 17.43.050(A)(8). The 350-foot buffer for the site overlaps the dwelling on the parcel located to the east of the proposed cultivation.

Location	Land Use	Zoning District	General Plan Designation
North	Residential	Agricultural 10	Agricultural
South	Residential	Agricultural Preserve	Agricultural
East	Residential	Agricultural Preserve	Agricultural
West	Residential	Agricultural 10	Agricultural

Table 1: Surrounding Land Uses to Project Site

SITE INFORMATION:

The long, narrow site is bound by forested hills to its north and south. Its midsection consists of the flat bottom of a creek canyon, with Hayfork Creek bisecting the site. The creek creates a hundred-year flood zone, rendering much of the site unusable for development purposes. The remaining region suitable for this use is on the southern portion of the parcel, located between the hills to the south and the 100-year flood plain to the north.

The proposed structures are located on the southern edge of the 100-year floodplain. The cultivation area includes a 9,990 sqft outdoor mature cultivation area and a greenhouse which includes processing, packaging, labeling, and an administrative hold. Other operations within the

project site plan include a cannabis compost area, soil storage, water storage, harvest storage, a groundwater well, and septic.

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 Agricultural Preserve 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) outdoor cultivation, it is required to have all cultivation activity be at least 350-feet from any residences on an adjoined parcel unless a variance is obtained.

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 is a list of guidelines for 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 development is located in a flat region adjacent to the Hayfork Creek. It is outside of the 100-year floodplain, and is not on a hillside. This is an ideal location for such a variance, and such a variance would be appropriate for any property owner facing similar circumstances.

- 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: It shall not need a use variance, as it is already in compliance with the allowed uses for the area.

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

Finding: Based on staff evaluation of available evidence and information at this time, this use is not found to be injurious to the public welfare, nor adjacent properties. There have been no comments received from the neighbors at this time.

- 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 in conflict with the general purpose and intent of the zoning ordinance.

- 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 is not located within the Recreation Development District (RD-1) overlay zone.

Project Consistency with the California Environmental Quality Act (CEQA)

Discussion and action on the request of a commercial cannabis cultivation variance 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 find the project to be exempt from the California Environmental Quality Act under Section 15061(b)(3) and adopt Resolution PC-2022-13 to approve the commercial cannabis cultivation variance to reduce the 350-foot setback from the residence on APN 016-230-003.

ALTERNATIVES

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

1. Continue the item to the next Planning Commission meeting to request additional information
2. Deny the application for an initial commercial cannabis cultivation variance.

ATTACHMENTS:

- A. Draft Resolution PC-2022-13
- B. CCL 694 Site Plan
- C. CCV-21-43 Cultivation Setback Map
- D. CCV-21-43 Location Map
- E. CCV-21-43 Zoning Districts Map
- F. CCV-21-43 General Plan Designations Map

RESOLUTION NO. PC-2022-13

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF TRINITY**

**Approving an Initial Commercial Cannabis Variance
(Robert Brown, Commercial Cannabis Variance (CCV-21-43))**

WHEREAS, the Trinity County Planning Department has considered a request for an initial commercial cannabis variance, filed by Robert Brown, in accordance with Title 17, Trinity County Zoning Code Section 17.43.050A(8),

WHEREAS, for specialty cottage, specialty, and small licenses, cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels unless an initial variance is obtained by approval of the Trinity County Planning Commission,

WHEREAS, approved or conditionally approved commercial cannabis variances are subject to annual renewal by the Planning Director through the director's use permit process, and

WHEREAS, the Planning Commission held a public hearing and considered this matter at the regular meeting held on October 27, 2022,

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

1. Finds the requested commercial cannabis variance to be exempt from the requirements of the California Environmental Quality Act under exemption 15061(b)(3) on the basis that there are no substantial changes to the project or to circumstances under which the project is proposed to be undertaken, and no new information has become available or been made known showing unanalyzed environmental effects; and
2. Makes the following findings:
 - A. The applicant will not be granted a special privilege upon the approval of the proposed commercial cannabis variance;
 - B. The approval of the proposed commercial cannabis variance is not for a variance for the use of the property;
 - C. The approval of the proposed commercial cannabis variance would not be injurious to general public welfare or to the adjacent properties;
 - D. The proposed commercial cannabis variance is not in conflict with the goals, objectives, and policies of the General Plan or any specific plans;
 - E. The project parcel is not located in a Recreation Development District (RD-1) overlay zone; and

Resolution No. PC-2022-13
October 27, 2022

3. Approves CCV-21-43 to reduce the 350-foot setback requirement from the residence on APN 016-230-003, subject to the conditions set forth in Exhibit A of this resolution and incorporated herein.

DULY PASSED AND ADOPTED this 27th day of October, 2022 by the Planning Commission of the County of Trinity by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:
RECUSE:

WILLIAM SHARP, CHAIRMAN
Planning Commission
County of Trinity
State of California

ATTEST:

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

EXHIBIT “A” to Resolution PC-2022-13
COMMERCIAL CANNABIS VARIANCE CONDITIONS OF APPROVAL

(Robert Brown, Commercial Cannabis Variance (CCV-21-43))

1. The commercial cannabis variance is approved for a period of one year and shall expire on the same date as the commercial cannabis license that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director’s Use Permit application process. The commercial cannabis renewal application shall:
 - A. Be submitted by the applicant or designated agent/consultant prior to expiration of the variance and preferably no later than 60 days in advance;
 - B. Be subject to a filing fee as specified by resolution of the Board of Supervisors;
 - C. Be approved, denied, or referred to the Planning Commission at the discretion of the Planning Director;
2. Structures on the property shall be in compliance with the California Building Code and Trinity County Code;
3. The applicant has the sole responsibility for renewing this commercial cannabis variance before its expiration. The County will not provide a notice prior to the expiration date;
4. No county permit or license shall be issued until the ten-day appeal period has expired. If the commercial cannabis variance approval is appealed, no county permit or license shall be issued while a commercial cannabis variance hearing or appeal is pending.

END OF CONDITIONS.

016-230-04-00

Site Layout

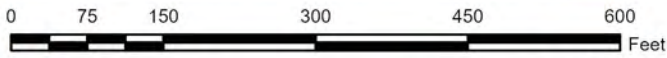
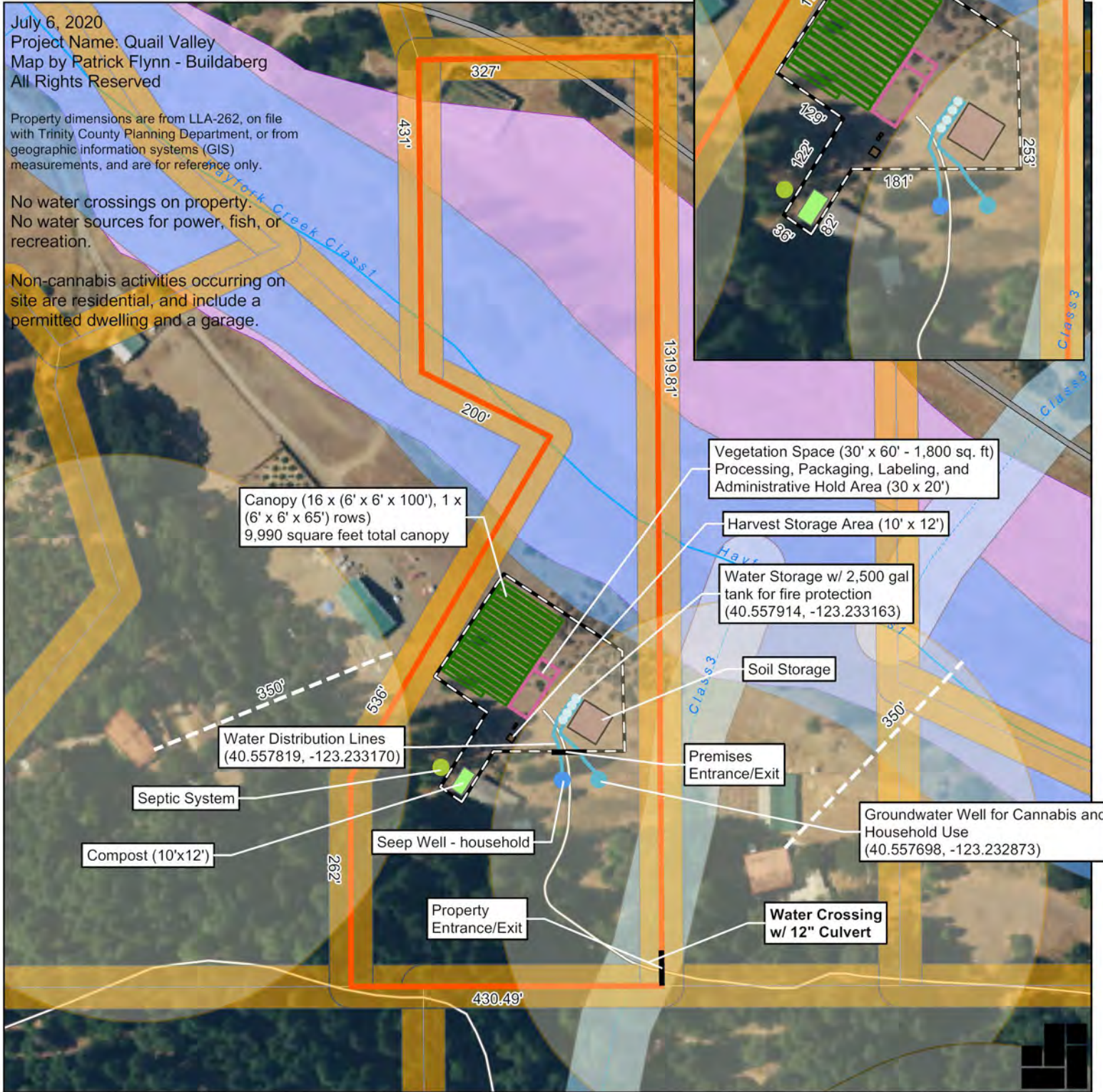
200 Quail Valley Rd, Hayfork, CA

July 6, 2020
 Project Name: Quail Valley
 Map by Patrick Flynn - Buildaberg
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Property dimensions are from LLA-262, on file with Trinity County Planning Department, or from geographic information systems (GIS) measurements, and are for reference only.

No water crossings on property.
 No water sources for power, fish, or recreation.

Non-cannabis activities occurring on site are residential, and include a permitted dwelling and a garage.



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|------------------------------------|-----------------------------------|--|
| Subject Property | Canopy - 6x6x100 rows | Neighboring Residences Buffer (350') |
| Water Infrastructure | Veg Space - 2400 sq ft greenhouse | Stream Setbacks |
| Existing Well | Premises | Class 1 (150 ft) |
| Proposed Well | Soil Storage | Class 2 (100 ft) |
| Septic System | Garage | Class 3 (50 ft) |
| Water Tanks | Compost Area | 100 Year Floodplain ~ No BFEs (Zone A) |
| Parcel Boundaries Setbacks - 30 ft | Neighboring Residences | |

Attachment B

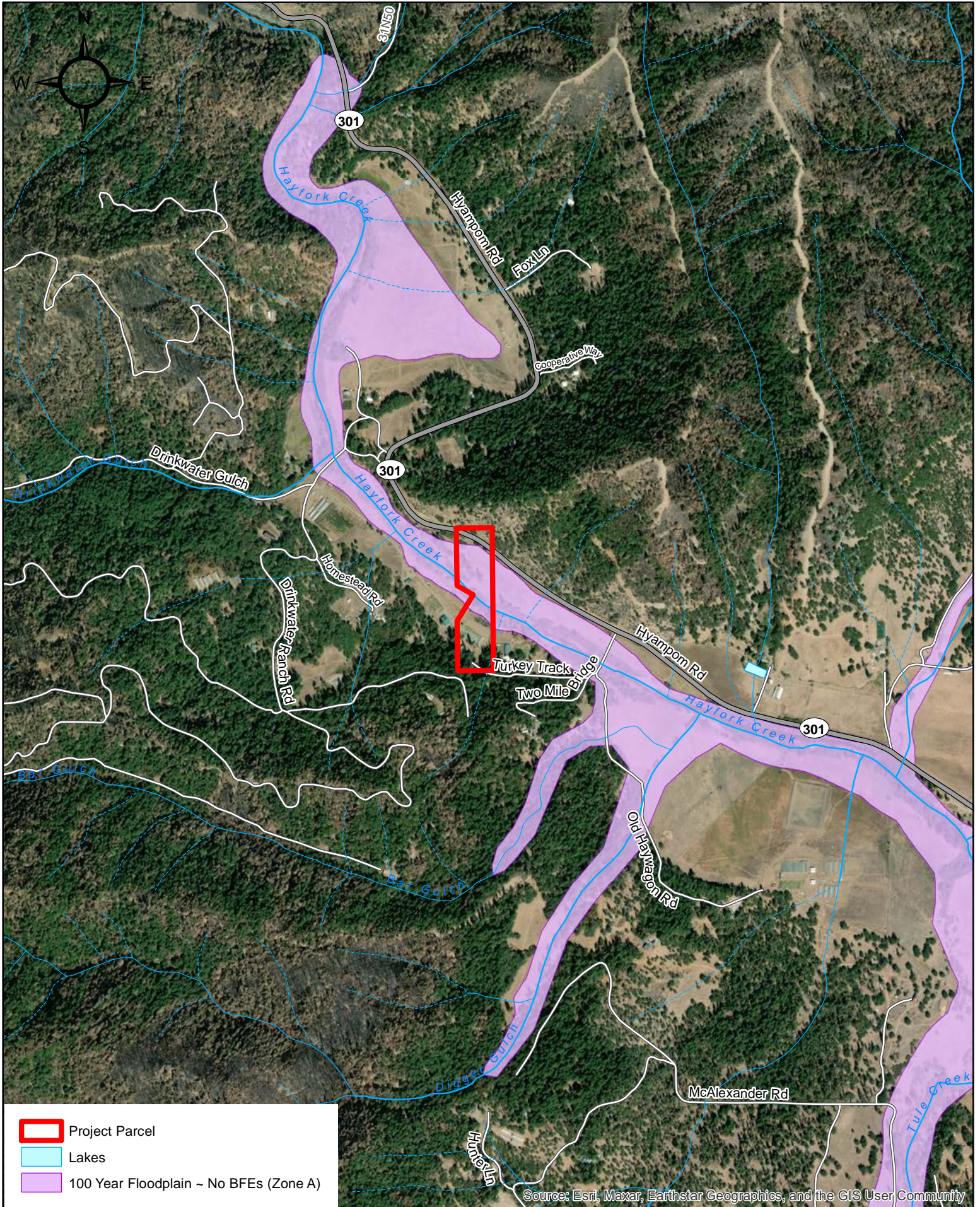


CCV-2021-43 Cultivation Setback Map

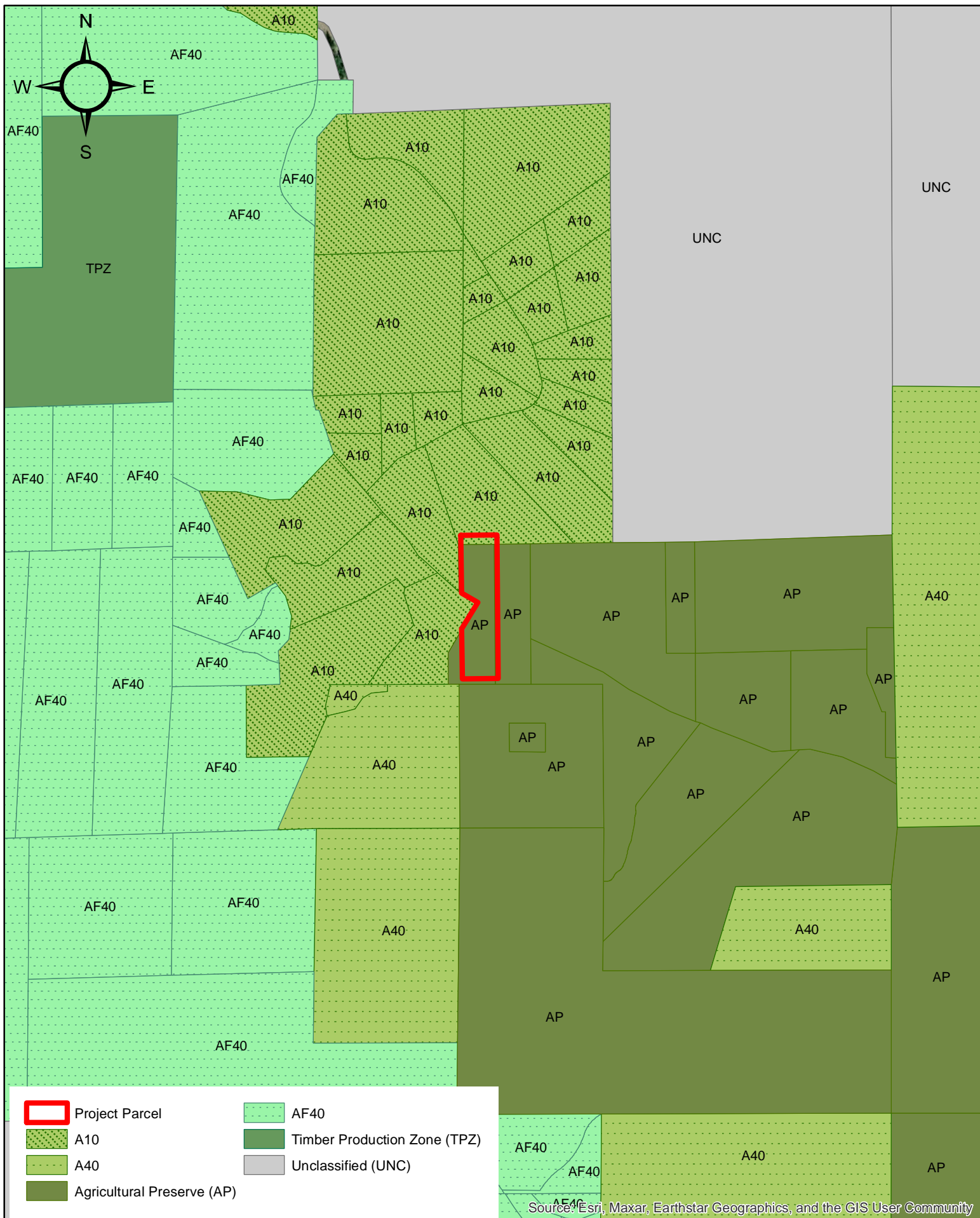


Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CCV-2021-43 Location Map



CCV-2021-43 Zoning Districts Map



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CCV-2021-43 General Plan Designations Map

