

**TRINITY COUNTY PLANNING COMMISSION
STAFF REPORT**

PROJECT TITLE: Trinity County Use Permit Type 3 Cannabis Cultivation and Variance
Vital Green Future, LLC (Kahan)

APPLICANT: Patrick Kahan (Vital Green Future, LLC)

PROPERTY OWNER: Vital Green Future, LLC

REPORT BY: Associate Planner Skylar Fisher and SHN

LOCATION: 5200 Southfork Road, Salyer, CA 95563 (APN 008-080-032)

GENERAL PLAN DESIGNATION: Resource (RE)

ZONING DISTRICT: Timber Production Zone (TPZ)

SITE CHARACTERISTICS:

The project is proposed on a 143.6-acre site located in the unincorporated community of Salyer, in Trinity County (see Att. 3 - Location Map). The physical address of the site is 5200 Southfork Road, Salyer, CA 95563 and the APN is 008-080-032. The project site is accessed via South Fork Road via State Route 299 (SR-299) (see Att. 3 - Location Map and Att. 4 - Project Aerial). The parcel has a General Plan designation of Resource (RE) and a zoning designation of Timber Production Zone (TPZ) (see Att. 5 – Zoning District Map and Att. 6 – General Plan Designation Map).

The project site is currently developed with a single-family residence, a septic system, a groundwater well, two surface water diversion points, a water storage pond, six plastic water storage tanks, and cannabis cultivation activities (Type 2: Mixed-light-Small). The existing cannabis cultivation includes 10,000 square feet of “outdoor” flowering canopy grown in greenhouses and outdoors, and 1,500 square feet of immature plant area. The existing cultivation activity does not require artificial lighting or additional electricity use. It occurs with the use of blackout tarps (light deprivation) to allow the applicant to have multiple harvests during the growing season. The site also has a compost area, a shed for pesticide and agricultural chemical storage, several parking/equipment storage areas, and a shipping container used as a harvest storage area, administrative hold area, and processing area.

The project site is situated on lands that have been previously disturbed by timber harvest and are currently used for a single-family residence and cannabis production. The project is located on private property surrounded by minimal development. The forested habitat on the property is classified as Pacific Douglas Fir forest and the open cultivation site consists of annual and perennial grasslands. There are two waterways located on the property; Class II and Class III tributaries to the South Fork Trinity River.

Surrounding land is undeveloped and vacant with land use designations of Resource (RE) and zoning designations of either Unclassified (U) or Timber Production Zone (TPZ). The nearest residence is a minimum of 800 feet away from the proposed cultivation areas and 215 feet from the property line (see Att. 4 – Project Aerial). The applicant is applying for a Use Permit and Variance concurrently. The size, general plan designation, and zoning for the properties immediately adjacent to the project site are listed below in Table 1 (see Att. 5 – Zoning Map and Att. 6 – General Plan Designation Map).

Table 1: General Information about Adjacent Parcels

APN	Size (acres)	General Plan Designation	Zoning District
008-080-028 (North)	495.08	(RE) Resource	Unclassified (UNC)
008-110-062 (Northeast)	630.67	(RE) Resource	Unclassified (UNC)
008-090-025 (East)	451.16	(RE) Resource	Unclassified (UNC)
008-080-033 (South)	143.60	(RE) Resource	Timber Production Zone (TPZ)
008-080-007 (Southwest)	9	(RE) Resource	Unclassified (UNC)
008-080-025 (West)	32.23	(RE) Resource	Unclassified (UNC)
008-680-024 (Northwest)	204.65	(RE) resource	Unclassified (UNC)

PROJECT DESCRIPTION:

The purpose of this project is to expand upon existing commercial cannabis activities, the total of which includes the following:

1. Expand existing onsite activities through the addition of outdoor cultivation in multiple locations bringing total flowering canopy cultivation area to 43,560 square feet;
2. Addition of a 1,500-square foot barn (30 by 50 foot for general storage, non-cultivation use)

3. Addition of a 1,200-square foot shop (30-foot by 40-foot to be used for processing and immature plant area);
4. Addition of a 320-square foot shipping container (8-foot by 40-foot to be used for processing, harvest storage, and administrative hold area);
5. Addition of a 320-square foot shipping container (8-foot by 40-foot to be used for immature plant area);
6. Addition of a solar array;
7. Addition of a 1,000,000 gallon water storage pond;
8. Addition of eight (8) 5,000-gallon plastic water storage tanks;

The project proponent is applying for a Type 3 Cannabis Cultivation license, which requires a Conditional Use Permit per the County Cannabis Ordinance. The applicant is concurrently applying for a Variance from the 500-foot property line setback required by the County Cannabis Ordinance from Trinity County Code Section 17.43.050.A.8. to reduce the property line setback for the cultivation areas from 500 ft to between 165 to 171 feet. The nearest sensitive receptor is a residence on an adjacent parcel, which occurs over 800 feet from the proposed cultivation areas.

Project Components

The components of the proposed project are described below:

1. Cultivation: APN 008-080-032 is currently licensed and cultivating approximately 10,000 square feet of commercial cannabis, and 1,500 square feet of immature cultivation area. The current cultivation area is located on the west end of the property (see Att. 4 – Project Aerial and Att. 7 – Project Site Plan). The applicant proposes expanding the existing cultivation to the 43,560 square feet permitted under a Type 3 “Medium Outdoor” License.
2. Other improvements for cannabis activity: Additional structures and improvements that are proposed by the project include the following on APN 008-080-032 (see Att. 7 – Project Site Plan):
 - Expand existing onsite activities through the addition of outdoor cultivation in multiple locations bringing total flowering canopy cultivation area to 43,560 square feet;
 - Addition of 1,500-square foot barn (30 by 50 foot for general storage, non-cultivation use)
 - Addition of a 1,200-square foot shop (30-foot by 40-foot to be used for processing and immature plant area);
 - Addition of a 320-square foot shipping container (8-foot by 40-foot to be used for processing, harvest storage, and administrative hold area);
 - Addition of a 320-square foot shipping container (8-foot by 40-foot to be used for immature plant area);
 - Addition of a solar array;
 - Addition of a 1,000,000 gallon water storage pond;
 - Addition of eight (8) 5,000-gallon plastic water storage tanks;

Number of Employees

It is estimated that there would be 9 total employees for the project (some permanent and some seasonal). The applicant proposes to use the local labor force within the County, and employees will commute to the site daily.

Site Access

The subject property's vehicle access is provided by South Fork Road, an existing paved county-maintained road that runs through the property. South Fork Road is accessed from SR-299, north of the property near the community of Salyer. No new roadway encroachments or roadways are proposed for the project, as existing private roads currently provide the necessary access to the proposed project site.

Water Availability

The project is located in Trinity County, which is a part of the North Coast Air Basin (NCAB). The NCAB extends for 250 miles from Sonoma County in the south to the Oregon border. The climate of NCAB is influenced by two major topographic units: the Klamath Mountains and the Coast Range provinces. The climate is moderate with the predominant weather factor being moist air masses from the ocean. Average annual rainfall in the area is approximately 50 to 60 inches with the majority falling between October and April. At full buildout, the proposed project is estimated to use 693,200 gallons of water per year. This includes approximately 650,000 gallons for cannabis cultivation and approximately 43,200 gallons for domestic use. Water for the proposed project will be obtained from an existing 85-foot-deep groundwater well, two surface water gravity diversion points from an unnamed Class II tributary to the South Fork Trinity River, and rainwater capture (in the existing and proposed storage ponds). Water storage will include an existing 16,500 gallons of hard tank storage, a 275,000 gallons existing pond, 40,000 gallons of proposed plastic tank storage, and a proposed 1,000,000- gallon pond. The total water storage capacity including proposed storage totals 1,331,500 gallons.

A Lake and Streambed Alteration Agreement (LSAA; Notification No. 1600-2016-0019-R1) was obtained for the surface water diversions from California Fish and Wildlife (CDFW) in 2016, and an application for renewal of the LSAA has been submitted to CDFW for ongoing operation of the diversions (pending; EPIMS-TRI-22558-R1I). The 2016 LSAA specifies several avoidance and minimization measures for the water diversions to protect fish and wildlife resources, which are anticipated to also be included in the LSAA renewal. These include but are not limited to 1) the stream diversion rate from both points of diversion combined shall not exceed 6 GPM (cumulatively); and 2) the diversion of surface water is limited to no more than 200 gallons per day. As required by the State Water Resources Cannabis General Order, the withdrawal of water from the surface water diversions is subject to a forbearance period from April 1st to October 31st.

Tree Maintenance

The County General Plan, Conservation Element, discusses the need for the protection and conservation of natural resources including biological resources within the county. While the plan outlines various goals and objectives, there has been no policy

developed related to specific biological resources or tree preservation or management that would specifically apply to the project and the lands where the project is located. The project does not propose to remove any trees or otherwise impact tree vegetation, as there are no trees within the project footprint that would be impacted.

STAFF/AGENCY COMMENTS:

Project referrals were sent out to the various County departments and applicable government agencies on 6/15/22. A summary of the comments received are contained in Table 2 below.

Table 2: Summary of Staff/Agency Comments

Department/Agency	Comment	Comments Addressed?
County Assessor's Office	Current owner of record is: VITAL GREEN FUTURE LLC	NA
County Department of Transportation (DOT)	No comments received.	NA
County Building Department	Any proposed structures will require a building permit before they are constructed.	Comment addressed in conditions
County Environmental Health Department	A Cannabis waste plan shall be submitted and approved by Trinity County Environmental Health prior to beginning of operations. (This has been submitted to EH - however, this does not address, contaminants spotted by EH inspector, which included but not limited to plastic netting, tarps, and other miscellaneous plastics) Wastewater discharge plan shall be submitted and approved by Trinity County Environmental Health (sediment discharge, wastewater from cultivation, chemical storage, and handwashing/chemical sink have not met specifications of site management plan to date, this plan was created in March 2020 by Pacific Watershed Associates). Used soil, shall be discarded every cultivation season, or reused, without discharging onto property or near watercourses.	Comments addressed in conditions
CALFIRE	No comment	NA
Salier Volunteer Fire Department	Applicant shall comply with Public Resource Code 4290, including that the roads are in compliance as to road width, turnout placement, road grade,	Comments addressed in conditions

Department/Agency	Comment	Comments Addressed?
	and road surfacing for fire suppression access. Water tanks should have outlets for fire engine hookups. If locks are installed on gates – make sure the fire department has access to keys and/or combinations.	
NCRWQCB	No comments received.	NA
NCUAQMD	No comments received.	NA
Cannabis Division	The applicant for P-19-21 has passed their annual site inspection, with two outstanding compliance actions (two shipping containers). Cannabis Division can handle those compliance issues through the license process. The five permitted greenhouses the applicant intends to use with his Medium 1-Acre Outdoor license type are hooked up with electrical.	Comments addressed in the conditions
PG&E	No comments received.	NA
Nor-Rel-Muk Nation	A request for consultation pursuant to AB 52 was initiated on 2/18/20. No response was received.	NA
Redding Rancheria	A request for consultation pursuant to AB 52 was initiated on 2/18/20. No response was received.	NA
Wintu Tribe	A request for consultation pursuant to AB 52 was initiated on 2/18/20. No response was received.	NA
Native American Heritage Commission	A request for consultation pursuant to AB 52 was initiated on 2/18/20. No response was received.	NA

As indicated in Table 2, the department/agency comments received for the project were addressed through conditions of approval, mitigation measures, or clarification of existing policies and programs required by the Trinity County Cannabis Program and its EIR.

PUBLIC COMMENTS RECEIVED:

As of the writing of this staff report, public comments were received from California Department of Fish and Wildlife (CDFW) and Department of Cannabis Control (DCC) on the CEQA Initial Study/Mitigation Negative Declaration (IS/MND) that was prepared for the project. A summary of the comments and responses from County staff are included below.

California Department of Fish and Wildlife (CDFW): Regional Manager Tina Bartlett

of the CDFW Northern Region wrote a comment letter to the County (dated 5/6/2022) with comments on the CEQA IS/MND that was prepared for the proposed project. The comments provided by CDFW and the responses from County staff are provided below:

1. Future Operations: The IS/MND states that the expansion of up to one-acre (43,560 square feet) of outdoor and /or mixed light canopy would not require artificial lighting or the use of additional electricity. While the current applicant may not intend to use artificial lights, nothing prevents future owners from using electricity to increase production in greenhouses under Type 2 (Mixed Light) licenses. In order to ensure that new significant impacts will not occur from implementation of the proposed Project when future licenses are granted under this Conditional Use Permit, the Department recommends that prior to the use of additional lights as applicable to the Project, a Light Attenuation Plan be submitted for review and approval. The details of a Light Attenuation Plan would indicate the timing of light use for cultivation including start and end time within a 24-hour period throughout the calendar year and describes how light shields will be engaged/disengaged. The Department further requests, that security lighting be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following: 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.

In the Impact Analysis related to Biological Resources, noise performance standards are provided specific to the use of generators. Greenhouse fans also increase ambient noises and are commonly used in mixed light cultivation practices. It is unclear how “performance standards” that are not already listed as mitigation requirements in the Trinity County Cannabis Ordinance will be enforced. The Department recommends that these measures are added as either mitigation measures and be applicable to all noise sources and not limited to the use of generators.

Response to Comment 1: The impact analysis in the IS/MND has been revised to explain that all lighting associated with the operation is required to comply with County Code Sections 17.43.060.L and 17.43.060.M (pgs. 13 and 26-27). Section 17.43.060.L requires that all lighting associated with the proposed project shall be downcast, shielded and/or screened to keep light from emanating offsite or into the sky. Section 17.43.060.M requires that “Those cultivations using artificial lighting for 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.” The lighting performance standards in the County Code are also consistent with CCR Section 8304(c) and 8304(g) regarding state licensing requirements for cannabis cultivation. The project proposes mixed-light cultivation that would occur with the use of blackout

tarps (light deprivation) to allow the applicant to have multiple harvests during the growing season. If the applicant modified their operations to switch to artificial lighting for mixed-light cultivation activities, they would be subject to the requirements of County Code Section 17.43.060.M. The EIR prepared for the County's Cannabis Program determined that implementation of the lighting performance standards in the Cannabis Program would result in less than significant impacts to special-status species on an individual and cumulative basis (pgs. 3.4-59 and 4-8). The lighting performance standards of the County Code have been included as a condition of approval for the project.

The NSO Habitat and Impact Assessment demonstrates auditory disturbance estimates based on USFWS standards. Auditory estimation results show that the nearest NSO critical habitat and nearest known NSO Activity Centers exceed the disturbance distance, which was incorporated into the IS/MND. The IS/MND addresses the existing noise performance standards for cannabis cultivation in the County Code, which includes noise level thresholds and time of day restrictions (pg. 26). The EIR prepared for the County's Cannabis Program determined that implementation of the noise performance standards in the Cannabis Program would result in less than significant impacts to special-status species on an individual and cumulative basis (pgs. 3.4-59 to 3.4-60 and 4-8). The noise performance standards of the County Code have been included as a condition of approval for the project.

2. Northern Spotted Owl (*Strix occidentalis caurina*) (NSO): The Biological Resources Assessment (BRA) prepared by Pacific Watershed Associates in October 2021 and NSO Habitat and Impact Assessment prepared by O'Brien Biological Consultants relies on the assumption that electrical power (if needed) will only be supplied by solar arrays on the central (site #2) cultivation location. But the IS/MND also discusses the presence of generators "for emergency use." The Department recommends that generators are precluded from long-term or permanent use as a power source by defining how long they could be used under an emergency. The NSO report concludes that because no forest habitat is planned for removal for current or expanded operations, the only potentially significant impact to NSO would be from noise, lights, or direct line-of-sight visual disturbance. Therefore, the increased use of lights or noise, from fans or generators may have a significant impact. Critical habitat is mapped 0.45 miles to the west and 0.26 miles to the east of sites #1 and #2, respectively and there are two known activity centers less than a mile away. Although these two activity centers were not occupied by NSO as recently as 2020, survey results have not been provided for the last two years. The Department recommends a mitigation measure demonstrating there have been adequate surveys over the course of the two most-recent years prior to licensure to determine the presence or absence of NSO. This information may be obtained through the Colorado State University study if they are willing to share data with the current applicant.

Response to Comment 2: As discussed above under the response to Comment 1, the proposed project will be subject to the noise and lighting performance standards applicable to cannabis cultivation in the County Code. The impact analysis in the IS/MND has been revised to explain that the project is required to comply with these standards (pgs. 26-27). The EIR prepared for the County's Cannabis Program determined that implementation of the noise and lighting performance standards in the Cannabis Program would result in less than significant impacts to special-status species on an individual and cumulative basis (pgs. 3.4-59 to 3.4-60 and 4-8). The noise and lighting performance standards of the County Code have been included as conditions of approval for the project.

Colorado State University (CSU) has provided current 2020 and 2021 NSO survey information for the project area, which has been incorporated into the revised IS/MND (pg. 27). In an e-mail included on page 20 of the OBC 2020 NSO Report, CSU has agreed to provide annual survey results if requested and specifically asked that no other NSO survey efforts should be conducted in their study area (which surrounds the project site) to prevent "extra calling." Therefore, the information regarding recent NSO surveys has been obtained and incorporated into the revised IS/MND, and it is not necessary to require a mitigation measure related to this issue.

3. Biological Resources Assessment: Assumptions were made in the BRA as to whether there was potential for a given species to occur based on suitable habitat, but surveys were not necessarily performed. The BRA claimed to have completed protocol level surveys for species that had habitat present on the parcel, but details only discuss protocol level surveys for special status plants within the cultivation expansion area. Other species were only surveyed using passive "seek and find" observations to determine presence/absence. This kind of point in time survey may not be adequate to identify certain species that may require capture in order to identify, such as western bumble bee (*Bombus occidentalis*) and Trinity bristle snail (*Monadenia infumata setosa*), or special equipment to identify bat species. Other species were not surveyed for based on low probability of predicted habitat as determined by models from the California Wildlife Habitat Relationship System. While this database relates these species to each of the habitats which support them, it is not a substitute for on the ground surveys to determine if a species occupies that habitat.

The Department recommends the inclusion of all applicable mitigation measures requiring protocol level surveys prior to expansion, which are listed in the Trinity County Cannabis Program Final Environmental Impact Report.

Response to Comment 3: The IS/MND has been revised to include discussion of existing biological survey requirements of the County Code and whether they apply to each special-status wildlife species with reasonable potential to occur on site based on habitat availability determined during the site visits conducted for

the Biological Resources Assessment (pgs. 24-26). As discussed in the IS/MND, protocol-level surveys for foothill yellow-legged frog, Trinity bristle snail, and nesting birds are already included as mitigation for the proposed project. As discussed in the revisions made to the IS/MND, protocol-level surveys for western bumble bee and roosting bats are required by the County Code, and have been included as conditions of approval for the project, since there is a moderate potential for western bumble bee to occur at the project site and the long-legged myotis bat (*Myotis volans*) was previously observed at the site during surveys in 2007 (pg. 25). With implementation of the project mitigation measures, conditions of approval, and applicable survey requirements of the County Code, impacts to special-status wildlife species would be less than significant.

4. Lake or Streambed Alteration Agreement: This parcel was issued a Lake and Streambed Alteration (LSA) Agreement, pursuant to section 1600 et seq. of the Fish and Game Code (FGC), in 2016. The project described in that Agreement authorized the decommissioning of three Class III stream crossings, upgrading a fourth stream crossing from native fill to an armored fill crossing, and installing spring boxes into the substrate of the channel at two discrete locations for the purpose of diverting water. That Agreement expired April 7, 2021. On August 26, 2021, the applicant submitted a new Notification for the ongoing diversion of water at the two points of diversion, both for domestic and cannabis cultivation purposes. The draft Agreement seasonally restricts water diversion for commercial cannabis cultivation in accordance with requirements in the State Water Resources Control Board Cannabis Policy, which was not in affect in 2016. Issuance of this LSA Agreement is subject to CEQA. The Department, as a responsible agency under CEQA, will consider the CEQA document for the Project when issuing an LSA Agreement. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for completion of the agreement. Timing and volume of diversion should be in accordance with the requirements of the Small Irrigation Use Registration, as outlined in the Cannabis Policy, not on dates listed in the 2016 Agreement.

Response to Comment 4: The applicant applied to CDFW for a renewal of their LSAA (EPIMS-TRI-22558-R11) on August 26, 2021 for the ongoing diversion of water at the two existing points of diversion. Typically, LSA Agreements are issued within 90 days of application submittal. CDFW is not required to wait for the County to approve the Conditional Use Permit and associated CEQA document to issue the LSAA since it is a renewal for existing water diversions that are required for the existing cultivation activity at the project site. The 2016 LSAA specifies several avoidance and minimization measures for the water diversions to protect fish and wildlife resources, which are discussed in the revised IS/MND and are anticipated to be required under the LSAA renewal. These include but are not limited to: 1) the stream diversion rate from both points of diversion combined shall not exceed 6 GPM (cumulatively); and 2) limits surface water diversion to no more than 200 gallons per day. It is anticipated that

the avoidance and minimization measures in the LSAA renewal will be updated to reflect any changes in applicable regulations for cannabis cultivation (e.g., SWRCB forbearance requirements) and CDFW policy. The project will be required to comply with any avoidance, mitigation, monitoring, and reporting requirements in the LSAA renewal. These requirements, in combination with the requirements of the County Code and other regulatory agencies (e.g., SWRCB), would be adequately protective of fish and wildlife resources.

The IS/MND has been updated to discuss compliance with current existing regulations of the State Water Resource Control Board's Cannabis Cultivation Policy WQ 2019-0001-DWQ and the current forbearance period of April 1 to October 31 as per State Waterboard Cannabis General Order (pgs. 8, 50, 52, and 72). The revised IS/MND has also been revised to remove discussion of the outdated forbearance period required under the 2016 LSAA for the two existing surface water diversions (June 15th to October 15th).

Department of Cannabis Control (DCC): Licensing Program Manager Lindsay Rains of DCC wrote a comment letter to the County (dated 04/28/22) with comments on the CEQA IS/MND that was prepared for the proposed project. The comments provided by DCC and the responses from County staff are provided below:

1. **2020 Trinity County Cannabis Program Final Environmental Impact Report:** Trinity County approved a Final Environmental Impact Report (FEIR) for its cannabis program in December 2020. The FEIR contains several mitigation measures that must be implemented for each project that would be approved under the County's program, including measures to reduce impacts to aesthetics, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions and climate change, hazards and hazardous materials, hydrology and water quality, noise, public services, transportation and traffic, utilities and service systems, and wildfire. The impact analysis in the IS/MND would be improved by a discussion of the applicability of the FEIR's mitigation measures to the Proposed Project and their effects on reducing the severity of impacts for each applicable topic.

In addition, the FEIR found that the County's program would result in significant and unavoidable impacts to certain resources, including air quality and noise, as well as significant and unavoidable cumulative impacts related to air quality and noise. The IS/MND for the Proposed Project should contain an analysis of whether the Proposed Project would make a considerable contribution to cumulative impacts related to those topics. (See CEQA Guidelines § 15064(h).) If the Proposed Project would have an effect that is individually limited, but cumulatively considerable, an IS/MND would not be the appropriate CEQA document for the Proposed Project.

Response to Comment 1: The IS/MND has been amended to discuss the applicability of FEIR mitigation measures and discuss the potential cumulative

impacts to certain resource categories including air quality and noise (see responses to comments 2, 6, 8-14, and 16-17).

2. Evaluation of Cumulative Impacts: It is important for CEQA analysis to consider the cumulative impacts of cannabis cultivation in Trinity County. Of particular importance are topics for which the impacts of individual projects may be less than significant, but where individual projects may contribute to a significant cumulative impact. These topics include:
 - Impacts of groundwater diversions on the health of the underlying aquifer, including impacts on other users and impacts on stream-related resources connected to the aquifer;
 - Impacts related to noise;
 - Impacts related to transportation; and
 - Impacts related to air quality and objectionable odors.

The IS/MND should acknowledge and analyze the cumulative impacts of other cannabis cultivation projects being processed by the County, and any other reasonably foreseeable projects in Trinity County that could contribute to cumulative impacts similar to those of the Proposed Project. Although the IS/MND contains an analysis of the Proposed Project's impacts on surface water and groundwater resources, the document does not provide an analysis of potential cumulative impacts to other resources, including air quality and noise. (See GC 1.) The cumulative impacts analysis should include all resource topics where there is a potential for significant cumulative impacts.

Response to Comment 2: The CEQA IS/MND has been revised to include additional discussion related to cumulative impacts and the specific topics noted in the comment above (pgs. 77-79).

3. Other Public Agencies Whose Approval is Required: Please take note that commercial cannabis regulation and licensing previously under the California Department of Food and Agriculture, the Manufactured Cannabis Safety Branch, and the Bureau of Cannabis Control have been consolidated into a single new department, the California Department of Cannabis Control. This IS/MND and all future Trinity County documents related to cannabis regulation and licensing should reflect this change. In addition, please note that the state commercial cannabis regulations have been consolidated and updated. The current regulations are located at California Code of Regulations, title 4, section 15000 et seq.

Response to Comment 3: The IS/MND has been revised to include this clarification.

4. Description of the project: The IS/MND indicates that the Proposed Project is an expansion of existing activities. DCC assumes that the IS/MND evaluates Proposed Project operations and maintenance activities, including both existing

and proposed activities. The IS/MND would be improved if the County clearly confirmed (or clarified) this assumption.

Response to Comment 4: The IS/MND was amended to clarify that the analysis evaluates the proposed project development including operations and maintenance activities as they are anticipated at full buildout (e.g., when all project phases have been completed.) (pgs. 1 and 7).

5. Table 1 Estimated Water Use: The table would be improved if it indicated where the “storage” water that would be used for the Proposed Project would be sourced. If it would be sourced from the groundwater well or surface water extractions, it should be included in the water use estimates from those categories.

Response to Comment 5: The IS/MND was amended to state that water for the cultivation activities would be sourced from the groundwater well, surface water diversions, and rainwater capture (in the existing and proposed storage ponds). (pg. 8). In addition, Table 1 was removed because it contained outdated information in regard to the forbearance period required for the surface water diversions at the project site.

6. Aesthetics: The document would be improved if it referenced the 2020 Trinity County Cannabis Program FEIR’s Mitigation Measures related to aesthetics impacts and described how the Proposed Project would comply with such measures. (See GC 1).

Response to Comment 6: The IS/MND was amended to reference the 2020 Trinity County Cannabis Program FEIR Mitigation Measures related to aesthetics (pg. 13).

7. Agriculture and Forestry Resources: The document would be improved if it clearly specified whether any trees would be removed as part of the Proposed Project.

Response to Comment 7: The IS/MND was revised to note that no trees would be removed as a result of the proposed project (pg. 16).

8. Air Quality: The document would be strengthened if it provided a quantitative analysis of the PM2.5 and PM10 emissions that would be generated by vehicle travel on dirt roads during project operations. The analysis should also include an examination of potential cumulative impacts. In addition, the 2020 Trinity County Cannabis Program FEIR found that air quality impacts (PM2.5 and PM10 emissions) would be cumulatively significant and unavoidable, due to vehicle travel on dirt roads. The IS/MND should provide an analysis of whether the Proposed Project’s contribution to cumulative air quality impacts would be cumulatively considerable. (See GC 1.).

Response to Comment 8: The IS/MND was revised to clarify that the access from Highway 299 to the project site (South Fork Road) is paved to the project site (pgs. 19 and 77). Although the access roads within the project site are unpaved, vehicle use within the project site would be minimal relative to the overall vehicle use associated with the project. The conclusion in the Trinity County Cannabis Program EIR related to particulate matter from vehicle travel on dirt roads (i.e., cumulatively significant and unavoidable) is based on the assumption that many cannabis operations would be accessed by long stretches of unpaved roads (e.g., 1 mile to over 15 miles in length). However, that is not the case for the project site. As such, the potential for the generation of particulate matter due to vehicle use from the project is not anticipated to result in significant impacts or contribute to cumulatively significant and unavoidable impacts.

9. Air Quality: The 2020 Trinity County Cannabis Program FEIR found that odor impacts would be cumulatively significant and unavoidable, and that odors from outdoor cultivation would be the most significant source of odor. The IS/MND should provide an analysis of whether the Proposed Project would make a considerable contribution to significant and unavoidable odor impacts. (See GC 1.) In addition, the IS/MND would be improved if it referenced the 2020 Trinity County Cannabis Program FEIR's Mitigation Measure 3.3-3, which requires cultivators to develop an odor control plan. The document should also describe what odor control measures the Proposed Project would utilize to ensure that odor impacts would not be significant, and that odors from the Proposed Project would not make a considerable contribution to significant odor impacts in Trinity County. If additional mitigation measures are required to reduce impacts to less-than-significant levels, they should be specified, and the document should provide an analysis of how such mitigation measures would reduce impacts to less-than-significant levels. If any potential individual or cumulative odor impacts cannot be mitigated to less-than-significant levels, additional CEQA review would be required. (See GC 1.).

Response to Comment 9: The IS/MND was amended to discuss how the proposed project would potentially contribute to cumulative odor impacts in the project area (pgs. 77-78). Additionally, the IS/MND was amended to include a reference to the Trinity County Cannabis Program FEIR's Mitigation Measure 3.3-3 and County Code Section 17.43.G.040.E (pgs. 21 and 77-78), which requires preparation of an Odor Control Plan.

10. Air Quality: The document would be improved if it referenced the 2020 Trinity County Cannabis Program FEIR's mitigation measures related to air quality impacts and described how the Proposed Project would comply with such measures.

Response to Comment 10: The IS/MND was amended to reference the Trinity County Cannabis Program FEIR's mitigation measures related to air quality impacts (pgs. 19-20). Compliance with the air quality performance standards of

the County Code would be verified by County staff through the annual review process required for cannabis licenses (pg. 20).

11. Air Quality: The IS/MND cites the May 2019 draft of the Trinity County Cannabis Program EIR as a source for its analysis on air quality. The document should be updated to include analysis incorporating the findings of the December 2020 Final EIR.

Response to Comment 11: The IS/MND was amended throughout to reference the 2020 Trinity County Cannabis Program EIR.

12. Biological Resources: The document would be improved if it referenced all applicable mitigation measures in the 2020 Trinity County Cannabis Program FEIR related to biological resources and described how the Proposed Project would comply with such measures.

Response to Comment 12: The IS/MND has been revised to include discussion of existing biological survey requirements of the County Code and whether they apply to each special-status wildlife species with reasonable potential to occur on site based on habitat availability determined during the site visits conducted for the Biological Resources Assessment (pgs. 24-26). For additional information, see response to Comment 3 from CDFW.

13. Energy: The document would be improved if it referenced the 2020 Trinity County Cannabis Program FEIR's mitigation measures relating to renewable energy and described how the Proposed Project would comply with such measures.

Response to Comment 13: The Trinity County Cannabis Program EIR does not contain mitigation measures relating to energy impacts (see pg. ES-37 of the Nov. 2020 Revised Draft EIR). The commentor may be referring to the greenhouse gas emission mitigation measures related to renewable energy. See response to comment 14 for additional information.

14. Greenhouse Gas Emissions: The document would be improved if it referenced all applicable mitigation measures in the 2020 Trinity County Cannabis Program FEIR related to greenhouse gas emissions and described how the Proposed Project would comply with such measures.

Response to Comment 14: The IS/MND has been amended to discuss the Trinity County Cannabis Program FEIR greenhouse gas emissions mitigation measures, including those related to renewable energy (pg. 43).

15. Hydrology and Water Quality: The document would be strengthened if it listed or summarized the BMPs that would be relied on to prevent or reduce impacts to water quality.

Response to Comment 15: The IS/MND has been revised to include a reference to the appendix with a full list of required BMPs for the project site, as specified by their Water Resource Protection Plan (pg. 51 and Appendix D to the IS/MND).

16. Noise: The 2020 Trinity County Cannabis Program FEIR found that noise impacts due to increased traffic volumes on roadways and highways would be significant and unavoidable, particularly during the fall harvest season. The IS/MND should provide an analysis of whether the Proposed Project's contribution to cumulative noise impacts would be cumulatively considerable. (See GC 1.).

Response to Comment 16: The IS/MND has been revised to include a more thorough discussion of the proposed projects noise impacts (pg. 60).

17. Mandatory Findings of Significance, Cumulative Impacts: The IS/MND contains an analysis of the Proposed Project's contribution to cumulative impacts on surface water and groundwater resources, but the document does not provide an analysis of potential cumulative impacts to other resources, including air quality and noise. The cumulative impacts analysis should include all resource topics where there is a potential for significant cumulative impacts. (See GC 1.)

Response to Comment 17: The IS/MND has been amended to address potential cumulative impacts related to air quality and noise; see response to comments 2, 8, 9, and 16 (pgs. 77-79).

GENERAL PLAN CONSISTENCY:

The project site has been designated Resource ("RE") in the County General Plan. As discussed in the General Plan Land Use Element, "RE" designated areas are designated for the production of the variety of natural resources that occur within Trinity County. Natural resources include timber production, mineral production, and important grazing areas. Activities necessary for the production of the various resources are encouraged in this area. The County General Plan did not specifically anticipate commercial cannabis cultivation when the "RE" designation was adopted. However, when the County adopted its Cannabis Program, it determined that several General Plan designations and zoning districts were appropriate for commercial cannabis activities. The "RE" designation was determined to be an appropriate location for the existing cannabis activities at the site (i.e., cultivation) and the activities proposed in this application (i.e., expansion of cultivation activity). Additionally, the proposed accessory structures are consistent with the "RE" designation as they are appurtenant to the proposed activity. Therefore, the proposed cannabis operation is found to be consistent with the General Plan.

COUNTY CODE COMPLIANCE:

Both the County General Plan and County Code did not specifically anticipate development of commercial cannabis activities when they were prepared and adopted. In response to California State Law that allows commercial cannabis activities under permitted and controlled conditions, Trinity County developed County-specific ordinances to regulate commercial cannabis cultivation, testing, nurseries, manufacturing, distribution, microbusiness, events, and sales within the County. Based on the uses proposed by the applicant, the following sections of the County Code would apply to the project:

- Chapter 17.43 – Commercial Cannabis Cultivation Regulations
- Chapter 17.43G – Mitigation Measures for All Cannabis Land Uses

These regulations is part of the collection of Trinity County Municipal Code chapters, collectively referred to as the “Cannabis Ordinance.”

The project site is located in the Timberland Production Zone (TPZ) zoning district, which is contained in Section 14.1 of the County Code. Per Section 14.1 (B), the TPZ zoning district principally permits growing and harvesting timber, watershed management, wildlife and fisheries habitat improvement, roads, landings, and log storage areas integral to the growing and harvesting of timber, portable sawmills, chippers, and similar equipment, grazing and agricultural uses, recreation uses including walking, hiking, picnicking, swimming, boating, fishing, hunting and skiing. With a use permit additional uses are allowed including a single-family dwelling and accessory structures, sawmill, lumber mill, plywood mill, trailer camp, public camp, public stable, labor camps accessory to timber harvesting or planting operations which are less than one year in duration, and mining operations whose purpose is to provide material for log hauling roads both on and off-site. The proposed project consists of developing cannabis-related agricultural activities. Therefore, the project is considered consistent with the purpose and intent of the Timberland Production Zone zoning district. As discussed below, the proposed cannabis uses are consistent with the uses allowed by the County Cannabis Ordinance in the TPZ zoning district.

As described above, the project site has an existing Type 2 (Small Mixed-light) license. Per Section 17.43 (Commercial Cannabis Cultivation Regulations), the proposed project is an allowable cannabis use in the Timberland Production Zone (TPZ) zoning district.

Per Section 17.43.040 of the County Cannabis Ordinance, to be eligible for a Type 3 cultivation license, the applicant must have already obtained a commercial cultivation license, be applying for property that is fifty acres or more and apply for and obtain a Conditional Use Permit. This Conditional Use Permit application is for a property that meets the requirements of the ordinance making it eligible for a Type 3 commercial cultivation license.

Table 3 compares the design of the proposed project (i.e., structures for cannabis activities and accessory structures) to the applicable development standards in the County Code (see Section 14.1 – Timberland Production District or “TPZ” Zoning).

Table 3: Summary of County Code Compliance

County Code Development Standard	County Code Requirement	Proposed by Project	Compliant with County Code?
Minimum Lot Area	160 ¹	143 acres	No ³
Minimum Lot Depth	300 feet	>300 feet	Yes
Minimum Lot Width	400 feet	>400 feet	Yes
Maximum Lot Coverage	NA	NA	Yes
Minimum Front Yard	50 feet ²	>50 feet	Yes
Minimum Side Yard	50 feet ²	>50 feet	Yes
Minimum Rear Yard	50 feet ²	>50 feet	Yes
Maximum Building Height	NA	NA	Yes
Off-Street Parking	No specific standards applicable to the proposed cannabis activities	Sufficient for the proposed number of employees	NA

¹The minimum acreage requirement may, at the discretion of the Planning Commission and Board of Supervisor's pursuant to Section 31 of the Zoning Code, be reduced when necessary to resolve adjacent land use conflicts through lot line adjustment.

²All yard setbacks shall be a minimum of 50 feet, except that 100 feet shall be maintained from other TPZ or federally managed lands.

³The project site is an existing lot that would be considered legal non-conforming for the minimum lot size requirement of the zone.

As illustrated on the Project Site Plans (see Att. 7) and noted in Table 3, the proposed project has been mostly designed to be consistent with the development standards in the County Code. The proposed project is concurrently applying for a Variance from Trinity County Code Section 17.43.050.A.8. to reduce the property line setback for the cultivation areas from 500 ft to between 165 to 171 feet. With the reduced setback from the property lines, the proposed project would still meet the functional equivalent of the minimum 500-foot setback since the nearest residence is over 800 feet away from the closest cultivation area.

ENVIRONMENTAL REVIEW:

Since the project is subject to discretionary review by the County Planning Commission (i.e., Use Permit), a California Environmental Quality Act (CEQA) determination must be adopted as part of the approval. Due the site conditions and characteristics, such as those involving biological resources and cultural resources, the project does not qualify for an exemption under CEQA. As such, an Initial Study-Mitigated Negative Declaration (IS/MND) has been prepared and is proposed for adoption pursuant to the CEQA Guidelines. The IS/MND identifies mitigation for impacts related to biological resources, cultural resources, and geology and soils. The potential impacts that require mitigation are related to short-term construction and long-term operation of the proposed project.

As required by CEQA Guidelines Section 15073(d), the CEQA document prepared for the project was sent to the State Clearinghouse (SCH#: 2022030761) and was circulated for review from 3/30/2022 to 4/29/2022. As required by CEQA Guidelines Section 15072(a), a 'Notice of Availability' was provided to the public, responsible agencies, and trustee agencies, and the County Clerk. As previously stated, comments were received from the California Department of Fish and Wildlife (CDFW) and Department of Cannabis Control (DCC) on the IS/MND. See a summary of the comments received and responses from County staff in the section on Public Comments above. Additionally, the applicant and their consultant provided some revisions to the IS/MND to clarify the project proposal. Based on the comments received and the information provided by the applicant and their consultant, revisions were made to the IS/MND to clarify the information in the IS/MND and/or provide minor corrections or edits to the text. The revisions to the IS/MND do not identify new significant environmental impacts, do not constitute significant new information, and do not alter the conclusions of the environmental analysis. Where revisions consist of added or modified text, that text is underlined and bolded (**example text**), while deleted text is struck out (~~example text~~).

The revised CEQA IS/MND can be found online at the County of Trinity website at the following address: <https://www.trinitycounty.org/Planning>

The current cannabis use permit and variance application for this project was submitted to the County in March 2019. During the processing of this application, the County adopted an Amended Cannabis Program Ordinance and a corresponding Environmental Impact Report (EIR) (SCH#: 2018122049) on 12/28/20. The EIR contains numerous mitigation measures that were also incorporated into the County's Amended Cannabis Program Ordinance as enforceable regulations. These regulations are primarily performance standards and will be required, where applicable, as conditions of approval for the proposed project. This will ensure that the project is consistent with the requirements of the County's Cannabis Ordinance and do not change any of the significance determinations in the CEQA IS/MND prepared for the proposed project.

FINDINGS OF FACT

Conditional Use Permit Findings

Trinity County Code Section 17.32.010 states the following:

"A use permit is granted at the discretion of the Planning Commission or the Planning Director and is not the automatic right of any applicant. In considering an application for a use permit, the following guidelines shall be observed, 1. Sound Principals of Land Use; A use permit shall be granted upon sound principals of land use. 2. Not Injurious; A use permit shall not be granted if it will be detrimental to the public health, safety or welfare, or if it results in the creation of a public nuisance. 3. Plan Consistency; A use permit must comply with the objectives of the general or specific plan for the area in which it is located."

In considering the conditional use permit, the following findings are recommended pursuant to the guidelines of Section 17.32.010 of the Trinity County Code:

1. Sound Principles of Land Use. A use permit shall be granted upon sound principals of land use.

Finding: As required by the County's Cannabis Ordinance, the applicant is applying for a Conditional Use Permit for the expansion of an existing Type 2 "Small Mixed-light" commercial cannabis cultivation license into a Type 3 "Medium Outdoor" commercial cannabis license. Evaluation of the project has determined that the project as proposed, conditioned, and mitigated is: 1) compatible with the General Plan land use designation, neighborhood character, and the limited intensity uses of the surrounding area; 2) consistent with the County Cannabis Ordinance; and 3) compliant with CEQA.

2. Not Injurious. A use permit shall not be granted if it will be detrimental to the public health, safety or welfare, or if it results in the creation of a public nuisance.

Finding: The project, as proposed, conditioned, and mitigated, will not cause detrimental effects to public health, safety, welfare or result in the creation of a public nuisance. Land uses surrounding the project site include cannabis cultivation farms, rural residences, non-cannabis agricultural activity, and timberland. The closest sensitive receptor is a residence that is over 800 feet from the proposed cultivation area, which is functionally equivalent to 500-foot property line setback requirement in Trinity County Code 17.43.050.A.8. Therefore, it is not anticipated that nearby sensitive receptors will be significantly impacted by potential impacts from the project.

3. Plan Consistency: A use permit must comply with the objectives of the general plan or specific plan for the area in which it is located.

Finding: The project, as proposed and conditioned, is consistent with the goals and objectives of the County General Plan and TPZ zoning district, as the proposed project consists of the expansion of existing agricultural related activities which are a permissible use on TPZ zoned land.

Variance Findings

Trinity County Code Section 17.31.010 states the following:

"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 the Variance, the following findings are recommended pursuant to Section 17.31.010 of the Trinity County Code:

- 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: There are special circumstances (i.e., parcel shape, topography, terrain, drainages, vegetation, access) applicable to the project parcel that, with strict application of the Trinity County Zoning Code, deprives the property owner of privileges available to other property owners with similar zoning that plan to establish or have established a Type 3 (Medium Outdoor) cannabis cultivation license (up to 1-acre of canopy).

- 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: This Variance is from the 500 ft property line setback requirement provision in Trinity County Code 17.43.050.A.8. The Variance would not locate a use which is prohibited by ordinance in the TPZ zoning district.

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

Finding: The purpose of the 500 ft property line setback requirement provision in Trinity County Code 17.43.050.A.8. is to mitigate potential impacts (e.g., odors, noise, lighting, fugitive dust, etc.) to adjacent neighbors from cannabis cultivation activities. The applicant is requesting a Variance to reduce the property line setback for cultivation activity from 500-feet to between 165-171 feet. With the reduced setback from the property lines, the proposed project would still meet the functional equivalent of the minimum 500-foot setback since the nearest residence is over 800 feet away from the closest cultivation area. As determined in the EIR prepared for the County's Cannabis Ordinance, the 500-foot setback requirement and other regulations in the County Cannabis Ordinance minimize potential impacts to nearby sensitive receptors.

- 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 general purpose of the zoning requirements in the County Code is

to promote and protect the public health by providing a definite plan of development, protecting the character and the social and economic stability of land uses, and assuring orderly and beneficial development. The proposed project is substantially in compliance with the County Code provisions for commercial cannabis activities, which the County has found are necessary to reduce the potential impacts associated with cannabis uses. The one exception for the proposed project is the request for a reduction in the 500-foot property line setback requirement in Section 17.43.050.A.8. Section 17.43.050.A.8 allows for variances from this standard, consistent with the requirements for variances in State law and the County Code. The subject parcel contains special circumstances (i.e., parcel shape, topography, terrain, drainages, vegetation, access) that justify the granting of a variance from the property line setback requirement and would be appropriate for any applicant facing similar circumstances. Given the irregular parcel shape, topography, forested terrain, surrounding drainages, and existing disturbed areas and access roads on the site, the applicant would not otherwise be able to utilize the full 1-acre canopy size of a Type 3 (Outdoor-Medium) cultivation license as other program applicants in the County. Additionally, the proposed project would still meet the functional equivalent of the minimum 500-foot setback since the nearest residence is over 800 feet away from the closest cultivation area. As such, the proposed variance is consistent with the general purpose and intent of the County Code and would not adversely affect the general plan or specific plans of the 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 site is not within an RD-1 Overlay Zone.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission Adopt a resolution to:

- a) Adopt the California Environmental Quality Act (CEQA) determination of a Mitigated Negative Declaration and the Mitigation, Monitoring, and Reporting Program (MMRP);
- b) Approve the Conditional Use Permit and Variance (CCUPT3-2019-021) based on the recommended findings in Resolution 2022-09 and subject to the conditions of approval set forth in Exhibit A to Resolution 2022-09.

ATTACHMENTS:

- 1) Draft Resolution 2022-09 and Conditions of Approval
- 2) CEQA Mitigation Monitoring and Reporting Plan (MMRP)
- 3) Location Map
- 4) Aerial Map
- 5) Zoning District Map
- 6) General Plan Designation Map
- 7) Project Site Plans

RESOLUTION NO. 2022-09

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

APPROVING CONDITIONAL USE PERMIT and VARIANCE

(Vital Green Future, LLC [Kahan] Commercial Cannabis Cultivation, CCUPT3-2019-021)

WHEREAS, Patrick Kahan filed an application dated March 20, 2019 for a Commercial Cannabis Use Permit and Variance (CCUPT3-2019-021). The CUP is for the expansion of an existing Type 2 “Small Mixed-light” commercial cannabis cultivation license into a Type 3 “Medium Outdoor” commercial cannabis license. The Variance is to reduce the property line setback (Trinity County Code 17.43.050.A.8.) for the cultivation areas from 500 ft to between 165-171 ft. The project is located at 5200 Southfork Rd, Salyer, CA 95563 (APN 008-080-032).

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, the project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA) and the County of Trinity is the lead agency for the project. A proposed Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared with respect to said project and a Notice of Availability was published in a newspaper of general circulation, filed with the County of Trinity Clerk-Recorder’s Office, and filed with the Governor’s Office of Planning and Research CEQA State Clearinghouse (State Clearinghouse). The IS/MND was made available for review and comment by the general public and public agencies for a period of 30 days (3/30/2022 to 4/29/2022) by posting it on the County of Trinity website and filing with the State Clearinghouse (SCH#: 2022030761); 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 9, 2022; and

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

WHEREAS, at said public hearings, due consideration was given to the proposed IS/MND and Mitigation, Monitoring, and Reporting Program, the environmental effect of the project, and any changes connected therewith. The Planning Commission reviewed and considered the whole record before it and found that there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment.

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 on the basis of the Initial Study and all comments received, that the proposed commercial cannabis development would have potential significant effects on the environment, which, with the inclusion of specific mitigation measures,

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will be rendered less than significant. Accordingly, a Mitigated Negative Declaration and Mitigation, Monitoring, and Reporting Program is adopted pursuant to the CEQA Guidelines.

2. Pursuant to Chapter 17.32 (Use Permits) of the County Code of Ordinances, the Planning Commission of the County of Trinity makes the following findings for the Use Permit:
 - A. As required by the County's Cannabis Ordinance, the applicant is applying for a Conditional Use Permit for the expansion of an existing Type 2 "Small Mixed-light" commercial cannabis cultivation license into a Type 3 "Medium Outdoor" commercial cannabis license. Evaluation of the project has determined that the project as proposed, conditioned, and mitigated is: 1) compatible with the General Plan land use designation, neighborhood character, and the limited intensity uses of the surrounding area; 2) consistent with the County Cannabis Ordinance; and 3) compliant with CEQA.
 - B. The project, as proposed, conditioned, and mitigated, will not cause detrimental effects to public health, safety, welfare or result in the creation of a public nuisance. Land uses surrounding the project site include cannabis cultivation farms, rural residences, non-cannabis agricultural activity, and timberland. The closest sensitive receptor is a residence that is over 800 feet from the proposed cultivation area, which is functionally equivalent to 500-foot property line setback requirement in Trinity County Code 17.43.050.A.8. Therefore, it is not anticipated that nearby sensitive receptors will be significantly impacted by potential impacts from the project.
 - C. The project, as proposed and conditioned, is consistent with the goals and objectives of the County General Plan and TPZ zoning district, as the proposed project consists of the expansion of existing agricultural related activities which are a permissible use on TPZ zoned land.
3. 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:
 - A. There are special circumstances (i.e., parcel shape, topography, terrain, drainages, vegetation, access) applicable to the project parcel that, with strict application of the Trinity County Zoning Code, deprives the property owner of privileges available to other property owners with similar zoning that plan to establish or have established a Type 3 (Medium Outdoor) cannabis cultivation license (up to 1-acre of canopy).
 - B. This Variance is from the 500 ft property line setback requirement provision in Trinity County Code 17.43.050.A.8. The Variance would not locate a use which is prohibited by ordinance in the TPZ zoning district.
 - C. The purpose of the 500 ft property line setback requirement provision in Trinity County Code 17.43.050.A.8. is to mitigate potential impacts (e.g., odors, noise, lighting, fugitive dust, etc.) to adjacent neighbors from cannabis cultivation activities. The applicant is requesting a Variance to reduce the property line setback for cultivation activity from 500-feet to between 165-171 feet. With the reduced setback from the property lines, the proposed project would still meet the functional equivalent of the minimum 500-foot setback since the nearest residence is over 800 feet away from the closest cultivation area. As determined in the EIR prepared for the County's Cannabis Ordinance, the 500-foot setback requirement and other regulations in the County Cannabis Ordinance minimize potential impacts to nearby sensitive receptors.
 - D. The general purpose of the zoning requirements in the County Code is to promote and protect the public health by providing a definite plan of development, protecting the character and the social

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and economic stability of land uses, and assuring orderly and beneficial development. The proposed project is substantially in compliance with the County Code provisions for commercial cannabis activities, which the County has found are necessary to reduce the potential impacts associated with cannabis uses. The one exception for the proposed project is the request for a reduction in the 500-foot property line setback requirement in Section 17.43.050.A.8. Section 17.43.050.A.8 allows for variances from this standard, consistent with the requirements for variances in State law and the County Code. The subject parcel contains special circumstances (i.e., parcel shape, topography, terrain, drainages, vegetation, access) that justify the granting of a variance from the property line setback requirement and would be appropriate for any applicant facing similar circumstances. Given the irregular parcel shape, topography, forested terrain, surrounding drainages, and existing disturbed areas and access roads on the site, the applicant would not otherwise be able to utilize the full 1-acre canopy size of a Type 3 (Outdoor-Medium) cultivation license as other program applicants in the County. Additionally, the proposed project would still meet the functional equivalent of the minimum 500-foot setback since the nearest residence is over 800 feet away from the closest cultivation area. As such, the proposed variance is consistent with the general purpose and intent of the County Code and would not adversely affect the general plan or specific plans of the County.

E. The project site is not within an RD-1 Overlay Zone.

4. The Planning Commission of the County of Trinity hereby approves the Conditional Use Permit and Variance (CCUPT3-2019-021), subject to the conditions set forth in Exhibit "A", attached hereto and made a part hereof.

DULY PASSED AND ADOPTED this 14th day of July 2022 by the Planning Commission of the County of Trinity by motion of Commissioner _____, seconded by Commissioner _____, and the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

WILLIAM SHARP, Chair
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-2022-09
CONDITIONAL USE PERMIT AND VARIANCE CONDITIONS OF APPROVAL
(Vital Green Future, LLC [Kahan] Commercial Cannabis, CCUPT3-2019-021)

The following conditions of approval shall be satisfied prior to the issuance of any building permits, unless a different time for compliance is specifically noted:

1. The Permittee shall comply with all County cannabis regulations, as are applicable for the commercial cannabis activities proposed by the Permittee under this use permit. These regulations are provided in the Trinity County Board of Supervisors Ordinances 315-823, 315-824, 315-826, 315-828, 315-829, 315-830, 315-833, 315-834, 315-835, 315-849, and as amended.
2. The Permittee must be in compliance with all County building permit requirements including, but not limited to, structures, roads, electrical, and water and sewer connections. Prior to issuance of building permits, a detailed and to scale site plan depicting the existing and proposed development of the site, including building envelopes or footprints, setbacks, parking and circulation shall be provided for review and approval by Trinity County. Adequate area for parking and internal circulation shall be provided.
3. Structures on the property shall be in compliance with the California Building Code and Trinity County Code.
4. The Permittees site uses must be in compliance with State and County Fire Safe Regulations, and as directed by CALFIRE. Should CALFIRE determine that site conditions are not in compliance with the Fire Safe Regulations, the Permittee shall be required to come into compliance.
5. This Use Permit is subject to the Permittee securing all necessary permits for the development and eventual use of the project site for commercial cannabis activities from County, State and Federal agencies having jurisdiction over the activities at the project site, and as applicable to the Permittees uses. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit. The County shall in no-way be considered responsible for issuance or oversight of State or Federal permits/authorizations that may apply to the uses by the Permittee under this use permit. The Permittee has the sole responsibility for compliance with all requirements and regulations.
6. This Use Permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted. Failure of the Permittee to make use of this use permit within one year or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration/termination of this permit.
7. Any proposed changes or modifications to the uses at the site by the Permittee will require review and approval by the Trinity County Planning Department, prior to those changes or modifications. Based on the proposed changes or modifications, the Planning Department may require additional reviews and approvals from other County/State/Federal departments or agencies as may be appropriate for the proposed changes or modifications.
8. The Variance from property line setback requirements in County Code Section 17.43.050.A.8 shall be approved by the Trinity County Planning Commission before the Permittee can proceed with cultivation activities requiring the Variance. The Variance shall become effective after all

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applicable appeal periods have been expired or appeal processes have been exhausted. The variance is approved for a period of one year and shall expire on the same date as the Type 3 “Medium Outdoor” Commercial Cannabis License date that this variance is proposed for; provided, however, that the variance shall be renewed annually according to the following requirements:

- The applicant has the sole responsibility for renewing the variance before the expiration date listed above. The County will not provide a notice prior to the expiration date.
- Application for renewal shall be submitted by the applicant prior to expiration of the variance and preferably no later than 60 days in advance;
- Application for renewal shall be subject to a filing fee as specified by resolution of the Board of Supervisors;
- The renewal shall not require a formal public hearing, unless specified by the Planning Director or referred to the Planning Commission; however, written notice shall be provided by the County to surrounding property owners at least ten (10) days prior to the Planning Director’s decision to approve or deny the annual renewal;
- The Planning Director, at their discretion, may approve, deny or refer the annual renewal request to the Planning Commission. The director shall not add or modify conditions of approval applied by the Planning Commission. If submitted to the Planning Commission by the Planning Director for action, no additional fees will be required; and
- Action to renew the variance by the Planning Director may be appealed to the Planning Commission in accordance with Chapter 17.34 of the County Code, including the required appeal fee.

The variance shall be subject to the securing of all necessary permits, licenses, and approvals for the proposed cannabis cultivation operation from all County and State agencies having jurisdiction over any aspect of the operation.

9. A wastewater discharge plan shall be submitted to and approved by the Trinity County Environmental Health Department to account for sediment discharge, wastewater from cultivation, chemical storage, and the chemical sink/handwashing.

10. Water tanks on site shall have outlets compatible with fire engine hookups

11. If there are locks installed on gates which access the property, keys or combinations shall be shared with the local fire department in case of fire

The following conditions of approval include the mitigation measures from the Initial Study-Mitigation Negative Declaration (SCH#: 2022030761) that was prepared for the proposed project. The responsibility for implementation and timing of these mitigation measures is identified in the Mitigation, Monitoring, and Reporting Program.

12. **BIO-1:** The following measure is provided to reduce potential impacts to foothill yellow-legged frog to a less than significant level:

A qualified biologist approved by the County and familiar with the life cycle of foothill yellow-legged frog, 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 2018), and Visual Encounter Survey Protocol

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for *Rana Boylei* in Lotic Environments (Peek, et al., 2017). Preconstruction surveys 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). 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).

13. **BIO-2:** The following measure is provided to reduce potential impacts to Trinity bristle snail to a less than significant level:

Regardless of detection during the initial biological reconnaissance survey, if suitable habitat for Trinity bristle snail is present within the proposed development area, a qualified biologist approved by the County and familiar with the species shall conduct preconstruction surveys of proposed new development activities within the period when the species is the most active (between May and October and between dusk and dawn) prior to new development activities. Preconstruction surveys shall be conducted using a widely used and accepted standardized protocol that controls for seasonality and environmental conditions, such as the Survey Protocol for Survey and Manage Terrestrial Mollusk Species from the Northwest Forest Plan (BLM 2003). Surveys shall be conducted throughout the proposed construction area and an appropriate buffer around the proposed development area as determined by the qualified biologist familiar with the species and survey protocols. If Trinity bristle snail or its habitat is not detected during the preconstruction survey, then further mitigation is not required.

If Trinity bristle snail is detected during the preconstruction survey, then consultation with CDFW shall be initiated as described above. Injury or mortality of this species will be avoided through project design modification or cultivation site relocation. If impacts to Trinity bristle snail are unavoidable, then the applicant will submit an incidental take permit (ITP) application to CDFW and receive authorization prior to commencing development of the cultivation site. Conditions of incidental take authorization may include minimization measures to reduce impacts to individual Trinity bristle snails, or compensation for loss of the species including but not limited to purchasing credits from a CDFW-approved mitigation bank.

14. **BIO-3:** The following measure is provided to reduce potential impacts to special-status amphibians from invasive bullfrogs to a less than significant level:

To avoid impacts to sensitive native amphibian and fishery resources from bullfrog establishment in the proposed rainwater catchment pond, pond draining should occur in September through October, a minimum of every two years. Careful planning and coordination with CDFW, is necessary to ensure potential impacts to stream resources can be addressed, prior to commencing with pond draining. Discharge of polluted water to waters of the state may require permitting from other agencies with permitting authority, such as the Regional Water Quality Control Board.

Take of bullfrogs is specifically allowed in the California Code of Regulations (CCR), Title 14 (T-14) section 5.05(a)(28), under the authority of a sport fishing license. There is no daily bag limit, possession limit, or hour restriction, but bullfrogs can only be taken by hand, hand-held dip net, hook and line, lights, spears, gigs, grabs, paddles, bow and arrow, or fish tackle. While draining occurs, direct removal efforts should be employed as described above if possible.

15. **BIO-4:** The following measure is provided to reduce potential impacts to nesting birds to a less than significant level:

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If vegetation removal or other ground disturbing activities associated with project construction cannot occur outside the bird nesting season (generally February 1 – August 31), a qualified biologist will conduct nesting bird surveys within the area of impact and establish a protective buffer for any active nests found. The following shall be implemented:

- Conduct surveys no more than 7 days prior to activities, covering the entire area of potential impact.
 - If an active nest is located during the survey, a no-disturbance buffer shall be established around the nest by the qualified biologist, in consultation with California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.
 - Establish protective buffers for active nests based on type of project activity to be conducted, habitat, and species of concern.
 - Physical protective buffers should be in the form of high visibility fencing, inspected weekly by a biological monitor to ensure stability.
 - If project activities are to be conducted while active nest buffers are in place, a biological monitor will be on site during project activities to ensure that no take of migratory birds occurs.
16. **CR-1:** If cultural resources, such as chipped or ground stone, or bone are discovered during ground-disturbance activities, work shall be stopped within 50 feet of the discovery, as required by the California Environmental Quality Act (CEQA; January 1999 Revised Guidelines, Title 14 California Code of Regulations [CCR] 15064.5 (f)). Work near the archaeological finds shall not resume until a professional archaeologist, who meets the Secretary of the Interior's Standards and Guidelines, has evaluated the material, and offered recommendations for further action.
17. **CR-2:** If In the event that previously unidentified evidence of human burial or human remains are discovered during project construction, work will stop at the discovery location, within 20 meters (66 feet), and any nearby area reasonably suspected to overlie human remains (Public Resources Code, Section 7050.5), the Trinity County Coroner must be informed and consulted, per State law. If the coroner determines the remains to be Native American, he or she shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent. The most likely descendent will be given an opportunity to make recommendations for means of treatment of the human remains and any associated grave goods. when the commission is unable to identify a descendant or the descendants identified fail to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendants and the mediation provided for in subdivision (k) of Section 5097.94, if invoked, fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance. Work in the area shall not continue until the human remains are dealt with according to the recommendations of the County Coroner, Native American Heritage Commission and/or the most likely descendent have been implemented.
18. **GEO-1:** If a paleontological discovery is made during construction, the contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and shall immediately contact the County. A qualified paleontologist shall be retained to observe all subsequent grading and excavation activities in the area of the find and shall salvage fossils as necessary. The paleontologist shall establish procedures for paleontological resource surveillance and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of

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fossils. If major paleontological resources are discovered that require temporarily halting or redirecting of grading, the paleontologist shall report such findings to the County. The paleontologist shall determine appropriate actions, in cooperation with the applicant and the County, that ensure proper exploration and/or salvage. Excavated finds shall first be offered to a state-designated repository such as the Museum of Paleontology, University of California, Berkeley, or the California Academy of Sciences. Otherwise, the finds shall be offered to the County for purposes of public education and interpretive displays. The paleontologist shall submit a follow-up report to the County that shall include the period of inspection, an analysis of the fossils found, and the present repository of fossils.

The following conditions of approval include the relevant performance standards and mitigation measures for cannabis cultivation activities from County Code Chapter 17.43 (Commercial Cannabis Cultivation Regulations) and Chapter 17.43G (Mitigation Measures for all Cannabis Land Uses):

19. **Section 17.43.030.A.13:** Prior to the issuance of building and/or grading permits for the proposed project, the applicant shall demonstrate compliance with all applicable requirements of SWRCB Order WQ 2019-0001-DWQ, or any subsequent water quality standards that apply to all new commercial cannabis cultivation operations. This will include documentation, Site Management Plan, and grading details prepared by a qualified professional to help ensure that the site will be stable and describing how stabilization will be achieved. The documentation will also identify the location of all water quality control features for the site and associated access roads. Roadway design, water quality control, and drainage features shall be designed and maintained to accommodate peak flow conditions and will be consistent with the Road Handbook per California Code of Regulations, Title 14, Chapter 4. Compliance with water diversion standards and restrictions of SWRCB Order WQ 2019-001-DWQ, or any successor to that order, will also be provided to the County. The County will annually inspect compliance with this measure as part of license issuance or license renewal to confirm compliance.
20. **Section 17.43.060.B:** The cultivation of cannabis shall 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 shall apply to generator use:
 - a. Project-generated sound must not exceed ambient nesting conditions by 20-25 dBA.
 - b. Project-generated sound, when added to existing ambient conditions, must not exceed 90 dBA.
21. **Section 17.43.060.C:** Applicants shall comply with all state laws, including SB 94, regarding surface water, including but not limited to, water used for the cultivation of cannabis needs to be sourced on-site from a permitted well, surface water diversion and/or rain catchment system. If using a permitted well, a copy of the Trinity County well permit shall be provided. The cultivation of cannabis shall not utilize water that has been or is illegally diverted from any stream, creek, river or water source. If water is hauled it shall be for emergencies, as defined as a sudden, unexpected occurrence, and a bill of sale shall be kept on file from a water district or legal water source.
22. **Section 17.43.060.D:** The cultivation of Cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water. If the designated area has more than a thirty-five percent slope, the applicant shall apply for Tier 2 cultivation under the NCRWQCB Order #2015-0023, or regulations established by the SWRCB.

23. **Section 17.43.060.E:** Cannabis grown outdoors may be contained within wildlife exclusionary fencing that fully encloses the designated area. The director shall review all wildlife exclusionary fencing for aesthetic and wildlife and/or human safety concerns, and can prohibit fencing he/she deems unacceptable.
24. **Section 17.43.060.G:** Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide or other substance toxic to wildlife, children or pets, shall be stored in a secured and locked structure or device. All uses of pesticide products shall be in compliance with state pesticide laws and regulations enforced by the County Agricultural Commissioner's Office, Trinity County Environmental Health and the California Department of Pesticide Regulation.
25. **Section 17.43.060.I:** Rodenticides that require a California Restricted Materials permit cannot be used, those that are designated as federally restricted use products can only be used by a certified Applicator.
26. **Section 17.43.060.J:** The following rodent repellents may be used in and around cannabis cultivation sites consistent with the label: Capsicum oleoresin, putrescent whole egg solids and garlic.
27. **Section 17.43.060.L:** All lighting associated with the operation shall be downcast, shielded and/or screened to keep light from emanating off-site or into the sky.
28. **Section 17.43.060.M:** Those cultivations using artificial lighting for 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.
29. **Section 17.43.060.N:** The cultivation of cannabis shall comply with Cal Fire and CDFW regulations and any other resource agency having jurisdiction, including all activity but not limited to; clearing of land, stream crossings, water diversions and riparian buffer zones.
30. **Section 17.43.060.O:** Applicant shall obtain coverage under the general permit for discharges of storm water associated with construction activity (construction general permit, 2009-0009-DWQ) for construction projects (individual or part of a common development) that disturb one or more acres of land surface, specifically for new site preparation and development.
31. **Section 17.43.060.Q:** Nothing in this section shall be construed as a limitation on the County's authority to abate any violation which may exist from the cultivation of cannabis plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure structure.
32. **Section 17.43.060.T:** Environmental and animal friendly linings should be used when constructing water ponds on the property.
33. **Section 17.43.060.V:** License applications for new cultivation sites and requests for license renewal 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 the parcel for a period greater than two weeks for the life of the license. The County will inspect compliance with this measure prior to license renewal.
34. **Section 17.43.060.W:** 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. The County will inspect compliance with this measure prior to license renewal.

35. **Section 17.43.060.X:** Vegetation cleared as part of cultivation operations, or for cultivation purposes, shall not be burned unless proof is submitted that all required permits have been obtained including, but not limited to, a standard bum permit, a non-standard bum permit, and/or CalFire approval for less-than-three-acre conversion.
36. **Section 17.43.060.Y:** Cultivation sites shall 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.
37. **Section 17.43G.030.C:** Prior to the issuance of building and/or grading permits for the proposed project, the applicant shall identify invasive plant species 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 applicant shall identify specific measures to be employed for the removal of invasive species and on-site management practices. The applicant shall monitor annually to ensure successful removal and prevention of new infestations and invasive species. All invasive plant species shall be removed from the site using measures appropriate to the species to the extent practicable. For example, species that cannot easily reroor, 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. 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.
38. **Section 17.43G.030.N:** Before commencing any development related to cannabis activities proposed by the project, a qualified biologist approved by the County shall conduct surveys for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost shall be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further study will be required. If pallid bats or Townsend's big-eared bats are found in the surveys, a mitigation program addressing mitigation for the specific occurrence shall be submitted to the planning director and CDFW by the qualified biologist subject to the review and approval of the planning director in consultation with CDFW. Once approved, the applicant shall be required to implement the mitigation plan. The mitigation plan shall establish a buffer area around the nest during hibernation or while females in maternity colonies are nursing young that is large enough to prevent disturbance to the colonies.
39. **Section 17.43G.030.V** Prior to the issuance of building and/or grading permits for the proposed project, the applicant shall identify drainage and water quality controls for the site, including roads leading to and from a site, that ensure no sedimentation or other pollutants leave the site as part of project construction and operation. Compliance with this requirement may be combined with the NPDES Construction General Permit compliance measures. Roadway design, water quality control, and drainage features shall be designed and maintained to accommodate peak flow conditions and will be consistent with the Road Handbook, per CCR Title 14, Chapter 4. The County will annually inspect compliance with this measure as part of license issuance or license renewal to confirm compliance.

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40. **Section 17.43G.030.X:** Prior to the issuance of building and/or grading permits for the proposed project and as part of the license renewal process, the applicant shall provide the County with groundwater monitoring data for existing on-site well facilities that documents water usage and changes in groundwater levels during each month of the year. Should this monitoring data identify potential drawdown impacts on adjacent well(s), surface waters, waters of the state, and sensitive habitats, and indicate a connection to operation of the onsite wells, the cannabis operators, in conjunction with the County, shall develop adaptive management measures to allow for recovery of groundwater levels that would protect adjacent wells and habitat conditions that could be adversely affected by declining groundwater levels. Adaptive management measures may include forbearance (e.g., prohibition of groundwater extraction from the months of May to October), water conservation measures, reductions in on-site cannabis cultivation, alteration of the groundwater pumping schedule, or other measures determined appropriate. Adaptive management measures will remain in place until groundwater levels have recovered and stabilized based on annual monitoring data provided to the County as part of subsequent annual inspections. Any monitoring cannabis cultivation irrigation wells that demonstrate hydrologic connection to surface waters shall be subject to surface water diversion requirements and restrictions in SWRCB Order WQ 2019-0001-DWQ, or any successor to that order. Wells shall also be sited outside of the stream setbacks as set forth in SWRCB Order WQ 2019-0001-DWQ, or any successor that order.
41. **Section 17.43G.030.Z:** Prior to the issuance of building and/or grading permits for the proposed project and as part of the license renewal process, the applicant shall, where appropriate, provide documentation showing that roadways providing site access are in compliance with Chapter 12.10: Design Policies of the Trinity County Code. New roadway water quality control and drainage features or new drainage features on existing roadways shall be designed to accommodate peak flow conditions and will be consistent with the Road Handbook per California Code of Regulations, Title 14, Chapter 4, and SWRCB Order WQ 2019-0001-DWQ, or any successor to that order.
42. **Section 17.43G.030.AA:** Prior to the issuance of building and/or grading permits for the proposed project and as part of the license renewal process, the applicant shall provide documentation showing that site access is in compliance with Chapter 8.30-Fire Safe Ordinance of the Trinity County Code.
43. **Section 17.43G.030.FF:** Western bumblebee was identified in the Biological Resources Assessment prepared for the project as having a moderate potential to occur on the project site (PWA, 2021). According to existing regulations for avoiding take of special-status bumble bees as required by Trinity County Code Section 17.43G.030.FF, consultation with CDFW shall be initiated to determine whether mitigation measures, such as protocol-level surveys, project design modifications, or relocation of the site, will be necessary and appropriate. Based on the comments from CDFW (dated May 6, 2022) on the IS-MND prepared for the proposed project, the applicant shall be required to hire a qualified biologist approved by CDFW to conduct protocol-level surveys for special-status bumble bees prior to the commencement of construction activities for the proposed project. If special-status bumble bees are observed at the project site, consultation with CDFW shall occur to determine appropriate minimization measures that could include project design modification or relocation of the site. This species is not currently listed nor a Candidate under CESA (CDFW, 2022) and therefore would not require application for an Incidental Take Permit.
44. **Section 17.43G.030.EE:** Waste compost management.

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- a. Applicants for new commercial cannabis operations and relicensed sites will develop and implement a cannabis waste composting management plan if the operator proposes to dispose of cannabis waste through onsite composting. The plan shall meet all state requirements and the following requirements that will be confirmed by the County during inspections.
 - b. 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.
 - c. Identification of water quality control features that ensure no discharge of cannabis waste or other pollutants.
 - d. Details on routine management and equipment used in the composting area that ensures proper composting and control of odors, potential fuel hazards, and pests for the life of the cannabis operation.
45. **Section 17.43G.040.A:** All diesel-powered off-road equipment used in construction 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 construction equipment 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.

Construction activities will implement measures to control dust such as:

- Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
 - Cover all haul trucks transporting soil, sand, or other loose material off-site.
 - Remove all visible mud or dirt track-out onto adjacent roads.
 - Limit all construction vehicle speeds on unpaved roads to 15 miles per hour.
46. **Section 17.43G.040.B:** Renewable diesel (RD) fuel shall be used in diesel-powered construction equipment if commercially available in reasonable proximity. RD fuel must meet the following criteria:
- meet California's Low Carbon Fuel Standards and be certified by CARB Executive Officer;
 - be hydrogenation-derived (reaction with hydrogen at high temperatures) from 100 percent biomass material (i.e., non-petroleum sources), such as animal fats and vegetables;
 - contain no fatty acids or functionalized fatty acid esters; and
 - have a chemical structure that is identical to petroleum-based diesel and complies with American Society for Testing and Materials D975 requirements for diesel fuels to ensure compatibility with all existing diesel engines.

The County shall require implementation of this measure of the licensed entities building a new cannabis site.

47. **Section 17.43G.040.C:** 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.
48. **Section 17.43G.040.D:** 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.

49. **Section 17.43G.040.E:** Cannabis sites shall develop and implement an odor control plan that contains the following requirements, as appropriate for each cannabis use:

1. This mitigation shall not apply to lands zoned agricultural, agriculture-forest, or agricultural preserve.
2. Identification and description of odor-emitting activities and the nature and characteristics of the emissions.
3. Location and distance of sensitive receptors (e.g., residents, youth-oriented facilities, schools, churches, residential treatment centers) from the site.
4. 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.
5. If off-site odor nuisance impacts cannot be avoided without odor controls, identify the procedures and controls for reducing and 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.
 - a. 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.
 - b. 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.
 - c. Corrective actions to address county-verified off-site odor complaints will be identified and methods to be developed and applied for 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.

50. **Section 17.43G.040.G:** All electricity sources used for commercial cannabis cultivation, manufacturing, microbusinesses, non-storefront retail, testing, nurseries, and distribution shall be from renewable sources by conforming to one or more of the following standards:

- Grid-based electricity supplied from 100 percent renewable sources
- On-site power supplied fully by renewable source (e.g., photovoltaic system)
- On-site power supplied by partial or wholly non-renewable source with purchase of carbon offset credits
- Or some combination of the above.

51. **Section 17.43G.040.H:** Lighting Efficiency.

- a. Only light-emitting diodes (LEDs) or double-ended high-pressure sodium (HPS) fixtures shall be used in all existing and new mixed-light cultivation operations (i.e., sites not seeking relicensing).

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- b. Only high efficacy lighting shall be used in all existing and new noncultivation operations (i.e., sites not seeking relicensing).
 - c. 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.
52. **Section 17.43G.040.I:** All outdoor construction activity and use of heavy equipment outdoors shall take place between 7:00 a.m. and 7:00 p.m.
53. **Section 17.43G.040.J:** New power lines extended to sites shall be placed underground. If power lines cannot be placed underground, fuel breaks shall be provided along power lines and any stand-alone electrical facilities in a manner that would avoid ignition of adjacent vegetation to the satisfaction of the County and CAL FIRE. Fuel breaks shall be maintained and verified by the County as part of annual license renewal.
54. **Section 17.43G.040.K:** The operation of outdoor motorized equipment on-site for construction and maintenance activities shall be required to be covered under a fire protection plan that includes the following provisions:
- Fire watch personnel responsible for watching for the occurrence of fire during and after equipment use shall be identified.
 - Equipment shall be located so that exhausts do not discharge against combustible materials.
 - Equipment shall not be refueled while in operation and not until after a cooldown period.
 - Water and tools dedicated to fire fighting shall be on hand in the area of onsite construction and maintenance activities at all times.
 - Designated smoking areas with cigarette disposal receptacles that are burn resistant.

END OF CONDITIONS

NOTE: Approval of this use permit will expire on July 14, 2024. Any request for a time extension and accompanying fees must be received by the Trinity County Planning Department 30 days prior to this expiration date.

CEQA Mitigation, Monitoring, and Reporting Program (MMRP)
Vital Green Future, LLC (Kahan) Conditional Use Permit and Variance (CCUPT3-2019-021)

Mitigation Measure	Implementation Phase	Monitoring Phase	Enforcement Agency	Level of Significance After Mitigation	Verification Compliance		
					Initials	Date	Remarks
Aesthetics							
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Agriculture and Forestry Resources							
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Air Quality							
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Biological Resources							
BIO-1: Foothill Yellow-legged Frog Surveys The following measure is provided to reduce potential impacts to foothill yellow-legged frog to a less than significant level: A qualified biologist approved by the County and familiar with the life cycle of foothill yellow-legged frog, 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 2018), and Visual Encounter Survey Protocol for Rana Boylii in Lotic Environments (Peek, et al., 2017). Preconstruction surveys 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 tum" surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris). 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).	Permittee and construction contractor responsibility prior to construction activities.	Permittee and construction contractor responsibility prior to construction activities.	Trinity County Planning, CDFW, and USFWS	Less Than Significant			
BIO-2: Trinity Bristle Snail Surveys The following measure is provided to reduce potential impacts to Trinity bristle snail to a less than significant level: Regardless of detection during the initial biological reconnaissance survey, if suitable habitat for Trinity bristle snail is present within the proposed development area, a qualified biologist approved by the County and familiar with the species shall conduct preconstruction surveys of proposed new development activities within the period when the species is the most active (between May and October and between dusk and dawn) prior to new development activities. Preconstruction surveys shall be conducted using a widely used and accepted standardized protocol that controls for seasonality and environmental conditions, such as the <i>Survey Protocol for Survey and Manage Terrestrial Mollusk Species from the Northwest Forest Plan</i> (BLM, 2003). Surveys shall be conducted throughout the proposed	Permittee and construction contractor responsibility prior to construction activities.	Permittee and construction contractor responsibility prior to construction activities.	Trinity County Planning, CDFW, and USFWS	Less Than Significant			

CEQA Mitigation, Monitoring, and Reporting Program (MMRP)
Vital Green Future, LLC (Kahan) Conditional Use Permit and Variance (CCUPT3-2019-021)

Mitigation Measure	Implementation Phase	Monitoring Phase	Enforcement Agency	Level of Significance After Mitigation	Verification Compliance		
					Initials	Date	Remarks
<p>construction area and an appropriate buffer around the proposed development area as determined by the qualified biologist familiar with the species and survey protocols. If Trinity bristle snail or its habitat is not detected during the preconstruction survey, then further mitigation is not required.</p> <p>If Trinity bristle snail is detected during the preconstruction survey, then consultation with CDFW shall be initiated as described above. Injury or mortality of this species will be avoided through project design modification or cultivation site relocation. If impacts to Trinity bristle snail are unavoidable, then the applicant will submit an incidental take permit (ITP) application to CDFW and receive authorization prior to commencing development of the cultivation site. Conditions of incidental take authorization may include minimization measures to reduce impacts to individual Trinity bristle snails, or compensation for loss of the species including but not limited to purchasing credits from a CDFW-approved mitigation bank.</p>							
<p>BIO-3: Bullfrog Management The following measure is provided to reduce potential impacts to special-status amphibians from invasive bullfrogs to a less than significant level:</p> <p>To avoid impacts to sensitive native amphibian and fishery resources from bullfrog establishment in the proposed rainwater catchment pond, pond draining should occur in September through October, a minimum of every two years. Careful planning and coordination with CDFW, is necessary to ensure potential impacts to stream resources can be addressed, prior to commencing with pond draining. Discharge of polluted water to waters of the state may require permitting from other agencies with permitting authority, such as the Regional Water Quality Control Board.</p> <p>Take of bullfrogs is specifically allowed in the California Code of Regulations (CCR), Title 14 (T- 14) section 5.05(a)(28), under the authority of a sport fishing license. There is no daily bag limit, possession limit, or hour restriction, but bullfrogs can only be taken by hand, hand-held dip net, hook and line, lights, spears, gigs, grabs, paddles, bow and arrow, or fish tackle. While draining occurs, direct removal efforts should be employed as described above if possible.</p>	<p>Permittee and operator responsibility during operational activities.</p>	<p>Permittee and operator responsibility during operational activities.</p>	<p>Trinity County Planning, CDFW, and USFWS</p>	<p>Less Than Significant</p>			
<p>BIO-4: Nesting Bird Surveys The following measure is provided to reduce potential impacts to nesting birds to a less than significant level:</p> <p>If vegetation removal or other ground disturbing activities associated with project construction cannot occur outside the bird nesting season (generally February 1 – August 31), a qualified biologist will conduct nesting bird surveys within the area of impact and establish a protective buffer for any active nests found. The following shall be implemented:</p> <ul style="list-style-type: none">Conduct surveys no more than 7 days prior to activities, covering the entire area of potential impact.If an active nest is located during the survey, a no-disturbance buffer shall be established around the nest by the qualified biologist, in consultation	<p>Permittee and construction contractor responsibility prior to construction activities.</p>	<p>Permittee and construction contractor responsibility prior to construction activities.</p>	<p>Trinity County Planning, CDFW, and USFWS</p>	<p>Less Than Significant</p>			

CEQA Mitigation, Monitoring, and Reporting Program (MMRP)
Vital Green Future, LLC (Kahan) Conditional Use Permit and Variance (CCUPT3-2019-021)

[illegible]

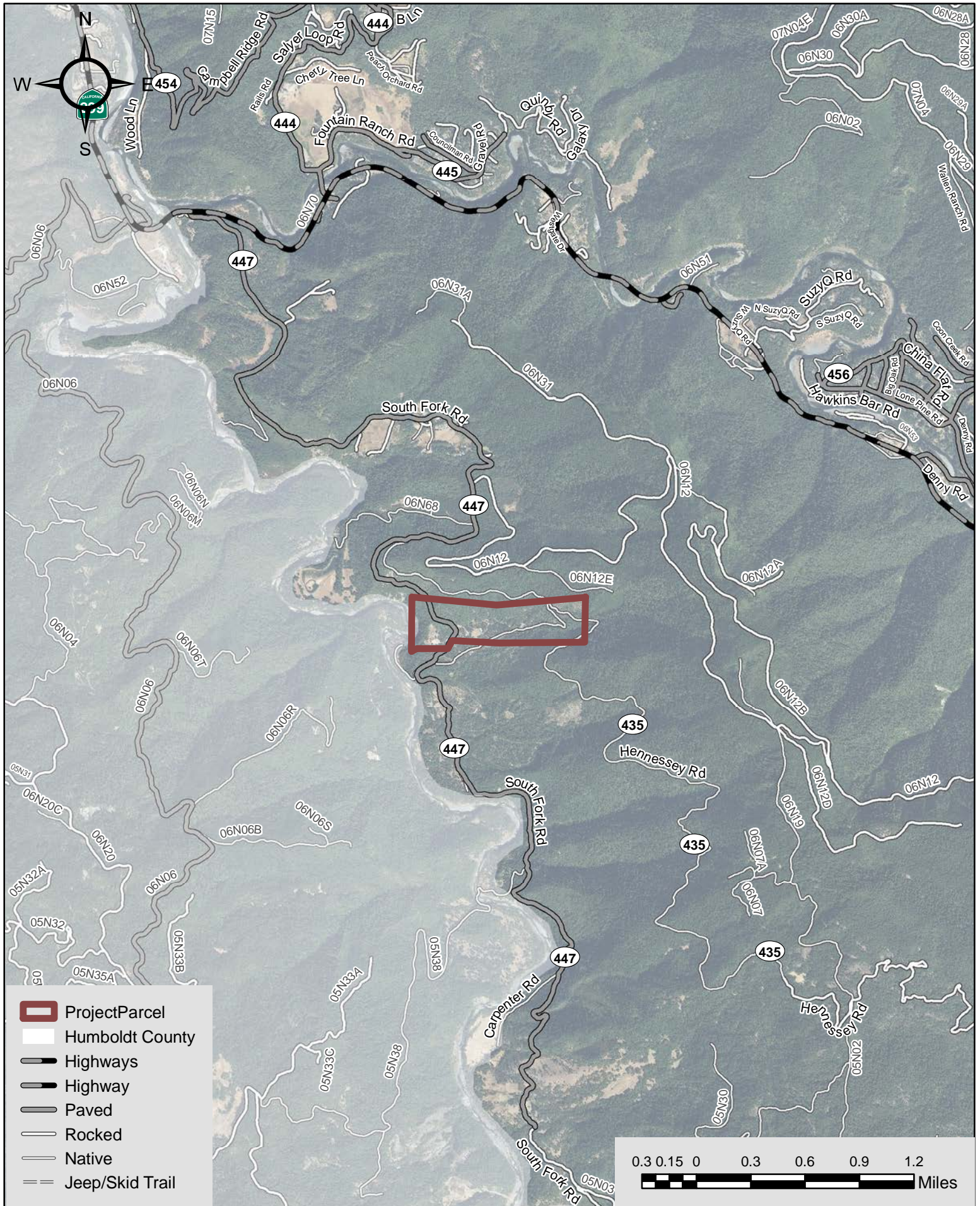
CEQA Mitigation, Monitoring, and Reporting Program (MMRP)
Vital Green Future, LLC (Kahan) Conditional Use Permit and Variance (CCUPT3-2019-021)

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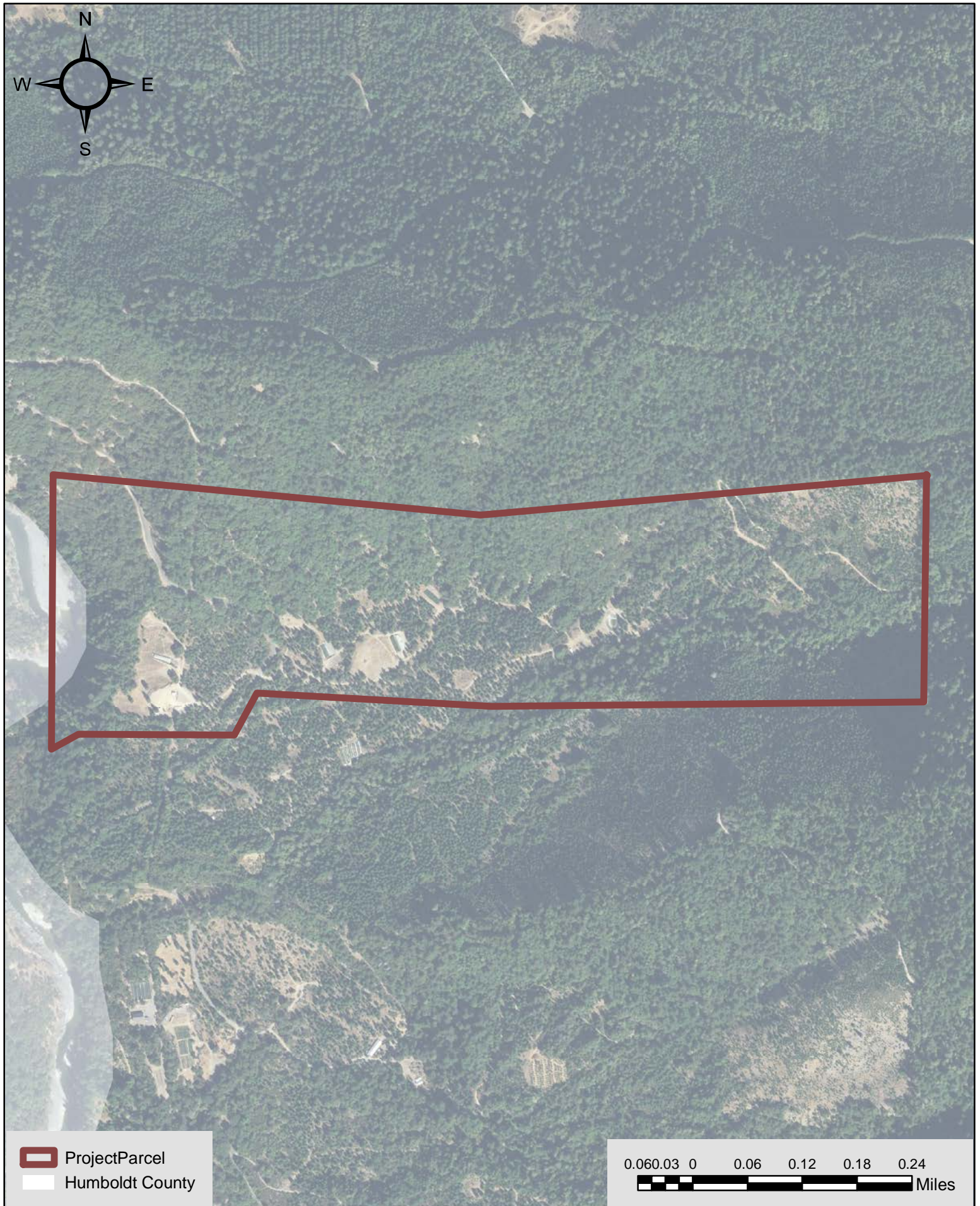
CEQA Mitigation, Monitoring, and Reporting Program (MMRP)
Vital Green Future, LLC (Kahan) Conditional Use Permit and Variance (CCUPT3-2019-021)

Mitigation Measure	Implementation Phase	Monitoring Phase	Enforcement Agency	Level of Significance After Mitigation	Verification Compliance		
					Initials	Date	Remarks
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Public Services							
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Recreation							
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Transportation							
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Tribal Cultural Resources							
Implementation of Mitigation Measure CR-1.	Per CR-1	Per CR-1	Per CR-1	Less Than Significant			
Utilities and Service Systems							
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Wildfire							
The IS/MND does not identify significant effects or mitigation measures in this resource area.							
Mandatory Findings of Significance							
Implementation of Mitigation Measures BIO-1 to BIO-4, CR-1 to CR-2, and GEO-1.	Per BIO-1 to BIO-4, CR-1 to CR-2, and GEO-1	Per BIO-1 to BIO-4, CR-1 to CR-2, and GEO-1	Per BIO-1 to BIO-4, CR-1 to CR-2, and GEO-1	Less Than Significant			

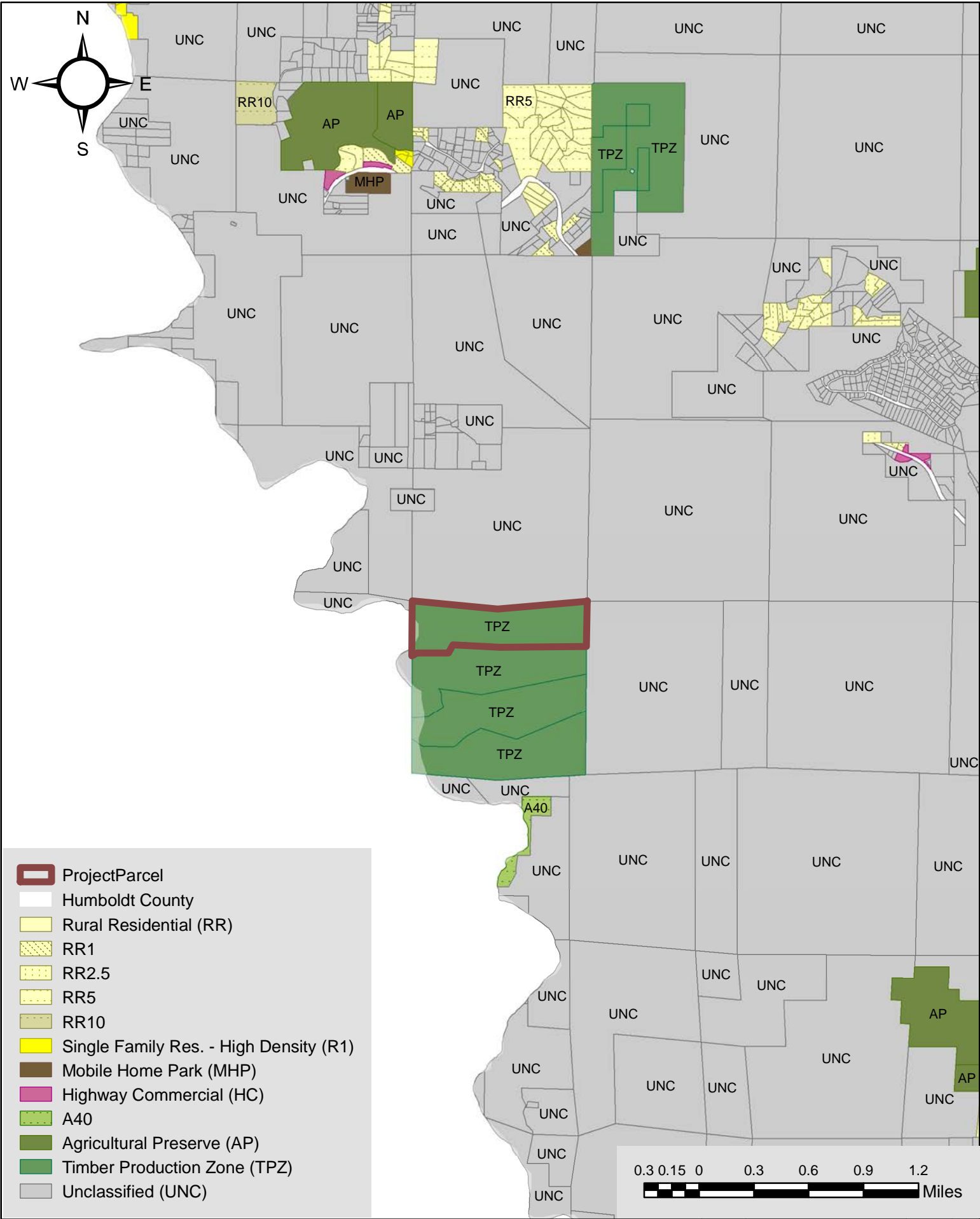
Attachment 3: Location Map



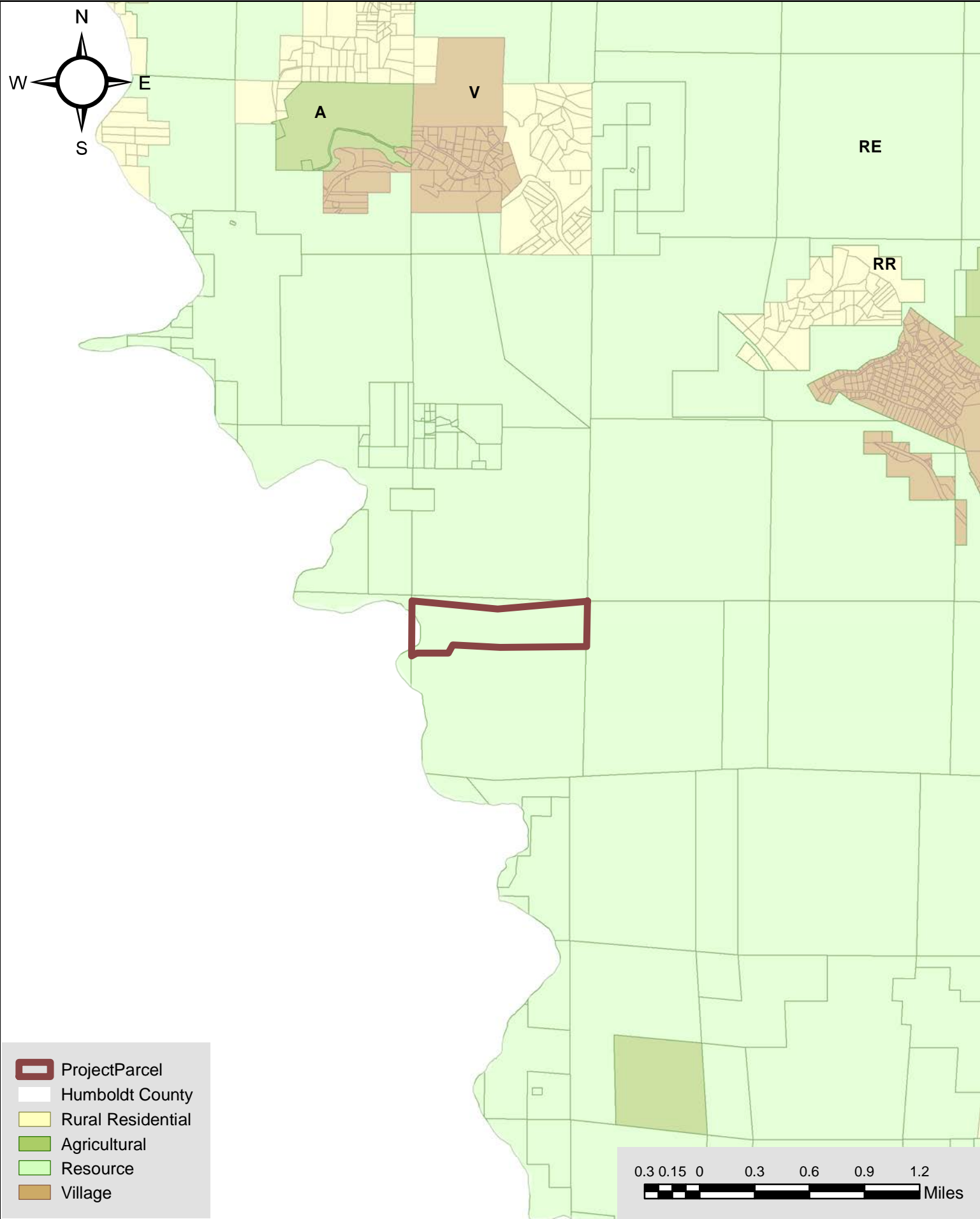
Attachment 4: Aerial Map



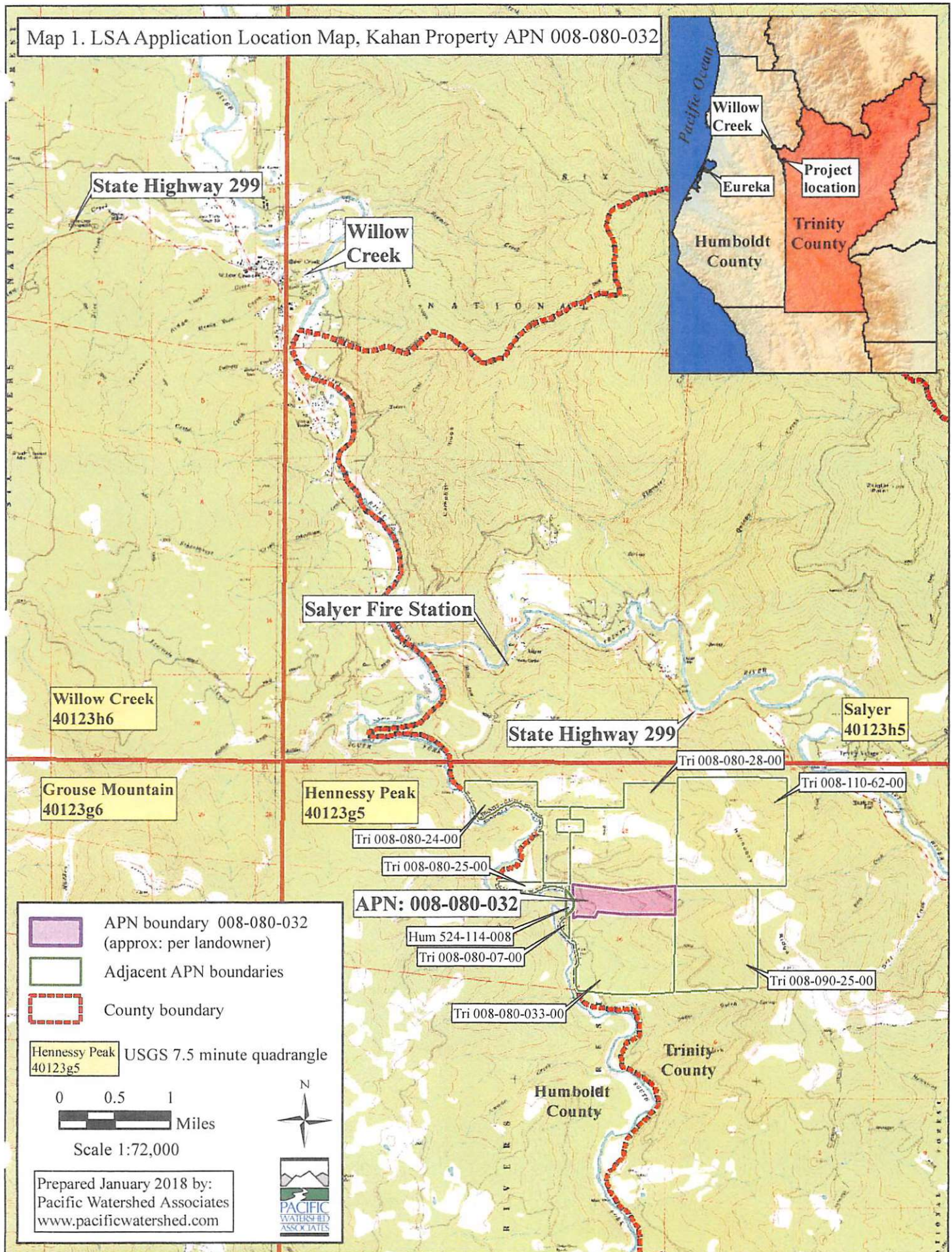
Attachment 5: Zoning District Map



Attachment 6: General Plan Designation Map



Attachment 7: Project Site Plans

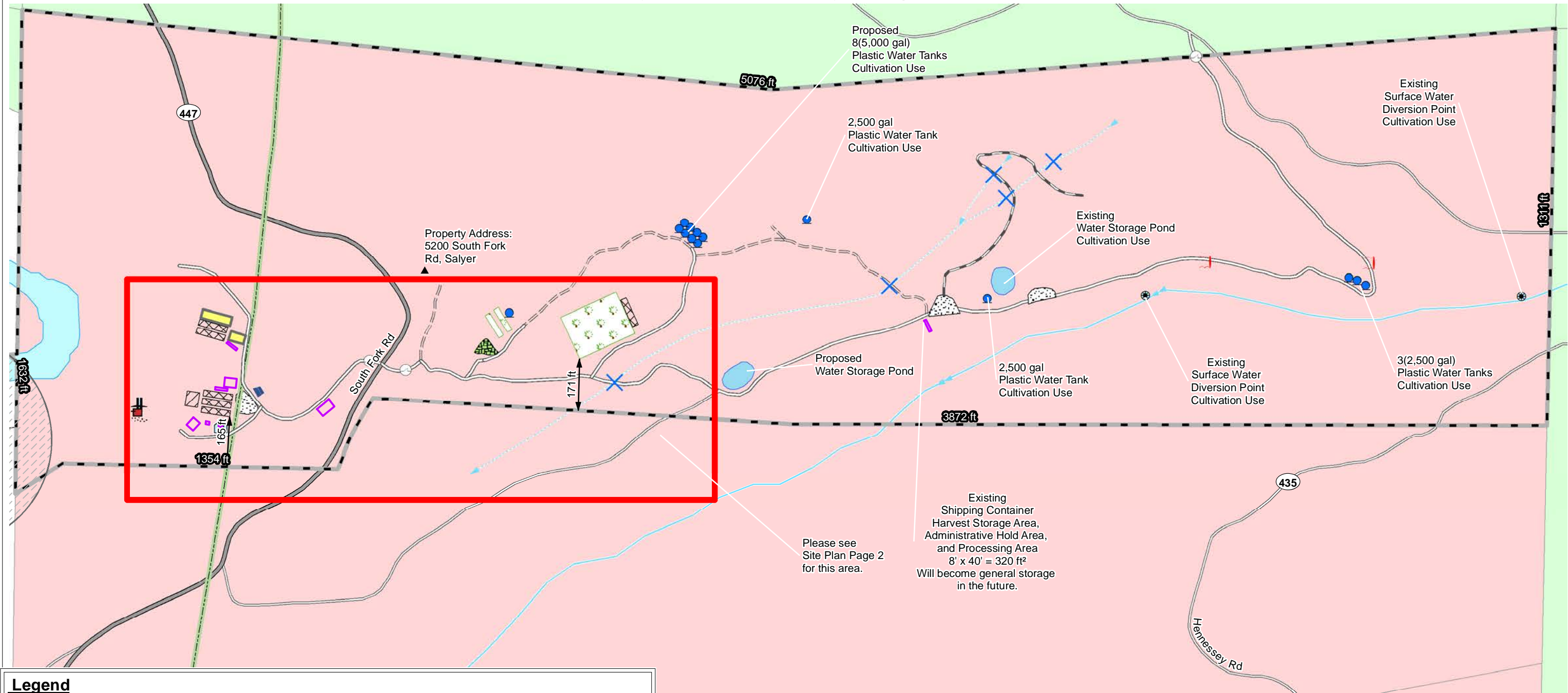


P:\GIS\5082 Kahan 2015\5082 Kahan 2015 Map 1 - location 2-1-18.mxd

CCUPT3-2019-021

Figure 1 - Project Location

SITE PLAN PAGE 1 of 2



Legend

Subject Property	Waste	Culverts	Mapped Streams
Future Cultivation	Compost	Culvert	Mapped Intermittent
Greenhouse	Septic	Crossings	Mapped Ephemeral
Immature Plant Area	Leach Lines	Roads	Rivers
Outdoor Cultivation Area	Gates	Paved	Ponds
Structure Boundary	Power	Rocked	Ownership
	Solar Panels	Native	Parcel Lines
	Water Source	Jeep/Skid Trail	Private: Timber Production
	Diversion Point	PG&E Easement	US Forest Service
	Pump House	Parking Area	350ft Residential Setback
	Water Storage		

Variance is required for the proposed project due to the insufficient property line setback.

Total Existing Mature Canopy Area = 10,000 ft²
Total Proposed Mature Canopy Area = 43,560 ft²

While we strive to present the most accurate data available, approximate scale, distances, location, and site conditions may vary.

Main Map Scale 1 Inch = 325 ft

0 162.5 325 650 feet

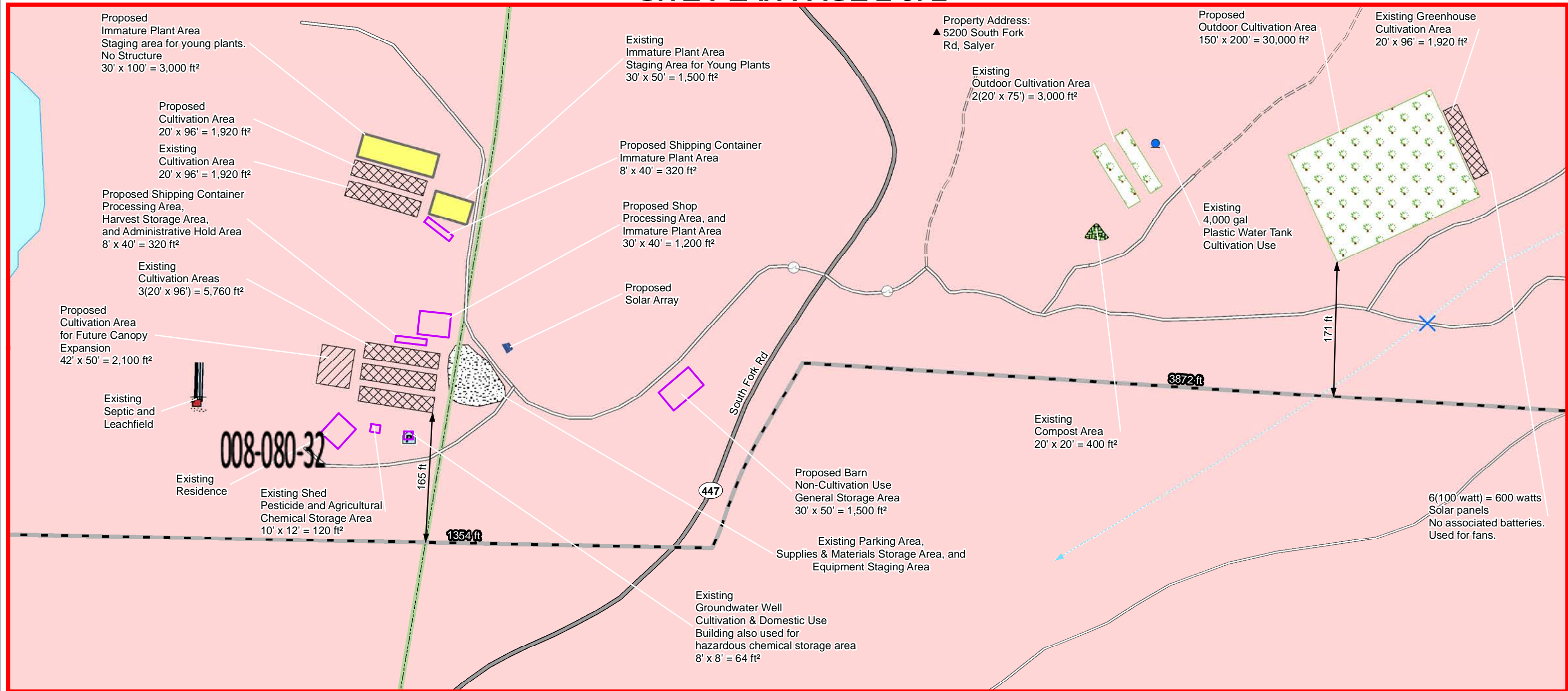
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Trinity River CONSULTING

TRINITY COUNTY PLANNING DEPARTMENT
APPLICANT PREPARED SITE PLAN
Application No. _____

Drawn By: S. Elliott APN: 008-080-32-00
Date: 12/07/2021 Zoning: TPZ
Scale: 1:3,900 Lot Area: 143.57 Acres

SITE PLAN PAGE 2 of 2



Legend

Subject Property	Waste	Water Source	Mapped Streams
Cultivation	Compost	Pump House	Mapped Ephemeral
Future Cultivation	Septic	Water Storage	Rivers
Greenhouse	Leach Lines	Crossings	Ownership
Immature Plant Area	Gates	Roads	Private: Timber Production
Outdoor Cultivation Area	Power	Paved	
Structure Boundary	Solar Panels	Native	
		PG&E Easement	
		Parking Area	

Variance is required for the proposed project due to the insufficient property line setback.

Total Existing Mature Canopy Area = 10,000 ft²
Total Proposed Mature Canopy Area = 43,560 ft²

While we strive to present the most accurate data available, approximate scale, distances, location, and site conditions may vary.



Main Map Scale 1 Inch = 125 ft
0 62.5 125 250 feet

TRINITY COUNTY PLANNING DEPARTMENT
APPLICANT PREPARED SITE PLAN
Application No. _____

Drawn By: S. Elliott APN: 008-080-32-00
Date: 12/07/2021 Zoning: TPZ
Scale: 1:1,500 Lot Area: 143.57 Acres