

<p><b>TRINITY COUNTY PLANNING COMMISSION</b></p> <p><b>STAFF REPORT</b></p>
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**PROJECT TITLE:** Variance for Commercial Cannabis Cultivation within 1000’ setback of Hayfork Seventh Day Adventist Church

**APPLICANT:** Brian Sullivan

**PROPERTY OWNER:** Brian Sullivan

**REPORT BY:** Mitchell Wexler, Assistant Planner

**LOCATION:** 136 North Oak Avenue, Hayfork

**ZONING DISTRICT:** Rural Residential 2.5 Acre Minimum

**GENERAL PLAN DESIGNATION:** Rural Residential (RR)

**PROJECT DESCRIPTION:** Trinity County Municipal Code section 17.43.050 provides limitation on the location of cannabis cultivation activities. One of them is a setback requirement which requires a 1000’ setback from the following: youth-oriented facilities, a school, any church, or residential treatment facility. The project proposes a variance from this requirement to allow a cannabis cultivation site approximately 885’ away from the Hayfork Seventh Day Adventists’ Church.

Location	Land Use	Zoning District	General Plan Designation
North	Residential single family	Rural Residential 2.5 Acre Min (RR2.5)	Rural Residential
South	Residential single family	Rural Residential 2.5 Acre Min (RR2.5)	Rural Residential
East	Vacant	Rural Residential 2.5 Acre Min (RR2.5)	Rural Residential
West	Residential single family	Rural Residential 2.5 Acre Min (RR2.5)	Rural Residential

Table 1: Surrounding Land Uses to Project Site

**BACKGROUND INFORMATION:**

This project is located at 136 North Oak Avenue in Hayfork. The parcel is 3.77 acres in size. In 2016 and 2017, this property had CCLs issued for the cultivation of cannabis, which were allowed to lapse. The site map from that CCL indicates the location for cultivation that was used at that time. In 2020, the applicant applied for two building permits: a storage container and greenhouses. Their dates of submittal are February 24<sup>th</sup> and February 27<sup>th</sup> respectively. They have since both been finalized.

Due to the location of the prior cultivation activity, the applicant is applying for a new license to allow cultivation in the same location, which is within 1,000 feet of the Hayfork Seventh Day Adventist Church. For this reason, the applicant is requesting a variance to allow for an 885-foot setback from church.

**PROJECT EVALUATION/DISCUSSION:*****Trinity County Zoning Code***

Trinity County Code 17.31.010 provides the guidelines that must be met for a variance to be approved. These guidelines are listed below along with information related to each finding.

A. 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.

Discussion: This was a previously licensed cannabis cultivation site that was recently determined to be within the 1000' setback from the church.

B. 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.

Discussion: This variance is for a setback requirement, not a use.

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

Discussion: Notices regarding the variance have been sent to the adjacent properties. The only response came from the Seventh Day Adventist Church. The comments from the church indicate they support the variance.

D. 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.

Discussion: The Zoning Code allows applicants to apply for variances from the developments standards in the code including the setback requirements in the cannabis regulations. If the findings for the issuance of variance can be made, the project would not be in conflict with the general or specific plans of the county.

E. 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.

Discussion: The site is not in an RD-1 overlay zone.

### ***Trinity County General Plan***

The General Plan lists the intention of Rural Residential as the following:

“Rural Residential intends to describe locations of rural type residential development. Minimal county services would be provided and, in general, are not desirable in this area. Minimal county services would be provided and, in general, are not desirable in this area.”

With regards to agriculture, the following is mentioned:

“This description should also provide for small home businesses, for small-scale agriculture, and for small industrial operations, subject to controls to prevent nuisances.”

In accordance with the latter section, notices have been sent out, and no comments against the proposed variance have been received.

The County Cannabis regulations allow cannabis cultivation on properties that are designated and zoned rural residential. As such, the project is found to be consistent with the General Plan.

### ***California Environmental Quality Act (CEQA)***

The project is found to be exempt per CEQA guidelines § 15305. This exemption states, “Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to: (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.” Based on the criteria for use

of the exemption, the proposed setback variance qualifies for a Class 5 exemption from CEQA.

**STAFF RECOMMENDATION:**

Planning staff is not providing a recommendation regarding this variance. The Planning Commission is encouraged to review the information in the record to determine if the findings for approval of a variance can be made. Attached is Resolution No. PC-2023-06 that provides the framework for making the findings for approval of the variance, if that is what the Commission determines is the appropriate action.

**ATTACHMENTS:**

- A. Draft Resolution PC-2023-06
- B. Comment Letter from Hayfork Seventh Day Adventist Church
- C. Site Map
- D. Setback Map
- E. Aerial Map
- F. Location Map
- G. Zoning Districts Map
- H. General Plan Map

**RESOLUTION NO. 2023-06**  
**A RESOLUTION OF THE PLANNING COMMISSION**  
**OF THE COUNTY OF TRINITY**  
**APPROVING VARIANCE**  
(Brian Sullivan, VAR-23-03)

**WHEREAS**, Brian Sullivan, filed an application dated March 9<sup>th</sup>, 2023 for a Variance (VAR-23-03). The variance is to reduce the setback for cultivation activity from 1,000 feet to 885 feet from APN 014-171-040 to the south. The project is located at 136 N Oak Ave, Hayfork 96041 (APN 014-330-060); and

**WHEREAS**, County of Trinity staff has reviewed the submitted application and evidence and has referred the application and evidence to all governmental and utility agencies affected by the development to allow the opportunity for conducting site inspections and providing comments and recommendations; and

**WHEREAS**, after due notice of public hearing in accordance with applicable laws, the matter came on for hearing before the Planning Commission of the County of Trinity on June 8<sup>th</sup>, 2023; and

**WHEREAS**, at said public hearing, due consideration was given to all oral and written comments regarding the request for approval of the Variance, and the Planning Commission concluded that the Variance should be granted subject to certain conditions hereinafter set forth;

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the County of Trinity makes the following findings:

1. Pursuant to the State CEQA Guidelines, the Planning Commission of the County of Trinity makes the following environmental findings:
  - A. The Planning Commission of the County of Trinity finds that the project is categorically exempt pursuant to CEQA § 15305 exempting variances in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:
    - a. Minor lot line adjustments, side yard, and set back variances not resulting in the creation of a new parcel;
    - b. Issuance of minor encroachment permits;
    - c. Reversion to acreage in accordance with the Subdivision Map Act
2. Pursuant to Chapter 17.31 (Variances) of the County Code of Ordinances, the Planning Commission of the County of Trinity makes the following findings for the Variance: Trinity County Code 17.31.010 provides the guidelines that must be met for a variance to proceed. These guidelines are as follows:
  - A. 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.

This was a previously licensed cannabis cultivation site that was recently determined to be within the 1000' setback from the church.

B. 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.

This variance is for a setback requirement, not a use.

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

Notices regarding the variance have been sent to the adjacent properties. The only response came from the Seventh Day Adventist Church. The comments from the church indicate they support the variance.

D. 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.

The Zoning Code allows applicants to apply for variances from the developments standards in the code including the setback requirements in the cannabis regulations. If the findings for the issuance of variance can be made, the project would not be in conflict with the general or specific plans of the county.

E. 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.

The site is not in an RD-1 overlay zone.

4. The Planning Commission of the County of Trinity hereby approves the Variance (VAR-23-03) for Brian Sullivan.

**DULY PASSED AND ADOPTED** this 8th day of June 2023 by the Planning Commission of the County of Trinity by motion of Commissioner Heaton, seconded by Commissioner Barrett, and the following vote:

AYES: Heaton, Barrett, Fall, McIntosh, Sharp  
NAYS:  
ABSENT:  
ABSTAIN:  
RECUSE:

Resolution No. 2023-06  
June 8, 2023

*Amended*

\_\_\_\_\_  
CAROL FALL, CHAIRMAN  
Planning Commission  
County of Trinity  
State of California

ATTEST:

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

# Attach B

## Mitchell Wexler

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**From:** Bob Parrish <bob.parrish@hotmail.com>  
**Sent:** Tuesday, May 30, 2023 9:58 AM  
**To:** Mitchell Wexler  
**Subject:** Sullivan cannabis project

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

The Hayfork Seventh-Day Adventist Church does not oppose the Sullivan grow project.

Bob Parrish, Pastor

Sent from my iPhone



Attach C

Project Description

Figure 4: Project Diagram



Parcel Boundary  
 Premises Boundary  
 APN: 014-330-60-00  
 Remaining Portion of Parcel is Unused

Immature Canopy	Mature Canopy
10'x12' -120(3)	360 Sq. ft
	10'x12' -120(3)
	10'x12' -120(3)

- Proposed 30'x40' Shop
- 1'x1'x20' Bud. Measure
- 3'x3'x20' Bud. Measure
- 4'x1'x20' Bud. Measure
- 5'x1'x20' Bud. Measure
- 6'x1'x20' Bud. Measure
- 7'x1'x20' Bud. Measure
- 8'x1'x20' Bud. Measure
- 9'x1'x20' Bud. Measure
- 10'x1'x20' Bud. Measure
- 11'x1'x20' Bud. Measure
- 12'x1'x20' Bud. Measure
- 13'x1'x20' Bud. Measure
- 14'x1'x20' Bud. Measure
- 15'x1'x20' Bud. Measure
- 16'x1'x20' Bud. Measure
- 17'x1'x20' Bud. Measure

Mature Canopy Calculations Account for 1' of Overhang on Each Side

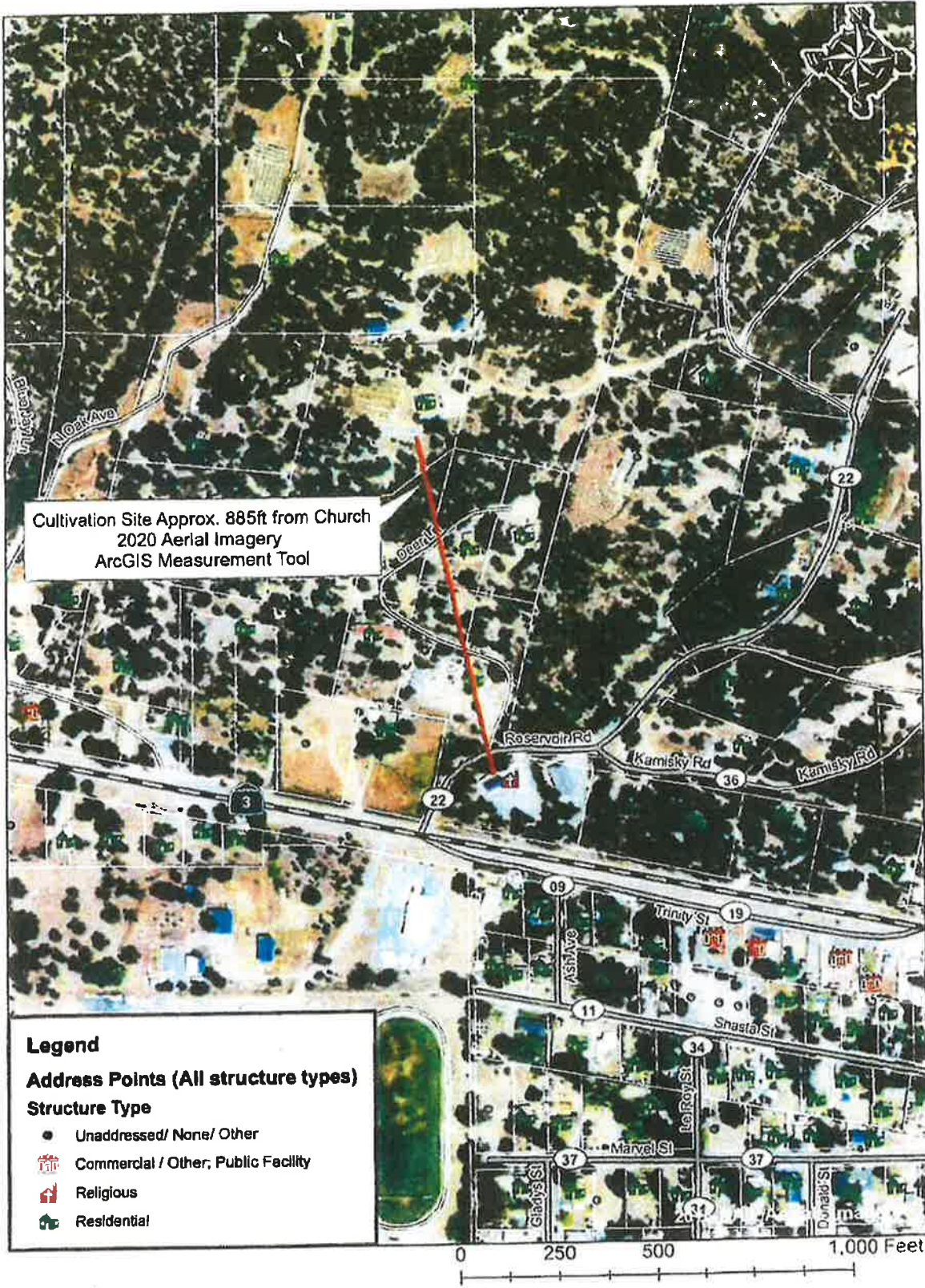
Packaging Occurs Off Site





Attachment D

# Church Setback Map





# Aerial Map



Attach  
E



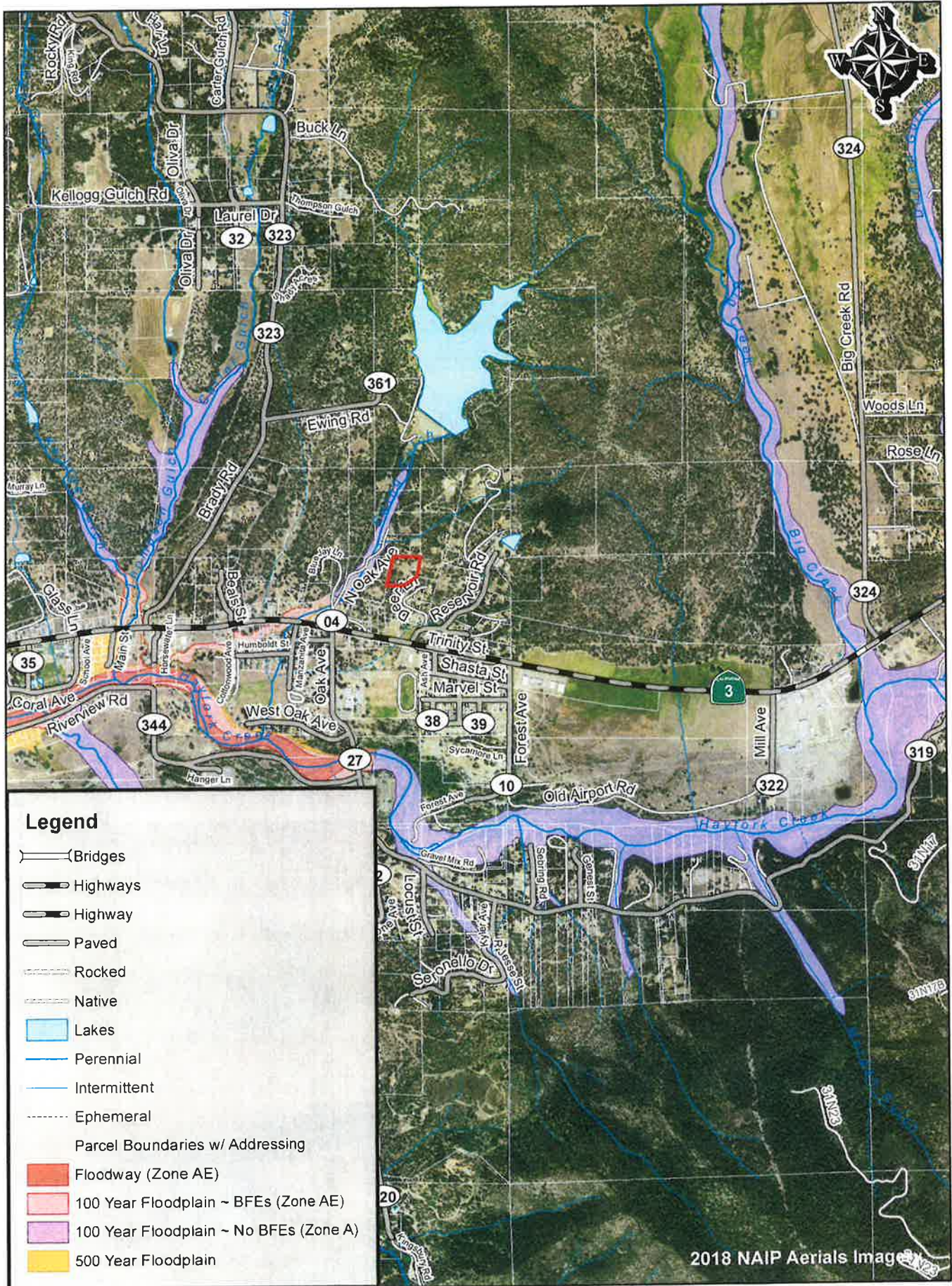
## Legend

- Native
- Parcel Boundaries w/ Addressing

0 60 120 240 Feet



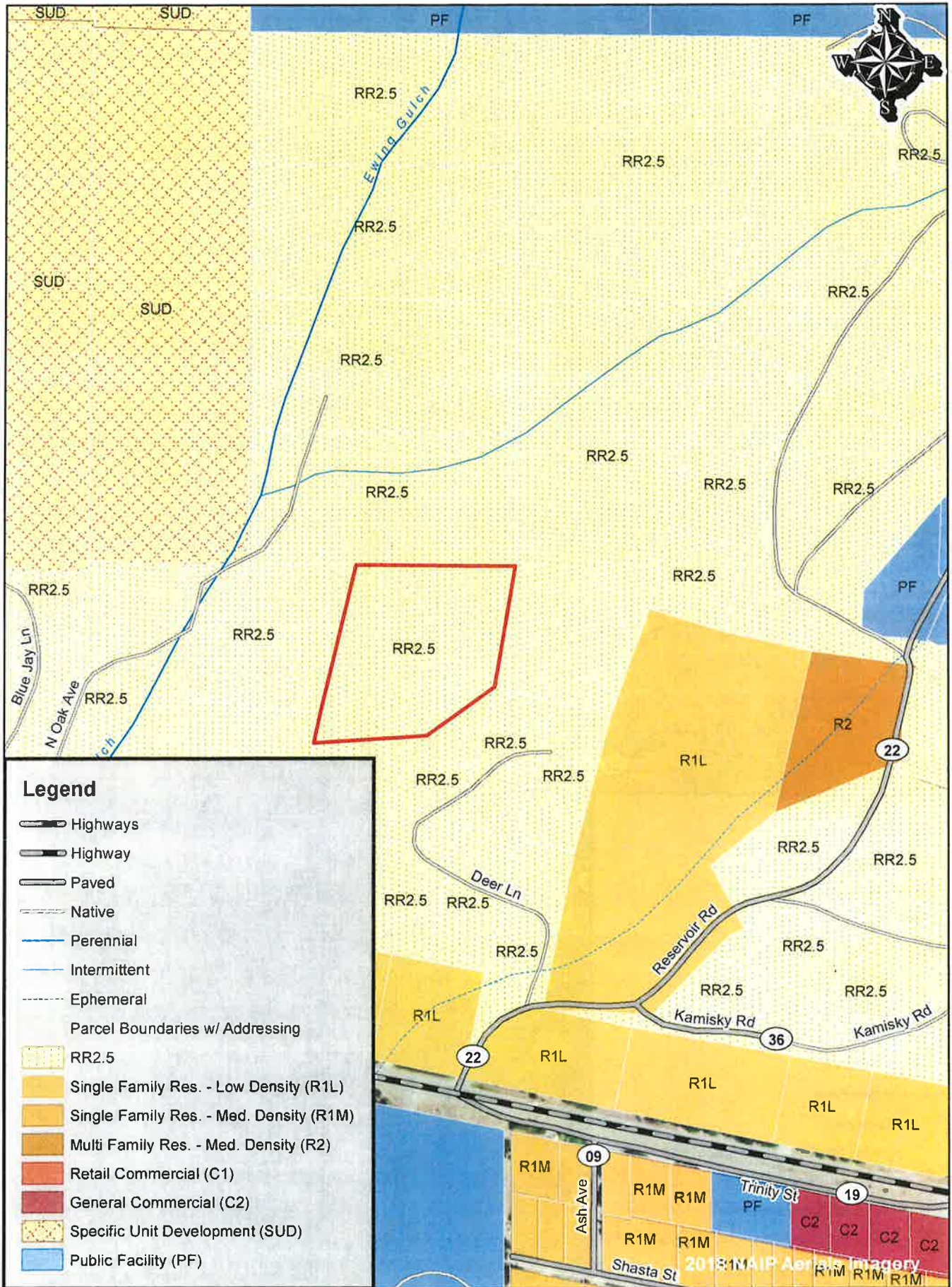
# Location Map





Attach G

# Zoning Districts Map



0 150 300 600 Feet

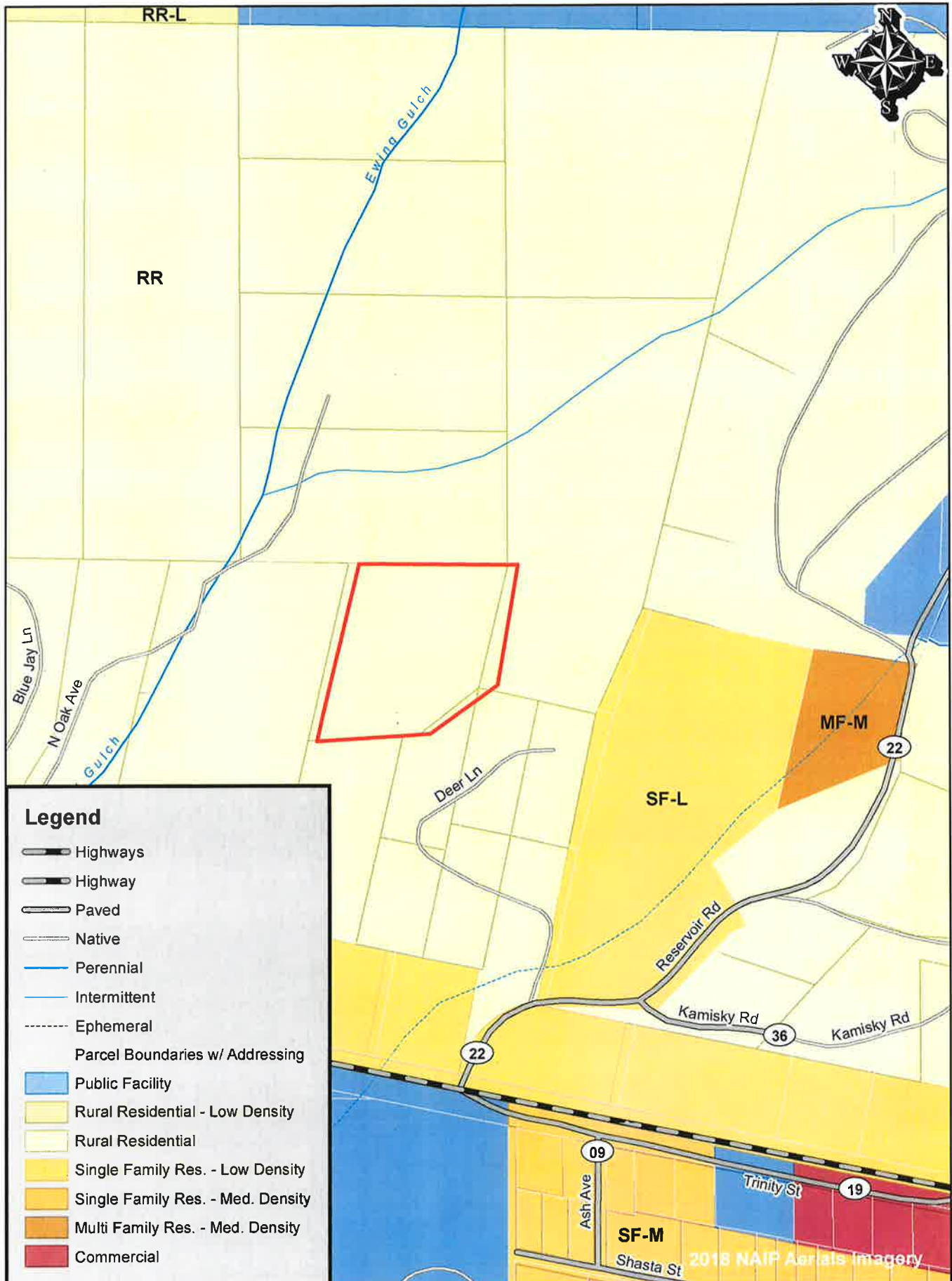
2018 MAIP Aerial Imagery



# General Plan Designations Map



Attach  
H



0 150 300 600 Feet