

TRINITY COUNTY PLANNING COMMISSION

STAFF REPORT

PROJECT TITLE: Initial Commercial Cannabis Cultivation Variance (CCL753)

APPLICANT: Chee Moua

PROPERTY OWNER: Chee Moua

REPORT BY: Aida Tavakoli – Environmental Compliance Specialist, Cannabis Division & Steven Swisley - Environmental Compliance Specialist, Cannabis Division

LOCATION: 510 Dirt Road, Hayfork (APN 014-440-044-000)

Parcel Size: 2.43 Acres

ZONING DISTRICT: Rural Residential 10 Acre min (RR10)

ZONING OVERLAY DISTRICT(S): N/A

GENERAL PLAN DESIGNATION: Rural Residential-Low Density (RR-L)

PROJECT DESCRIPTION: An initial commercial cannabis cultivation request of the Planning Commission to reduce the required 350-foot cultivation setback from a neighboring residential structure, pursuant to Trinity County Code Section 17.43.050A(8). The Project would operate up to 10,000 sf of mixed-light mature cannabis canopy cultivation composed of two (2) 30’ by 80’ greenhouses, two (2) 30’ by 96’ greenhouses, and a 30’ by 82’ greenhouse including 900 sf of immature canopy, and 440 sf of associated operational support buildings. Water for the Project would be provided from an existing permitted groundwater well. An onsite septic system would serve the Project’s wastewater needs. The proposed cultivation area (and property) is accessed via a short driveway that connects to Dirt Road.

Location	Land Use	Zoning District	General Plan Designation
North	Rural Residential	Rural Residential 10 Acre min (RR10)	Rural Residential-Low Density (RR-L)
South	Rural Residential	Rural Residential 10 Acre min (RR10)	Rural Residential-Low Density (RR-L)
East	Rural Residential	Rural Residential 10 Acre min (RR10)	Rural Residential-Low Density (RR-L)
West	Rural Residential	Rural Residential 10 Acre min (RR10)	Rural Residential-Low Density (RR-L)

Table 1: Surrounding Land Uses to Project Site

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 and zoning districts where commercial cannabis is not allowed in the county. The Rural Residential zoning district is not listed as a location that restricts 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 sf) mixed-light cultivation, it is required to have all cultivation activity be at least 350-feet from a residential structure on any adjoined parcel, unless a variance is obtained.

Site Inspections:

A site inspection was performed by Cannabis Division compliance staff on June 29, 2023 to ensure that the site plan and project description included in the Appendix C were accurately prepared. A completeness review was performed by Cannabis Division staff and determined to be complete on June 29, 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).

Furthermore, in preparation for this staff report, an inspection was performed on March 22, 2024 by Environmental Compliance staff to verify the necessity of a CCV. The proposed mature cultivation area, which is the closest cultivation related element on the site, was measured approximately 179-feet from the residence on APN 014-440-052-000 (Attachment 2).

Project Consistency with the General Plan and Community Plan

The property is within a Rural Residential (RR) land use designation. The General Plan describes these areas as the following:

“Rural Residential intends to describe location of rural type residential development. Minimal county services would be provided and, in general, are not desirable in this area. Densities are designed to ensure the long-term opportunity for individual water and sewer systems. High density will be on dwelling unit per acre or larger as determined the county sanitarian and the Regional Water Quality Control Board to allow the use of both individual water and sewer systems on the same parcel. Low density will be on dwelling unit per ten acres. This is to allow limited residential development in outlying areas of the county where minimal impacts are desirable and the overall character of the landscape as well as potential for open space, recreation, or resource production is to be preserved. Special attention should be directed toward the protection of sensitive environmental resources such as water quality, unstable slopes, critical wildlife habitat, etc. This designation should not be construed as discouraging resource production activities, such as logging or grazing. This description should also provide for small home businesses, for small-scale agriculture, and for small industrial operations, subject to controls to prevent nuisances (County, Trinity County General Plan, Land Use Element, 1988) (County, Douglas City Community Plan, 1987).”

Given that the Rural Residential land use designation is intended for parcels that would allow for resource production and small-scale agriculture, subject to controls to prevent nuisance, this proposed commercial cannabis license project, with applicable mitigation measures, is an appropriate activity for the rural residential land use designation per the Trinity County General Plan.

Project Consistency with the California Environmental Quality Act (CEQA)

An Appendix C document was first submitted to the Cannabis Division for CCL 753 on October 22, 2022. multiple incomplete letters were sent to the applicant and their agent, followed by resubmittal of the Appendix C documents.

On May 16, 2023 the Board of Supervisors approved and adopted Resolution No. 2023-071 Commercial Cannabis Variance (CCV) renewal process. Variance Appendix C Policy Memo “Background and Guidance for the Implementation of Resolution No. 2023-071” was posted on the County website on May 26, 2023 to help facilitate applicants. As a result of the resolution, additional evaluation to Aesthetics, Air Quality, and Noise resource categories would be scoped into the applicant’s environmental document to offset any potential negative impacts to neighboring receptors. On January 18, 2024 County received an Appendix C resubmission that incorporated additional mitigation measures within their Appendix C. Environmental Review preformed identified a minor discrepancy within the document that was later addressed by County staff edits on March 12, 2024. County environmental compliance staff, has 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 Environmental Consultants HELIX’s review of the Appendix C, County environmental compliance staff recommends this license for approval.

The proposed project is seeking a small mixed-light license with a residential setback reduction. A neighboring receptor was identified approximately 179-feet north of cultivation activities.

Cannabis cultivation activities will occur in two (2) 30' by 80' greenhouses, two (2) 30' by 96' greenhouses, and a 30' by 82' greenhouse for mature canopy, and a 30' by 30' proposed immature area. Supporting infrastructure include a 12' by 12' proposed compost for cannabis waste, a 8' by 40' shipping container for harvest storage and processing, and a proposed 10' by 12' proposed agricultural chemical storage. No additional ground disturbance is proposed. The project proposes to use supplemental artificial lights; therefore, a Light Attenuation Plan was submitted. The project is connected to an electrical grid through Trinity PUD and will not utilize any back-up generators or fans; therefore, a Noise attenuation plan is not required. An Odor Control Plan was submitted to mitigate odor if they become a nuisance.

Trinity County Code Chapter 17.31 – Variances

Trinity County Code Section 17.31.010 states that, "A variance is a waiver or modification of some requirement contained in the zoning ordinance. The statutory justification for a variance is 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."

In considering a variance, the following guidelines shall be observed:

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: Due to the small size of the property (2.43 acres) the project cannot reconfigure outside of the required 350-foot residential setback (Attachment 2).

2. **Use Variance Prohibited.** The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance.

Finding: The granting of this variance does not create a "use variance" because commercial cultivation licenses are allowed in the RR Zoning District.

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

Finding: In preparation of this staff report, a form was mailed to all adjacent property owners on March 21, 2024 for neighbors to provide consent or opposition to the commercial cannabis variance (CCV) application request. Adjacent property owners within 300-feet of the subject property were also notified of this public hearing via mail 10-days prior to this hearing. As of the date of this staff report, no responses were received from adjacent neighbors nor from the general public.

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: As discussed in this staff report, the project is found to be consistent with the General Plan and there is no community plan for the Hayfork neighborhood of Trinity County.

5. **RD-1 Overlay Zone.** Prior to approval of a variance for property within the RD-1 overlay zone, permission must be granted or deemed not necessary by the Secretary of Agriculture.

Finding: The project parcel is not located within an RD-1 overlay.

STAFF RECOMMENDATION:

Planning staff recommends that the Planning Commission moves to:

- A. Adopt Resolution PC 2024-02 subject to Exhibit A – Conditions of Approval to reduce the 350-foot setback to approximately 179-foot from the residence on APN 014-440-052-000.

ALTERNATIVES:

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

1. In the event that more information or time is required prior to the Planning Commission making a final decision on CCV-2023-22, the Planning Commission could move to continue to a future certain meeting date.
2. The Planning Commission could deny the applicant's request for a CCV, with findings stated by the Planning Commission.

ATTACHMENTS:

1. Site Plan from Appendix C Environmental Document
2. Residential Setback Map
3. Location Map
4. Zoning Districts Map
5. General Plan Designations Map
6. Site Visit Photos
7. PC Resolution No. 2024-02

REFERENCES:

County, T. (1988). *Trinity County General Plan, Land Use Element*. Weaverville, CA: County of Trinity.

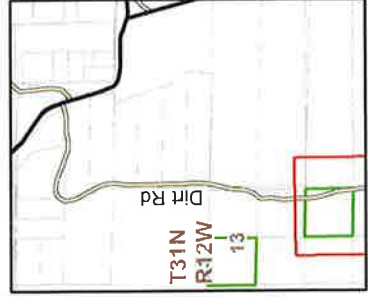
Firm Garden LLC; Chee Moua; Trinity APN 014-440-44-00

Small Mixed Light

2024 Premises Diagram



- Legend**
- Compost
 - Premises Boundary
 - Structure Footprint
- Cultivation**
- Proposed Greenhouses
 - Immature Plant Area
 - Mature Canopy
 - Disturbance
- Streams**
- Intermittent Stream
- Roads**
- Rocked Surface
 - Highways
- Ownership**
- Property Boundaries
- PLSS Data**
- Sections
 - Township Range
- Vicinity Map**



Scale: 1:1,000
Date: 02/08/2024

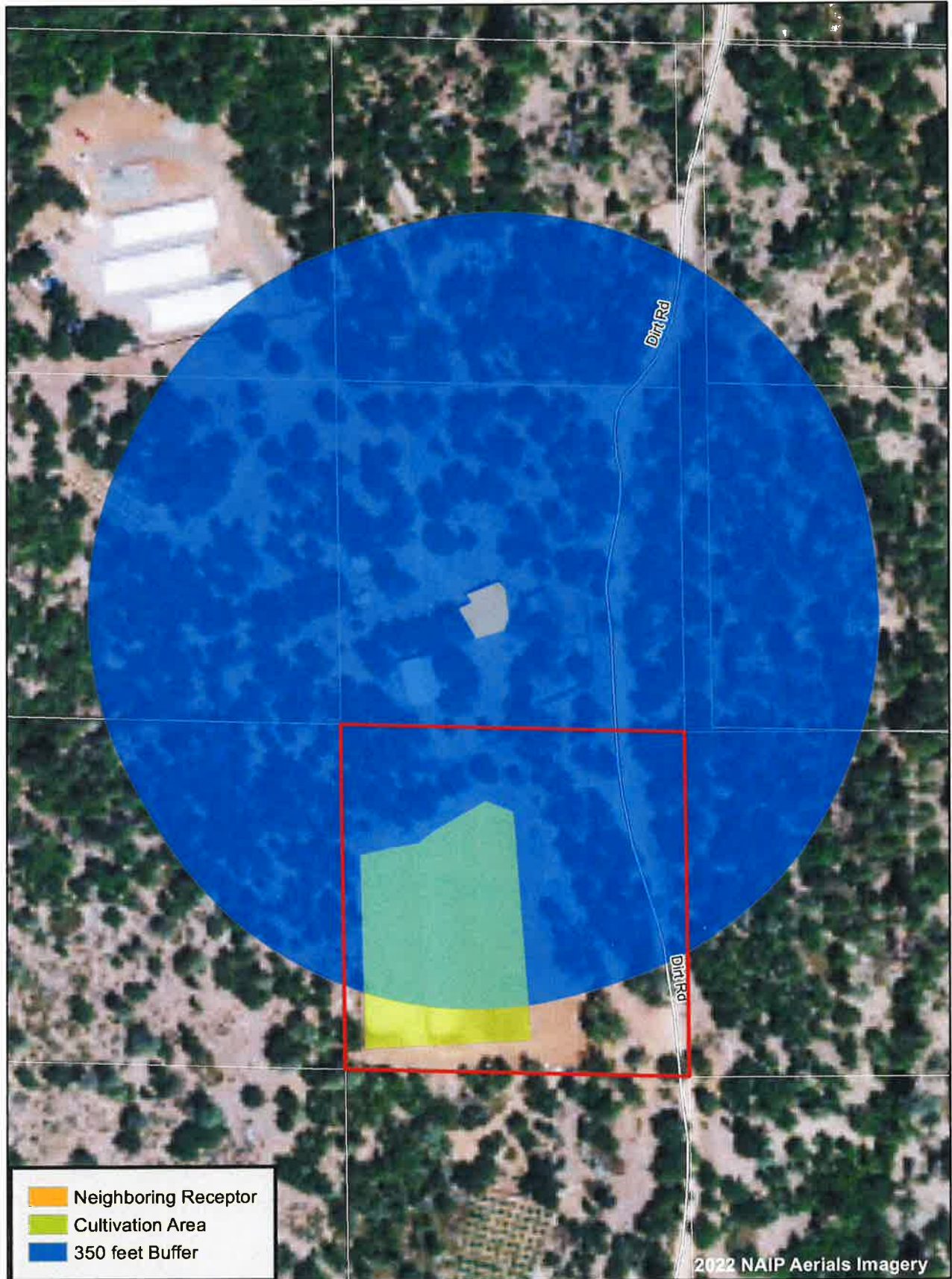




Commercial Cannabis Variance (CCV) CCV-2023-22 CCL-753

APN: 014-440-044

Attachment 2 - Residential Setback Map

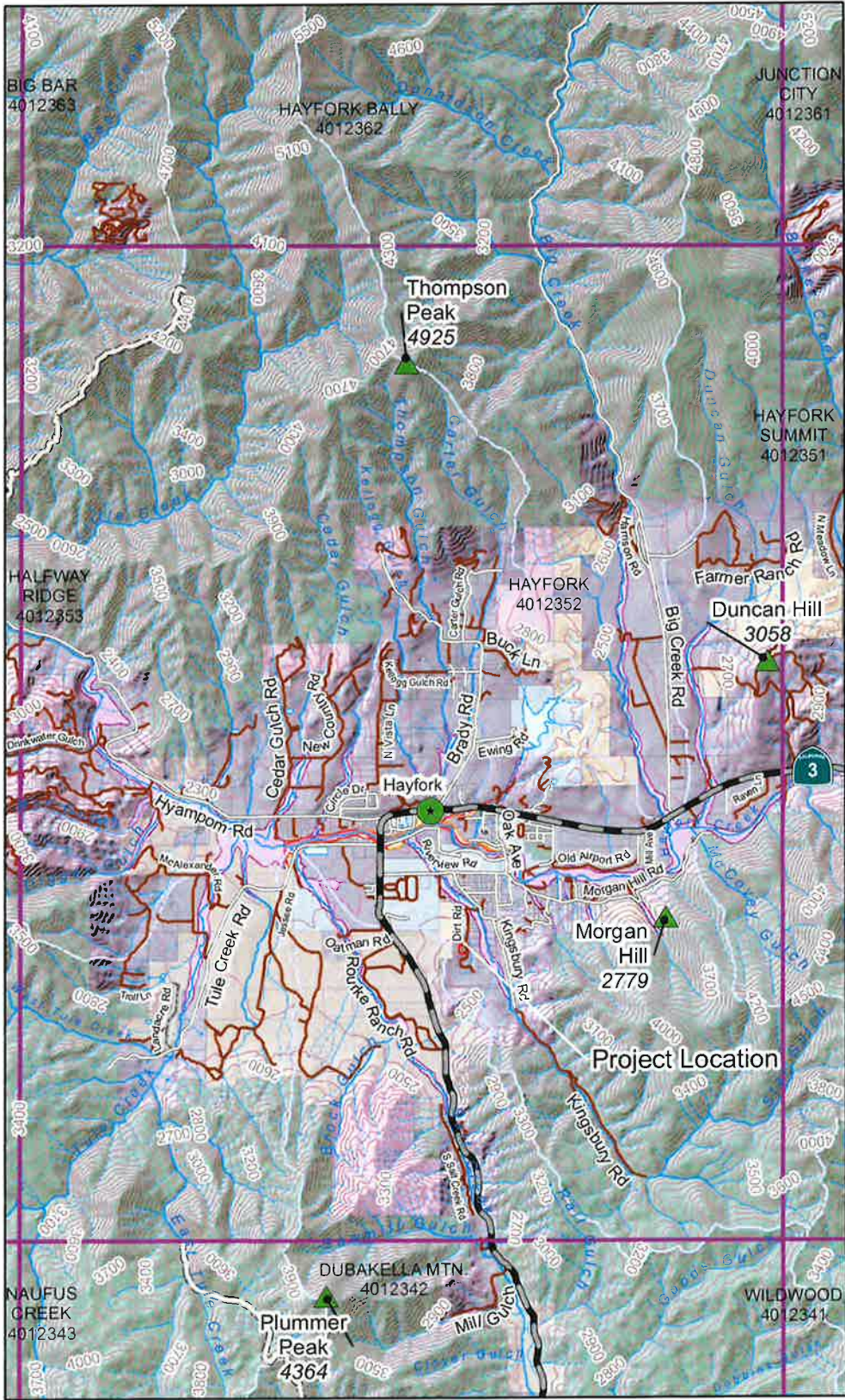


Date: 3/26/2024
Created by: A. Tavakoli

0 87.5 175 350 Feet



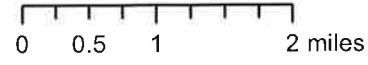
Hayfork Quad; Chee Moua; 014-440-44-00



- Legend**
- Communities
 - canopy
 - Quad Boundaries
 - Mountain Peaks
 - Trails
 - Parcel of Interest
 - Hydrography**
 - Perennial
 - Intermittent
 - Ephemeral
 - Lakes
 - Floodway (Zone AE)
 - 100 Year Floodplain - BFEs (Zone AE)
 - 100 Year Floodplain - No BFEs (Zone A)
 - 500 Year Floodplain
 - Roads**
 - Highway
 - Paved
 - Rocked
 - Dirt
 - Jeep/Skid Trail



Down River Solutions
 Scale = 1 : 85,000
 Date: 3/28/2022

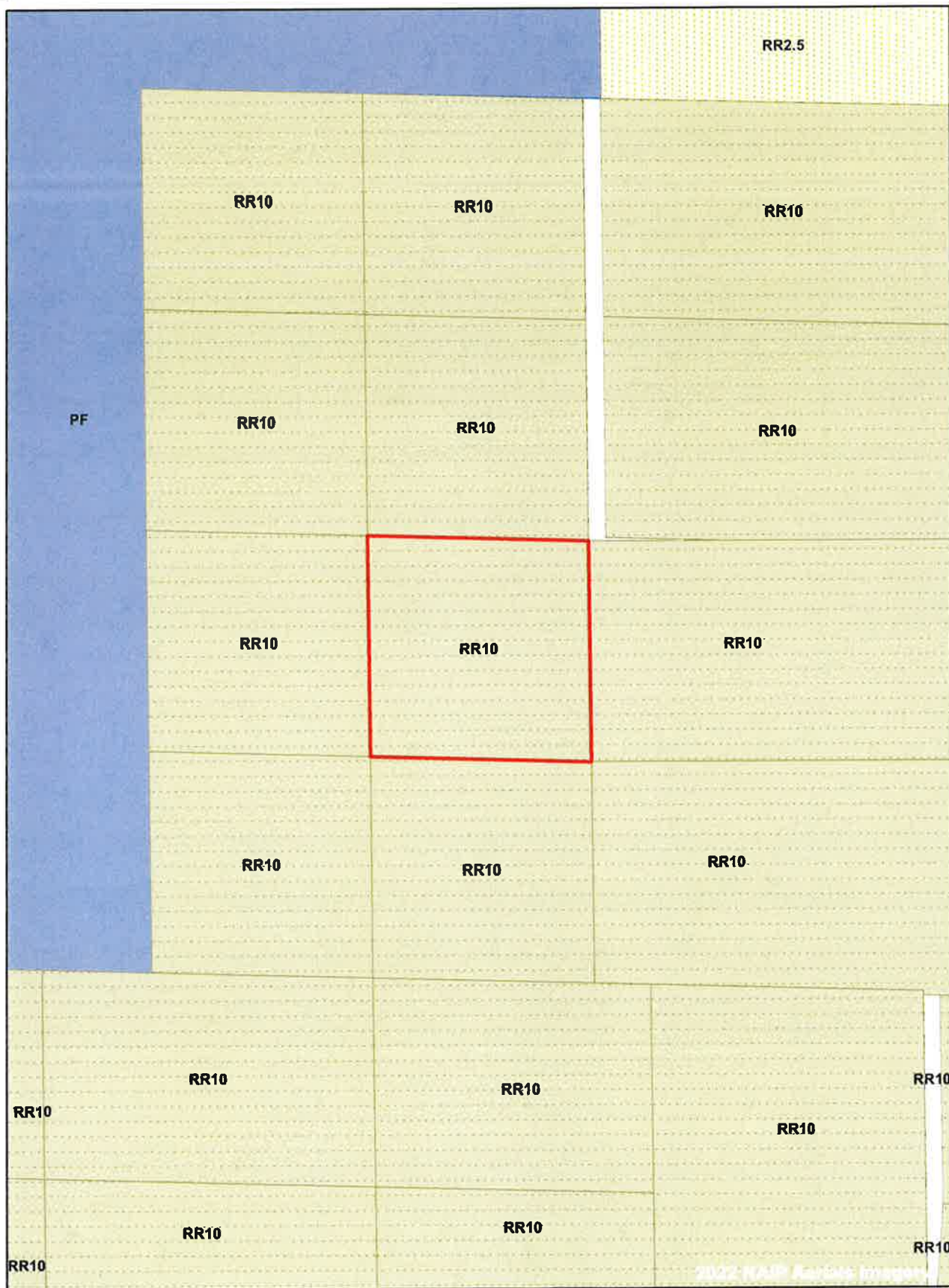




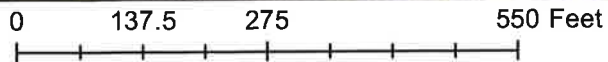
Commercial Cannabis Variance (CCV) CCV-2023-22 CCL-753

APN: 014-440-044

Attachment 4 - Zoning District Map



Date: 3/26/2024
Created by: A. Tavakoli

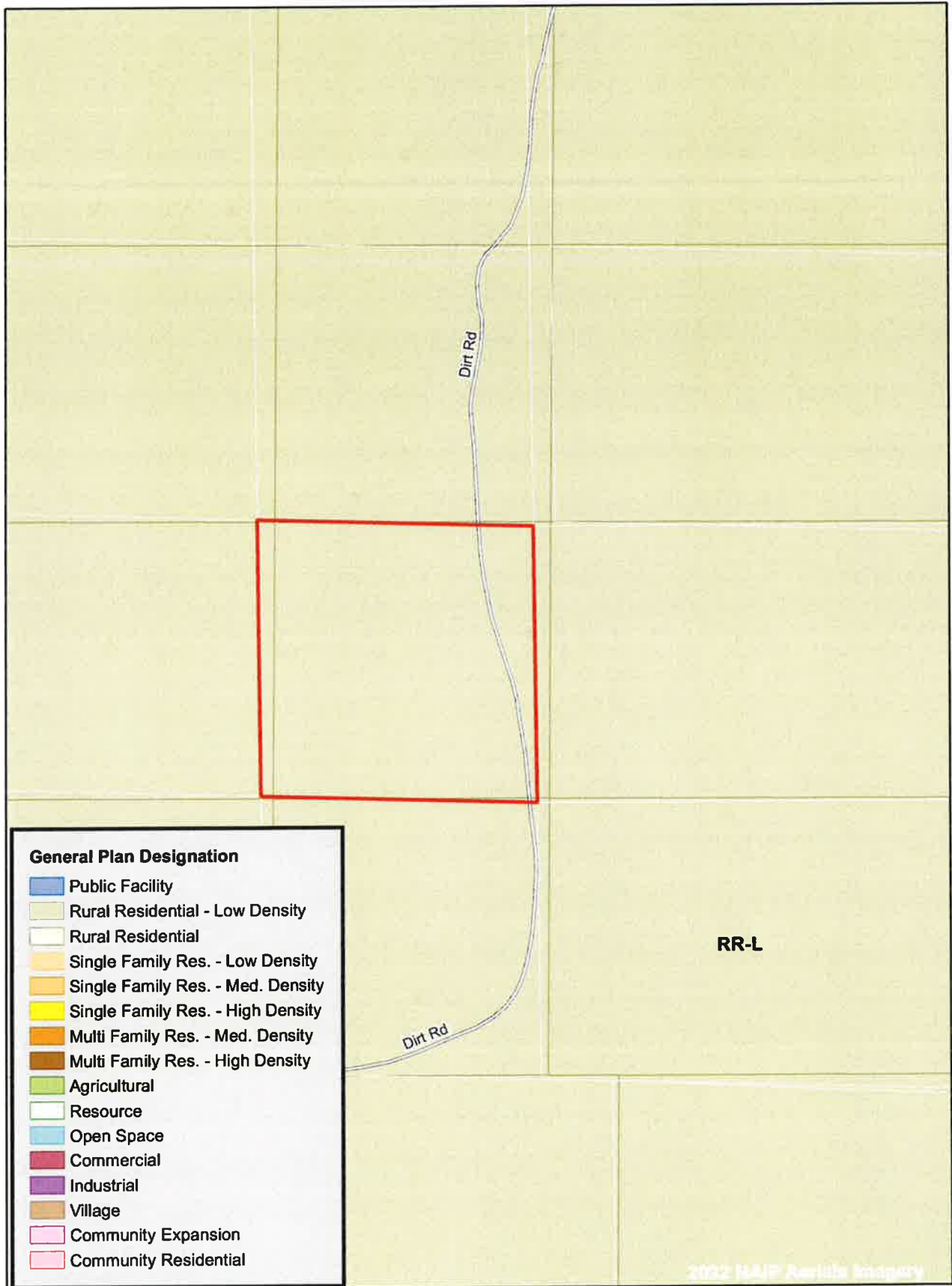




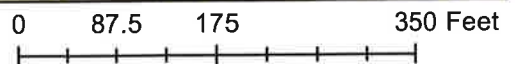
Commercial Cannabis Variance (CCV) CCV-2023-22 CCL-753

APN: 014-440-044

Attachment 5 - General Plan Designation



Date: 3/26/2024
Created by: A. Tavakoli



Attachment 6: Site Visit Photos

View of Residential Structure on
APN: 014-440-052-000
Approximately 179-feet.



Current Site Conditions

Attachment 7

RESOLUTION NO. PC-2024-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF TRINITY

Approving an Initial Commercial Cannabis Variance (Chee Moua (CCV-2023-22))

WHEREAS, the Trinity County Planning Department has considered a request for an initial commercial cannabis variance, filed by Chee Moua, 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 April 11, 2024.

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

1. The 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; 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
3. Approves CCV-2023-22 to reduce the 350-foot setback requirement from the residences on APN 014-440-052-000 to the conditions set forth in Exhibit A of this resolution and incorporated herein.

DULY PASSED AND ADOPTED this Thursday, April 11, 2024 by the Planning Commission of the County of Trinity by the following vote:

Resolution No. PC-2024-02
April 11, 2024

AYES:
NAYS:
ABSENT:
ABSTAIN:
RECUSE:

Todd Heaton, CHAIR Planning Commission
County of Trinity
State of California

ATTEST:

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

DRAFT

EXHIBIT "A" to RESOLUTION NO. PC-2024-02
COMMERCIAL CANNABIS VARIANCE CONDITIONS OF APPROVAL

(Chee Moua, Commercial Cannabis Variance (CCV-2023-22))

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:

1. Be submitted by the applicant or designated agent/consultant prior to expiration of the variance and preferably no later than 60 days in advance;
2. Be subject to a filing fee as specified by resolution of the Board of Supervisors;
3. 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.