



**ZONING ADMINISTRATOR
STAFF REPORT**

**NOVEMBER 8, 2018
V_2018-0006**

SUMMARY

OWNER: REBECCA LYNN CRISPIN
8800 HEARST WILLITS RD
WILLITS, CA 95490

APPLICANT: CURTIS M. PFAHLER
100 HARBOR DRIVE, UNIT 1904
SAN DIEGO, CA 92101

REQUEST: A Variance requesting the elimination of the corridor preservation setback along Hearst Willits Road (CR 306), allowing for the placement of a wild life exclusionary fence 50 ft. from edge of the roadway that contains mixed-light facilities for cannabis cultivation.

LOCATION: 9± miles northwest of Willits city center, lying on the south side of Hearst Willits Rd. (CR 306), 5.4± miles southeast of its intersection with Reynolds Hwy. (CR 310), located at 8800 Hearst Willits Rd., Willits (APN: 037-310-66).

TOTAL ACREAGE: 191± Acres

GENERAL PLAN: Forest Lands, 160 acre minimum parcel size (FL160)

ZONING: Timberland Production Zone, 160 acre minimum parcel size (TPZ160)

SUPERVISORIAL DISTRICT: 3

ENVIRONMENTAL DETERMINATION: Categorically Exempt: Section 15301, Class 1 (Existing Facilities), Section 15303, Class 3 (New Construction or Conversion of Small Structures), and Section 15304, Class 4 (Minor Alterations to Land)

RECOMMENDATION: Approve With Conditions

STAFF PLANNER: Jesse Davis

BACKGROUND

PROJECT DESCRIPTION: A Variance requesting the elimination of the corridor preservation setback along Hearst Willits Rd. (CR 306), allowing for the placement of a wild life exclusionary fence 50 ft. from edge of the roadway that contains mixed-light facilities for cannabis cultivation.

"Wildlife exclusionary fence" means fencing that is designed to prevent the access of wild animals to the cultivation area by incorporating exclusionary measures designed to prevent the surface digging of wild animals under the upright portion of the fencing, the scaling of the fencing itself, and intrusion over the fencing. A number of methods are available to develop such fencing, including but not limited to: use of "no climb" wire fencing, addition of electrified "hot" wire(s) to the exterior of a solid fence, height

extensions to a standard fence (where permissible) using hot wire or barbed wire strung between the extensions, etc.

The required height for the wildlife exclusionary fencing means that it is subject to front yard setbacks for the zoning district of the subject property. Per Mendocino County Code section Sec. 20.068.045 - Minimum Front and Rear Yards (TPZ), the established setback distance for the subject property is 50 ft. Additionally, per Mendocino County Code sections 20.152.015 (Yards) and 20.152.020 (Corridor Preservation Setback), fences in the front yard, if view obscuring, must also meet any assigned Corridor Preservation Setback, which is additive to the front yard setbacks prescribed for the TPZ zoning district. As required by Mendocino County Code section 10A.17.040 (A)(4), cannabis plants cannot be visible from the public right of way or publicly traveled private roads.

Additionally, the Applicant is requesting an Administrative Permit for a medium mixed light cannabis cultivation site (Type 1B (5000 ft²); AG_2018-0115) of no more than 5,000 ft² of canopy that will expand into a large mixed light cultivation (Type 2B (10,000 ft²) site of no more than 10,000 ft² of canopy in 2019. The cultivation site will be created over two phases. 'Phase 1' includes construction of a single 4,482 ft² greenhouse, while 'Phase 2' features the construction of 2 additional greenhouses of similar size in 2019, allowing for 10,000 ft² of canopy under cultivation. The origin cultivation site on the subject property will then be restored consistent with the standard conditions and best management practices listed in the North Coast Regional Water Quality Control Board Order No. 2015-0023.

APPLICANT'S STATEMENT: *[APPLICANT MEMORANDUM INCLUDED AS 'ATTACHMENT A' WITH HEARING PACKET]*

RELATED APPLICATIONS: **CC_20-85** (Certificate of Compliance); **B 9-84** (Boundary Line Adjustment, 4 parcels); **B 14-86** (Boundary Line Adjustment (2 parcels); **AG_2018-0115** (Agricultural Permit); **V_2018-0006** (Variance; Setback Reduction); **IC_2017-0332** (Cannabis Cultivation & Grading).

SITE CHARACTERISTICS: The 191± acre subject parcel is comprised of one parcel and is located 9± miles northwest of Willits city center, lying on the south side of Hearst Willits Rd. (CR 306), 5.4± miles southeast of its intersection with Reynolds Hwy. (CR 310), located at 8800 Hearst Willits Rd., Willits (APN: 037-310-66). Elevations at the subject property slope downward from its northern boundary line to Rocktree Creek, which laterally bifurcates the property. Rocktree Creek is noted in the attached National Wetlands Inventory Map, and is hydrologically connected with the larger Tomki Creek.¹ The parcel is currently served by a domestic well, which has been permitted (WW9628). Additionally, there is a permitted residence near the northern property line. This residential development maintains a septic system, and numerous outbuildings. The historical cultivation site, which is being discontinued, is located within the vicinity of these structures.

Based on the information provided to the North Coast Regional Water Quality Control Board (NCRWQCB), the Applicant's cultivation activities are classified as Tier 1, low risk, and are identified by waste discharge identification number (1_23CC400899). The applicant intends to use a combination of rainwater catchment and domestic well water for cultivation activities. In general, riparian setbacks from surface water bodies reduce impacts to water quality. Disturbed areas within the riparian setbacks are more likely to discharge waste constituents to surface water. For each site, risk determination is done based on the characteristic that poses the greatest threat to water quality. Sites that pose a higher threat to water quality (e.g., disturb a larger area, located on a steeper slope, or located close to a surface water body) require a greater level of regulatory oversight, which translates to higher costs to achieve water quality protection. The riparian setbacks are measured from the waterbody's bankfull stage (high flow water levels that occur every 1.5 to 2 years) or from the top edge of the waterbody bank in incised channels, whichever is more conservative. The Regional Water Board Executive Officer may require additional riparian setbacks or additional requirements, as needed, to meet the performance requirement of protecting surface water from discharges that threaten water quality. The minimum riparian setback established by the Regional Water Board for Intermittent watercourses or wetlands is 100 ft.

¹ Mendocino County Department of Planning and Building Services. 2018. *Wetlands* [map].

Given that the primary water source is on the opposite site of Hearst Willits Road (CR 306), shall a water line need to be installed within the County right of way, the applicant shall obtain an encroachment permit for the installation. No private electrical lines are permitted to be installed within the County right of way.

The entirety of the site is located within a mapped “Very High Fire Hazard”, and is within a California Department of Forestry and Fire Protection (CALFIRE) responsibility area². Per CALFIRE, the Applicant will be required to maintain a number of site specific conditions to improve safety and emergency response. Access to the property is provided via Hearst Willits Rd. (CR 306). Per the Department of Transportation, a standard commercial driveway approach shall be constructed at each entrance/exit located on Hearst Willits Rd. (CR 306), in accordance with Mendocino County Road and Development Standards. Additionally, the applicant indicates that the site will be served electricity from PG&E, as well as a propane delivery company. The site is expected to generate little additional traffic, given the scale of the previous cultivation activities, and the phased nature of this development.

Elevations at the site range from 2325± ft. above mean sea level (amsl) to 1697± ft. amsl.³ The identified cultivation site, however, is located within an alluvial plain near Rocktree Creek and features minimal slope. It is considered the most environmentally suitable site for cultivation, notwithstanding its proximity to Rocktree Creek. Staff finds that the project would not be located on slopes exceeding 15 percent, and would not result in the removal of additional trees or vegetation.

SURROUNDING LAND USE AND ZONING:

	General Plan	Zoning	Lot Sizes	Uses
NORTH	PL	PF	40.16 A±	Vacant
EAST	FL160	TP	73.32 A±, 108.45 A±, 149.01 A±	Residential
SOUTH	FL160	TP	50.42 A±	Residential
WEST	FL160	TP	247 A±	Residential

PUBLIC SERVICES:

Access: Hearst Willits Rd. (CR 306)
Fire District: Little Lake Fire District & CalFire
Water District: NONE
Sewer District: NONE

ENVIRONMENTAL REVIEW: The project has been determined to be categorically exempt from CEQA pursuant to Section 15303, Class 3 (New Construction or Conversion of Small Structures), and Section 15304, Class 4 (Minor Alterations to Land).

AGENCY COMMENTS: On July 31st, 2018 project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their required related permits, if any, are listed below. Their submitted recommended conditions of approval are contained in Exhibit A of the attached resolution. A summary of the submitted agency comments are listed below. Any comment that would trigger a project modification or denial are discussed in full as key issues in the following section.

² Mendocino County Department of Planning and Building Services. 2018. *Fire Hazards* [map].
³ Google Earth Maps. January 5, 2018.

REFERRAL AGENCIES	COMMENT
Planning (Ukiah)	No Response
Department of Transportation	Response
Environmental Health (Ukiah)	No Comment
Building Inspection	Response
CalFire	No Comment
Little Lake Fire District	No Comment
CDFW	No Response
Potter Valley Tribe	No Response
Sherwood Valley Rancheria	No Response
Cloverdale Rancheria	No Response
Redwood Valley Rancheria	Response
Assessor	No Response
Sonoma State University	Response
Air Quality	Response

KEY ISSUES

1. General Plan and Zoning Consistency:

The applicant is requesting a Variance for the elimination of the corridor preservation setback along Hearst Willits Road (CR 306), allowing for the placement of wildlife exclusionary fencing (<7 ft. tall) at least 50 ft. from County RoW that will obscure a mixed-light facilities for cannabis cultivation. The corridor preservation setback requirement for a parcel is stipulated in Mendocino County Code §20.152.020(D), which states:

“There is established a corridor preservation setback. A corridor preservation setback shall apply to all lots or parcels that abut a publicly maintained street or highway. A corridor preservation setback shall be in addition to front yard setbacks prescribed elsewhere in this Division and shall apply in districts that prescribe no front-yard setback. Corridor preservation setbacks shall be measured perpendicular from the center line of the existing right-of-way of record or where no record right-of-way exists from the center of the physical road.”

At this location, Hearst Willits Road (CR 306) would be considered a ‘Local Connector’, and is required to maintain a setback of at least 30 ft. from the center of the roadway in addition to the assigned zoning setback. Although staff is supportive of this reduction, it is recommended that Condition 1 through Condition 4 be applied to the project to ensure that the Mendocino County Department of Transportation maintains adequate access for future route expansion, if necessary.

The uses allowed on a Timberland Production Zoning District are stipulated in MCC Chapter §20.068.005 (Intent), which states:

“This Timberland Production Zoning District is intended to be applied to areas of the County which because of their general soil types, location and timber growing capabilities are suited for and should be devoted to the growing, harvesting, and production of timber and timber related products and are taxed as such.”

The cannabis cultivation is consistent with the purpose and intent of the Timberland Production Zoning District, as no commercial tree species will be disturbed or removed. Given the location of the proposed cultivation site, past cultivation activities on the subject property, and associated applications with relevant state agencies, staff finds that the applicant would satisfy all development requirements for the Timberland Production zoning district and for continued cannabis operations on the subject property.

Within the application materials, the applicant indicates that a recreational vehicle will be utilized by an employee. This is not an allowed 'Temporary Use'. As such staff adds Condition 5, clarifying that use of a recreational vehicle is only allowed on the subject property per MCC Chapter §20.168.035 (Camping).

2. Variance Findings:

(A) That there are special circumstances applicable to the property involved, including size, shape, topography, location, or surrounding;

Elevations at the site range from 2325± ft. above mean sea level (amsl) from the dwelling unit located to 1697± ft. amsl.⁴ The identified cultivation site, however, is located within an alluvial plain near Rocktree Creek and features minimal slope, and is considered the most environmentally suitable site for cultivation activities, given the limited amount of required earth work. Staff concurs with the assessment of the Applicant that this proposed cultivation site is the only suitable option for continued cultivation on the subject parcel. Therefore, this finding can be made.

(B) That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the Division;

The conditions on the site predate the applicant's current intent to cultivate commercial cannabis at this location. Previously, the applicant had cultivated at a location on the site that would be considered unsuitable by current standards due to poor topography. The regulations governing the cultivation of cannabis, applied by various agencies, create the need for administrative flexibility to ensure enjoyment of a substantial property right otherwise enjoyed by similar properties. Therefore, this finding can be made.

(C) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question.

Mendocino County allows persons applying for a cannabis cultivation permit during 'Phase 1' to provide the Agricultural Commissioner evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016. Under Mendocino County's Cannabis Ordinance, individuals with a valid proof of prior cultivation are allowed to undertake cultivation activities on the property where they had previously cultivated. Accordingly, relief from strict application of the zoning ordinance in this instance can be supported and this finding can be made.

(D) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located;

The request is for a variance reducing the corridor preservation setback. As indicated by the applicant, adjacent parcels along the roadway feature similar setback situations, due to the location of Rocktree Creek and Hearst Willits Rd. (CR 306). While staff was unable to identify any similar Variances on adjacent parcels, the Mendocino County Department of Transportation does not object to this request and provided a recommended conditional approval. Therefore, this finding can be made.

(E) That the granting of such variance will not adversely affect the General Plan.

The granting of the variance would not adversely affect the General Plan. The project is for a variance reducing the corridor preservation setback, leaving a distance of 50 ft. between any development and the County right of way. The cultivation site would be associated with a commercial use on a parcel designated for cannabis cultivation by the Mendocino County Board of Supervisors. The project would not influence the density, existing use, circulation or lot size of the subject parcel. Therefore, this finding can

⁴ Google Earth Maps. January 5, 2018.

be made.

Staff has made the above required findings in support of the recommendation to the Zoning Administrator.

3. Administrative Permit Findings:

1. The cannabis cultivation is in conformity with the General Plan.

Staff finds the on-site residence is a principally permitted use, and the proposed cultivation areas and appurtenant structures to support the cannabis cultivation are permitted accessory buildings within the Forest Land use classification. The existing and proposed use is consistent with the intent of the Forest Land classification and all associated development and performance criteria.

2. The cannabis cultivation will be provided with adequate utilities (water and sewer), access roads, drainage, and other necessary facilities.

Staff reviewed the application along with supplemental exhibits and determined the site is currently served by a domestic well. Additionally, the applicant indicates rainwater catchment as a source of water for cultivation activities. Access to the site is provided along Hearst Willits Rd. (CR 306).

3. The cannabis cultivation is consistent with the purpose and intent of the Timberland Production zoning districts, as well as all other provisions of Division I of the Mendocino County Inland Zoning Code, and preserves the integrity of the Timberland Production zoning districts.

With compliance with the Conditions of Approval, Staff finds the cannabis cultivation, proposed appurtenant structures, and associated utilities would satisfy all development requirements for the Timberland Production zoning districts.

4. The cannabis cultivation, if operated in compliance with the Conditions of Approval, will have any significant adverse impacts on the environment.

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301, Class 1 (Existing Facilities), Section 15303, Class 3 (New Construction or Conversion of Small Structures), and Section 15304, Class 4 (Minor Alternations to Land).

5. The cannabis cultivation will not have any adverse impacts on any known archaeological or paleontological resource.

Staff finds the proposed project would have no adverse impacts on any known archaeological or paleontological resources. Staff recommends that only that a standard condition advises the applicant of the Discovery Clause, which prescribes the procedures subsequent to the discovery of any cultural resources during construction of the project.

6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the cannabis cultivation.

Staff finds that construction of an on-site residence and continued use of the existing accessory structures that support the cannabis cultivation would not generate a significant amount of solid waste or significantly increase public roadway use beyond that existing today.

7. The cannabis cultivation is compatible with the long term protection of resource lands.

Staff finds that the project is compatible with the long term protection of resource lands, as the project parcels would remain predominately forested, as the majority of the site would not be subject to cannabis cultivation.

8. The cannabis cultivation is located on a legal parcel.

Staff has reviewed the application along with supplemental exhibits and has determined that the project site is located on a legal parcel, per CC 20-85 (Certificate of Compliance).

9. The cannabis cultivation site is allowed in the Timberland Production zoning district and it is in compliance with the provisions of Chapter 10A.17.

Pursuant to Chapter 20.242, existing cannabis cultivation is permitted in the Timberland Production zoning district subject to the issuance of an Administrative Permit. Staff finds the project to be in compliance with the provisions of Chapter 10A.17.

10. There is no other environmentally superior cultivation site located on the same parcel; the location and operation of the cannabis cultivation site will, to the maximum extent feasible, avoid or minimize its impact on environmentally sensitive areas including hillsides exceeding 15 percent, prime soil, oak woodland, and timber resources.

Staff finds that the project would not be located on slopes exceeding 15 percent, and would not result in the removal of additional trees or vegetation.

11. The cannabis cultivation site will avoid or minimize odor and light impact on residential uses.

Based on a review of the application and supplemental materials, Staff finds that the project would avoid or minimize odor and light impact on residential uses, since all setbacks and development criteria will be achieved and the nearest residence is located approximately 600 ft. from the cultivation area.

4. Environmental Protection:

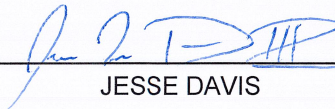
The project has been determined to be categorically exempt from CEQA pursuant to Section 15301, Class 1 (Existing Structures), Section 15303, Class 3 (New Construction or Conversion of Small Structures), and Section 15304, Class 4 (Minor Alterations to Land).

RECOMMENDATION

By resolution, the Zoning Administrator accept the Categorical Exemption and grant approval of Variance V_2018-0006, as conditioned, based on the facts and findings and subject to the Conditions of Approval.

10-30-2018

DATE


JESSE DAVIS

Appeal Period: 10 Days
Appeal Fee: \$910.00

ATTACHMENTS:

- | | |
|----------------------------------|--------------------------|
| A. Applicant Variance Memorandum | G. General Plan |
| B. Location Map | H. Fire Hazards Map |
| C. Aerial Map | I. Soils Map |
| D. Adjacent Owner Map | J. Timber Production Map |
| E. Site/Tentative Map | K. Wetland |
| F. Zoning Map | |

RESOLUTION AND CONDITIONS OF APPROVAL (Exhibit A)

Greetings,

I am writing this letter to inform the Planning and Building department of my intent to apply for a Variance for the property listed at 8800 Hearst Willits rd, Willits, CA.

RECEIVED
JUL 28 2018
UKIAH

Along with this Administrative Permit, for purposes of zoning in the TZ for Cannabis cultivation, I would like to apply for a Variance for the following reasons:

1. Under the current Mendocino County Agriculture department guidelines, an individual is granted the right to apply for mixed light permitting up to 10,000 sqft. It is my intent to expand to the size. If I am forced to only be able to expand to ~7500 sqft, but am forced to pay the fees for a 10,000 sqft facility, I would find this unfair and opposed to the spirit of the counties intentions in offering these permits.
2. I am hampered in my expansion by 3 factors. The first being a creek that runs south in my property. I am forced to be 100 feet away from the creek bed, pushing me north. The second is a public road that intersects my property, and boxes me in from the north between said road and the creek. I am able to build a single greenhouse while maintaining the required 30 feet by the AG department, but I am not able to build the desired second greenhouse due to the corridor requirement of 80' from the middle of the road imposed by the building department. If I am granted the variance that permits building at 50' from the edge of the road, I will be able to expand to the full 10,000 sqft that I am paying for.
3. The need for this variance may not seem apparent on my 191 acres. "Why not just build somewhere else?" you may ask? The property is literally all on the side of a mountain. There is no where else that is naturally flat, and I would hate to deforest and grade the natural land when there already exists a flat field adjacent to the road. I wont have to harm the environment, and I will be safely located for not just cal-fire in case of an emergency, but also to all the government oversight committees that need to do inspections.
4. There is a history of these Variances being issued, as my next door neighbor has built a house within the corridor space to the road, so this would be nothing new for the area.

Thank you for your time and I appreciate your consideration for a Variance. Please let me know what next steps I need to take to fully apply for this building Variance.

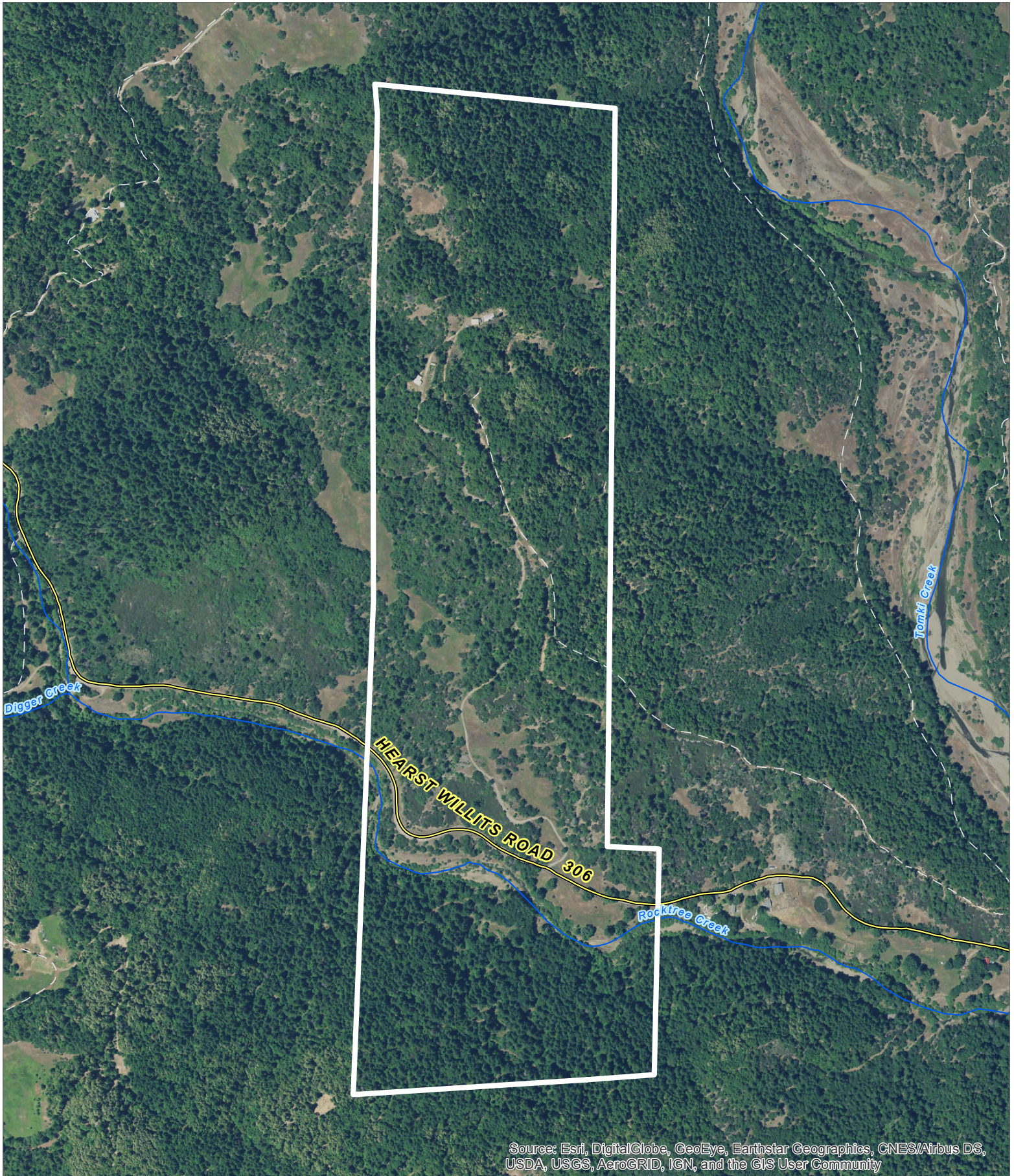
Curtis Pfahler
619-850-5876
Curtispfahler@gmail.com



CASE: V 2018-0006
 OWNER: CRISPIN, Rebecca
 APN: 037-310-66
 APLCT: Curtis Pfahler
 AGENT:
 ADDRESS: 8800 Hearst Willits Road, Willits

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.
 DO NOT USE THIS MAP TO DETERMINE LEGAL PROPERTY BOUNDARIES

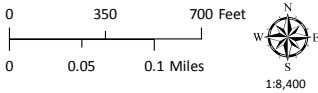
LOCATION MAP
 ATTACHMENT B



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

CASE: V 2018-0006
OWNER: CRISPIN, Rebecca
APN: 037-310-66
APLCT: Curtis Pfahler
AGENT:
ADDRESS: 8800 Hearst Willits Road, Willits

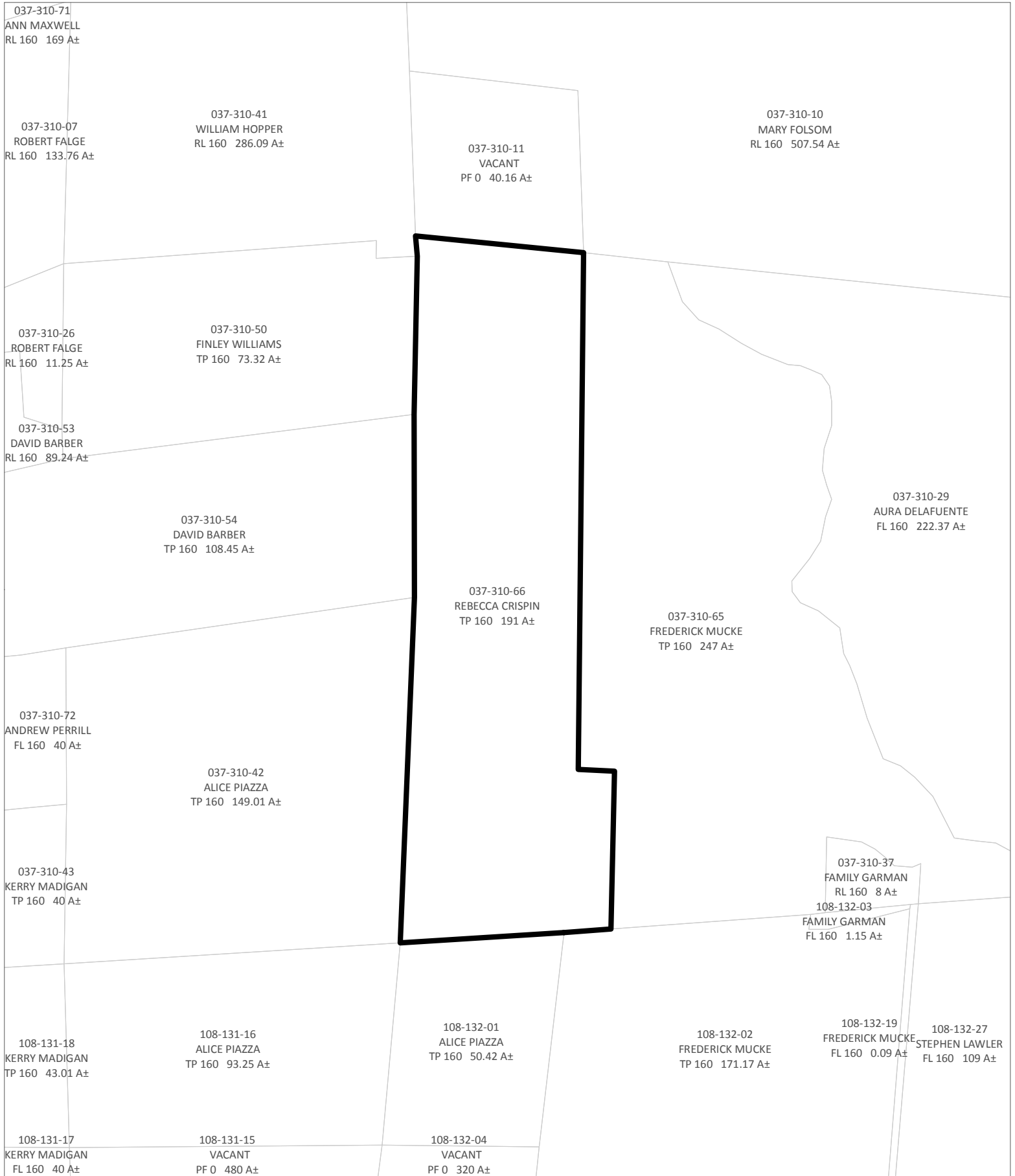
- Named Rivers
- Public Roads
- Driveways/Unnamed Roads



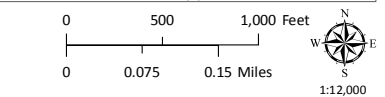
AERIAL IMAGERY

ATTACHMENT C

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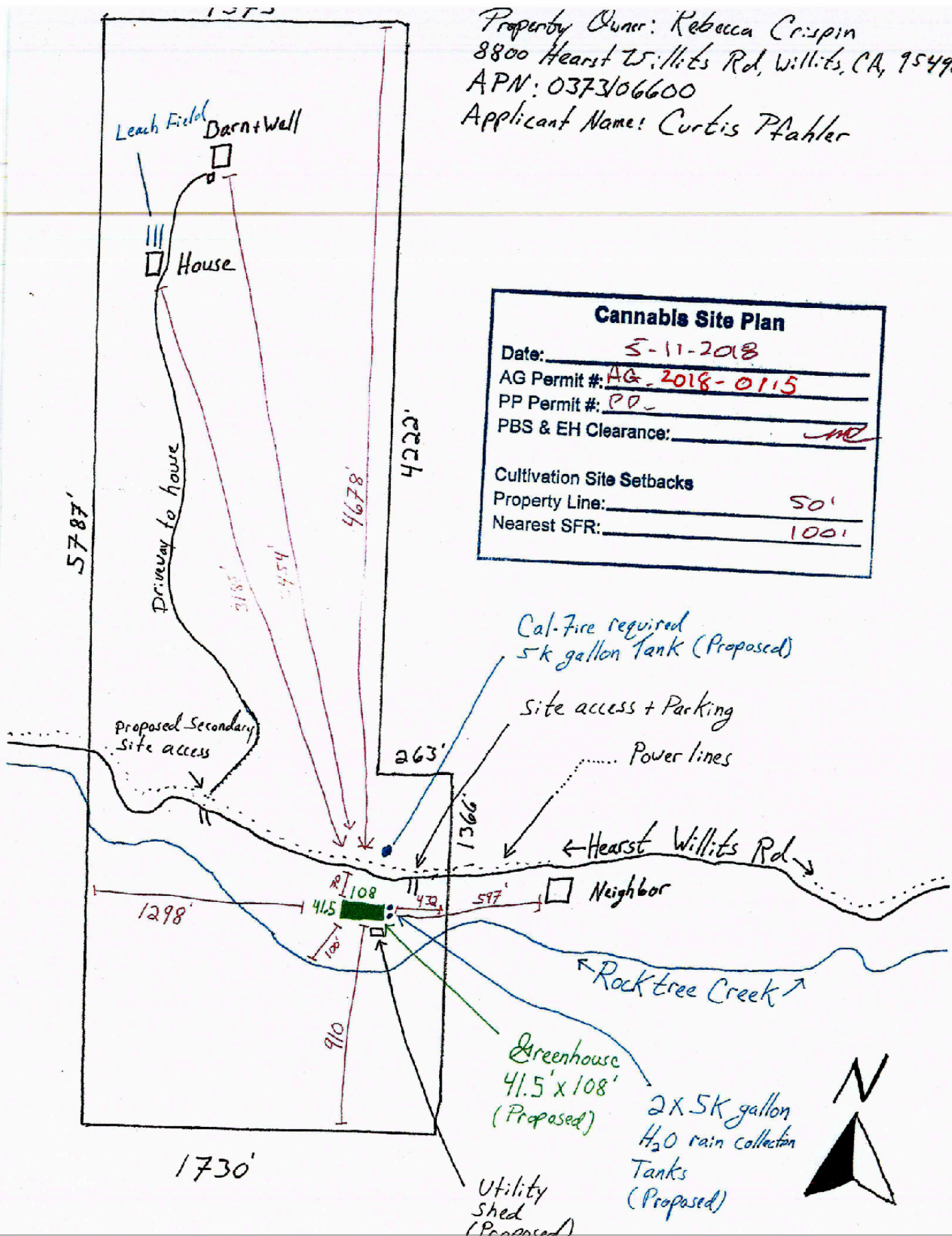


CASE: V 2018-0006
OWNER: CRISPIN, Rebecca
APN: 037-310-66
APLCT: Curtis Pfahler
AGENT:
ADDRESS: 8800 Hearst Willits Road, Willits



Property Owner: Rebecca Crispin
8800 Hearst Willits Rd, Willits, CA, 95490
APN: 0373106600
Applicant Name: Curtis Pfahler

Cannabis Site Plan	
Date:	5-11-2018
AG Permit #:	AG-2018-0115
PP Permit #:	PD
PBS & EH Clearance:	MC
Cultivation Site Setbacks	
Property Line:	50'
Nearest SFR:	100'



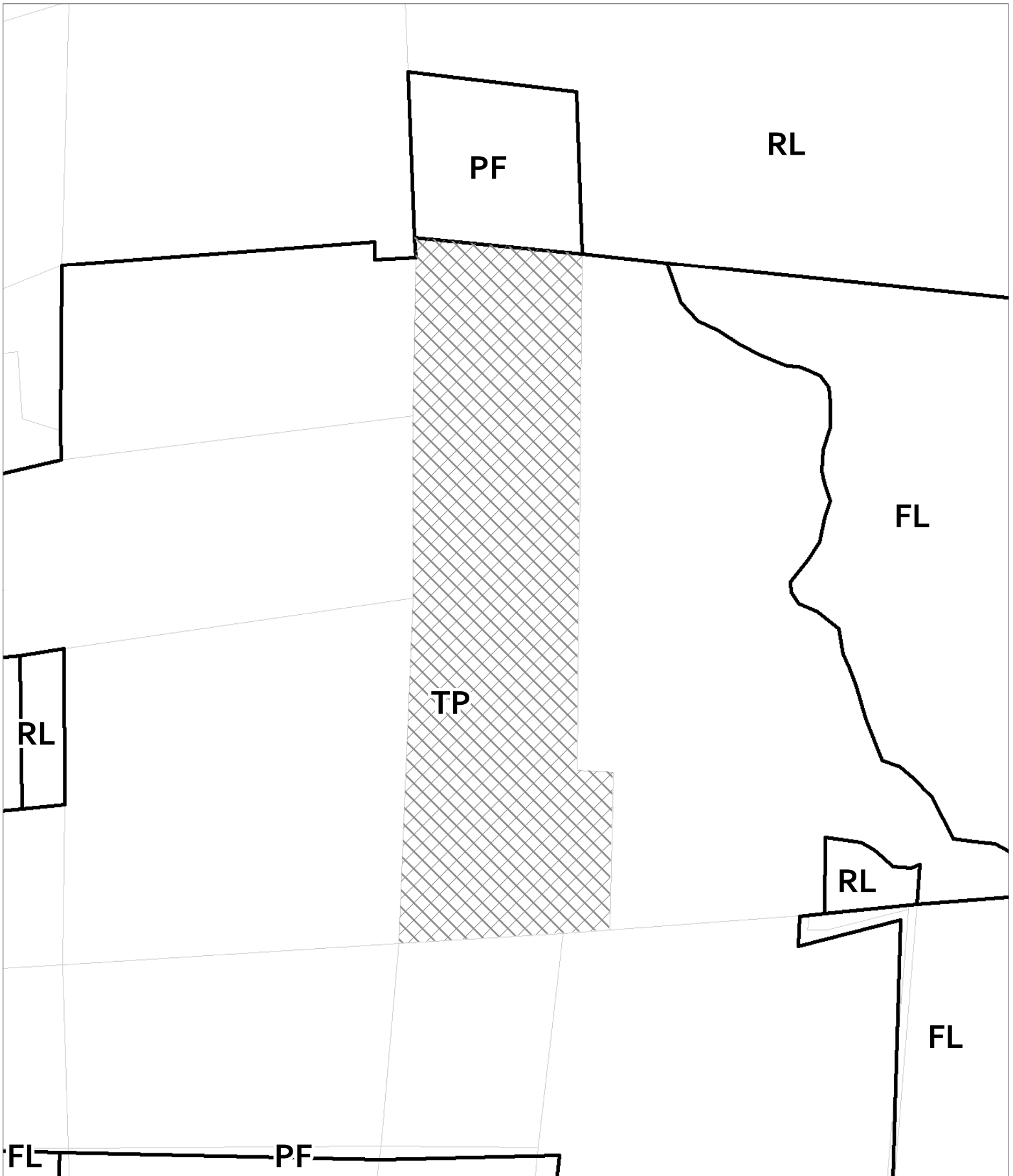
CASE: V 2018-0006
OWNER: CRISPIN, Rebecca
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ADDRESS: 8800 Hearst Willits Road, Willits

NO SCALE


SITE PLAN

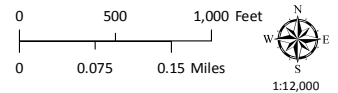
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ATTACHMENT E



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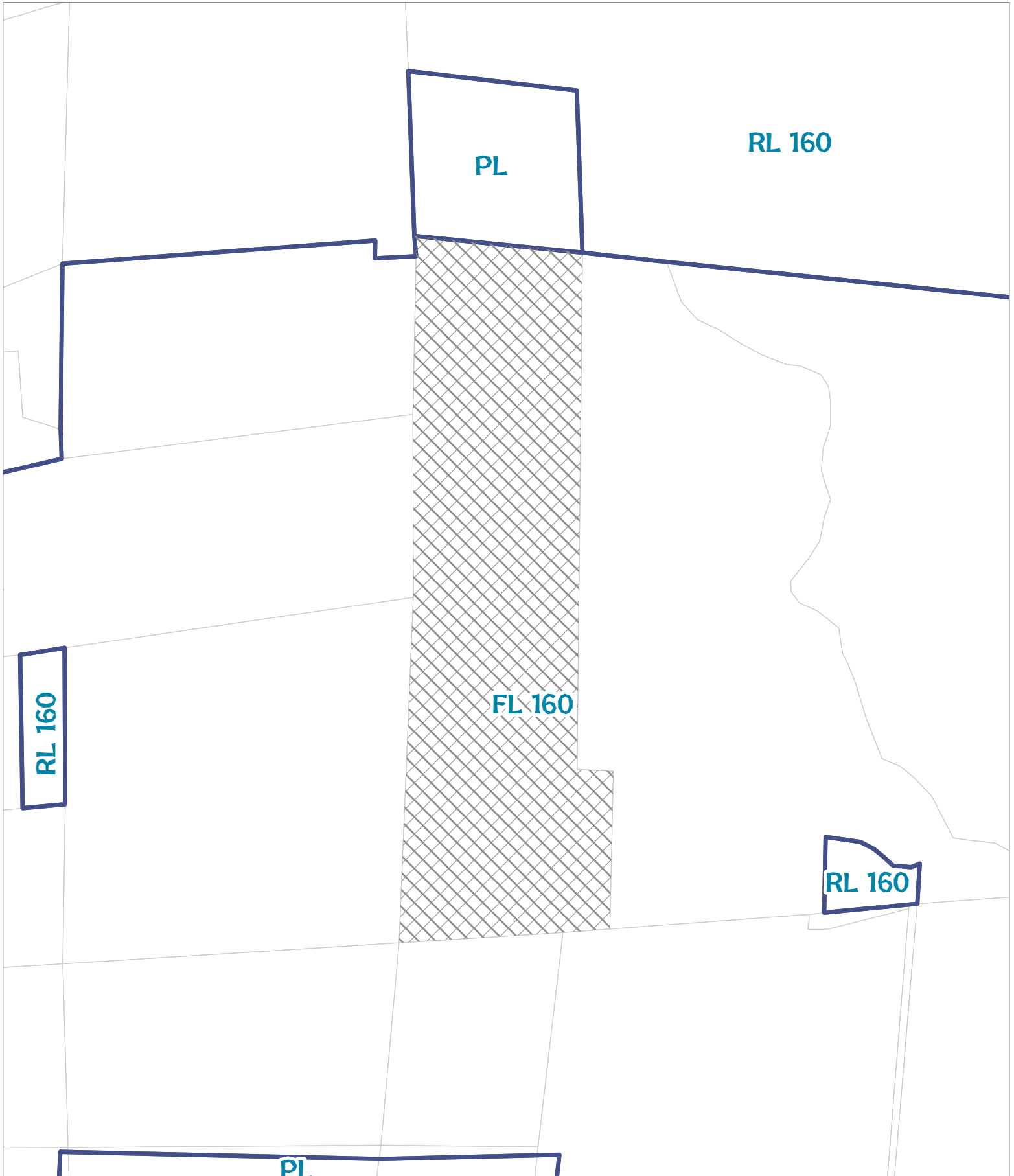
 Zoning Districts




ZONING DISPLAY MAP

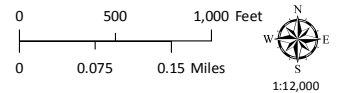
ATTACHMENT F

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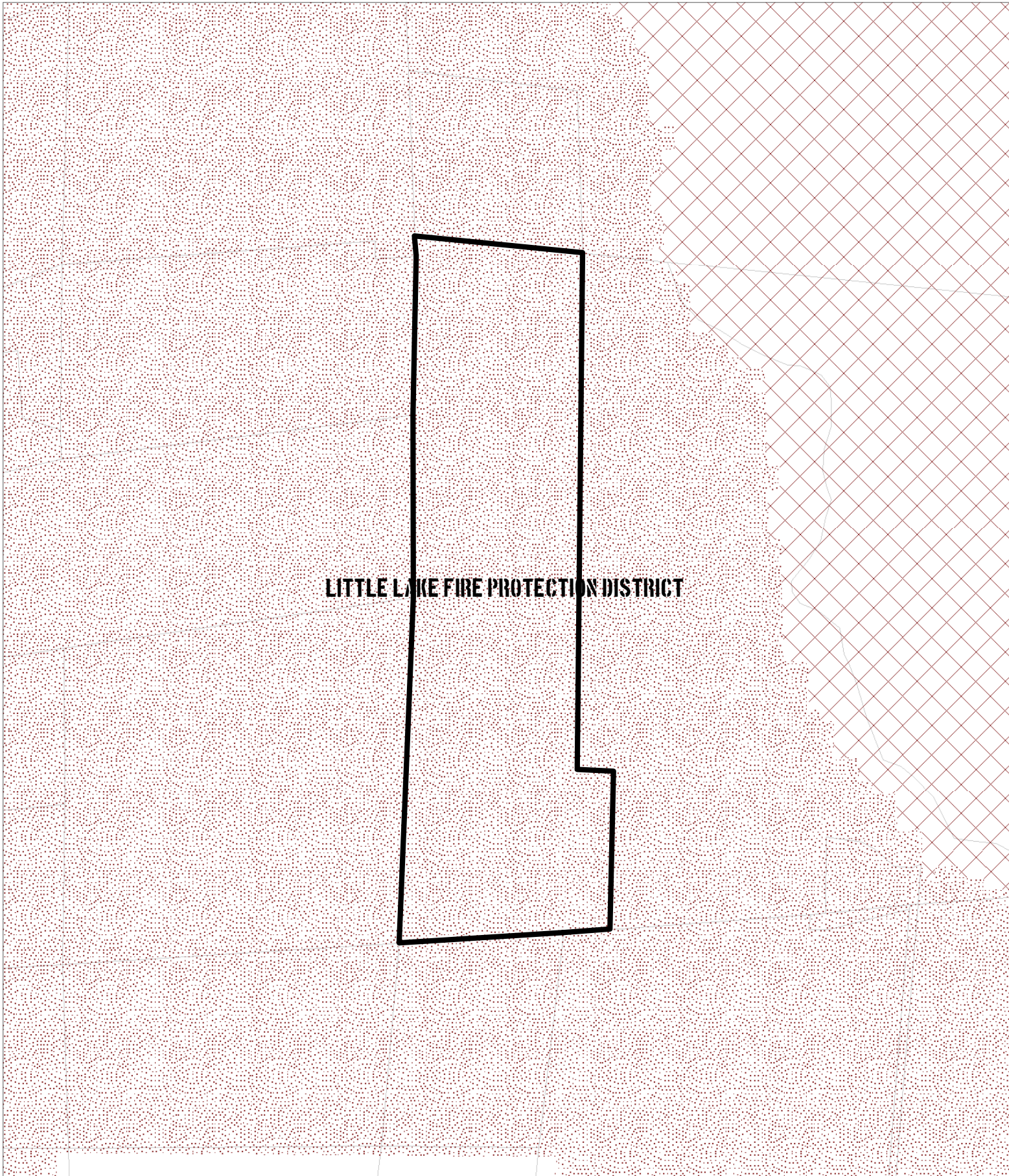
CASE: V 2018-0006
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 General Plan Classes






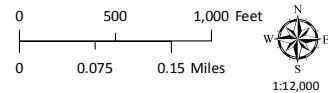
GENERAL PLAN CLASSIFICATIONS
ATTACHMENT G

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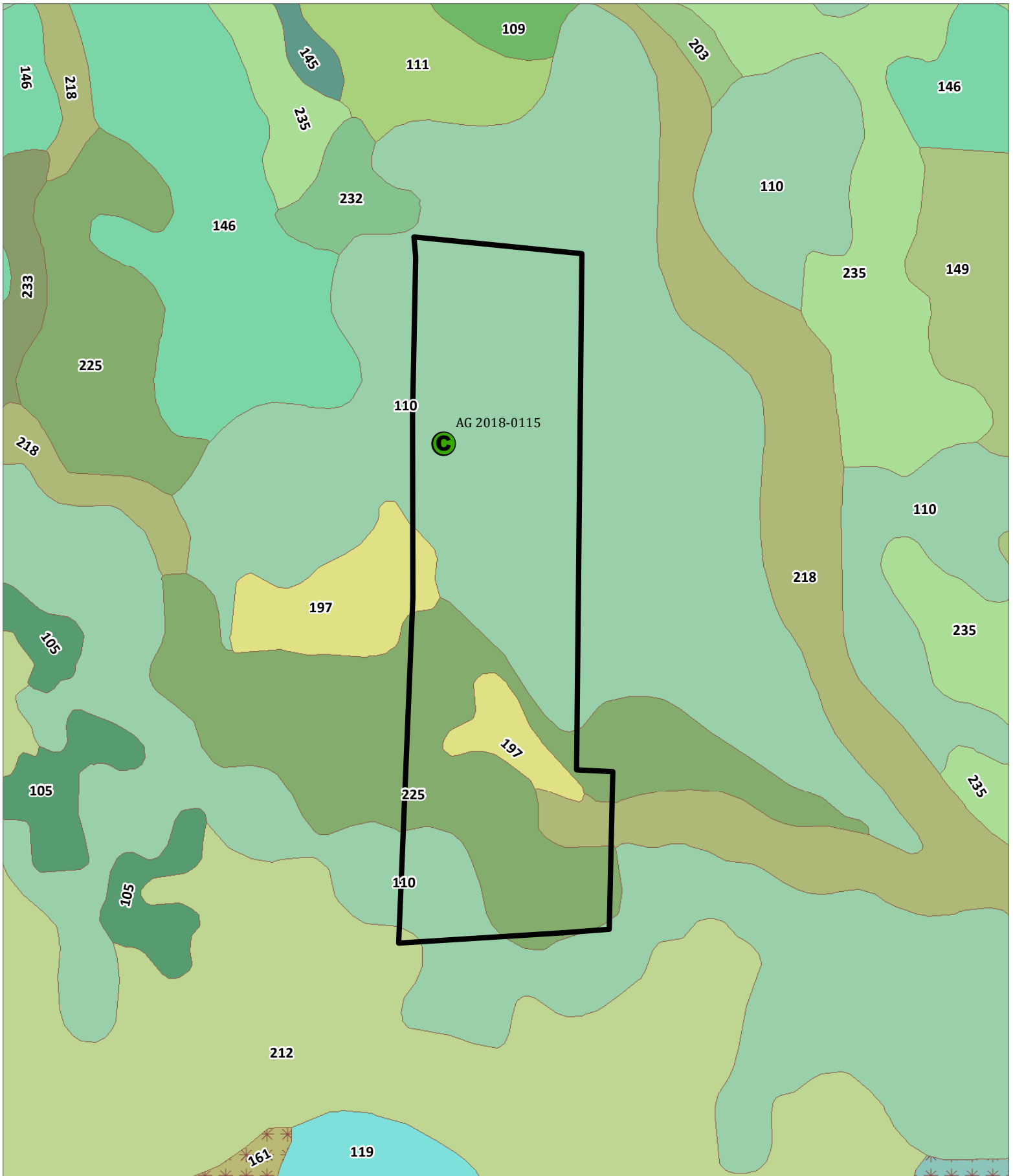
-  County Fire Districts
-  Very High Fire Hazard
-  High Fire Hazard



FIRE HAZARD ZONES & RESPONSIBILITY AREAS
STATE RESPONSIBILITY AREA

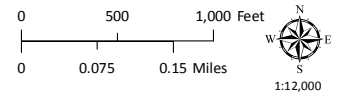
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ATTACHMENT H



CASE: AP 2018-0046
 OWNER: CRISPIN, Rebecca
 APN: 037-310-66
 APLCT: Curtis Pfahler
 AGENT:
 ADDRESS: 8800 Hearst Willits Road, Willits

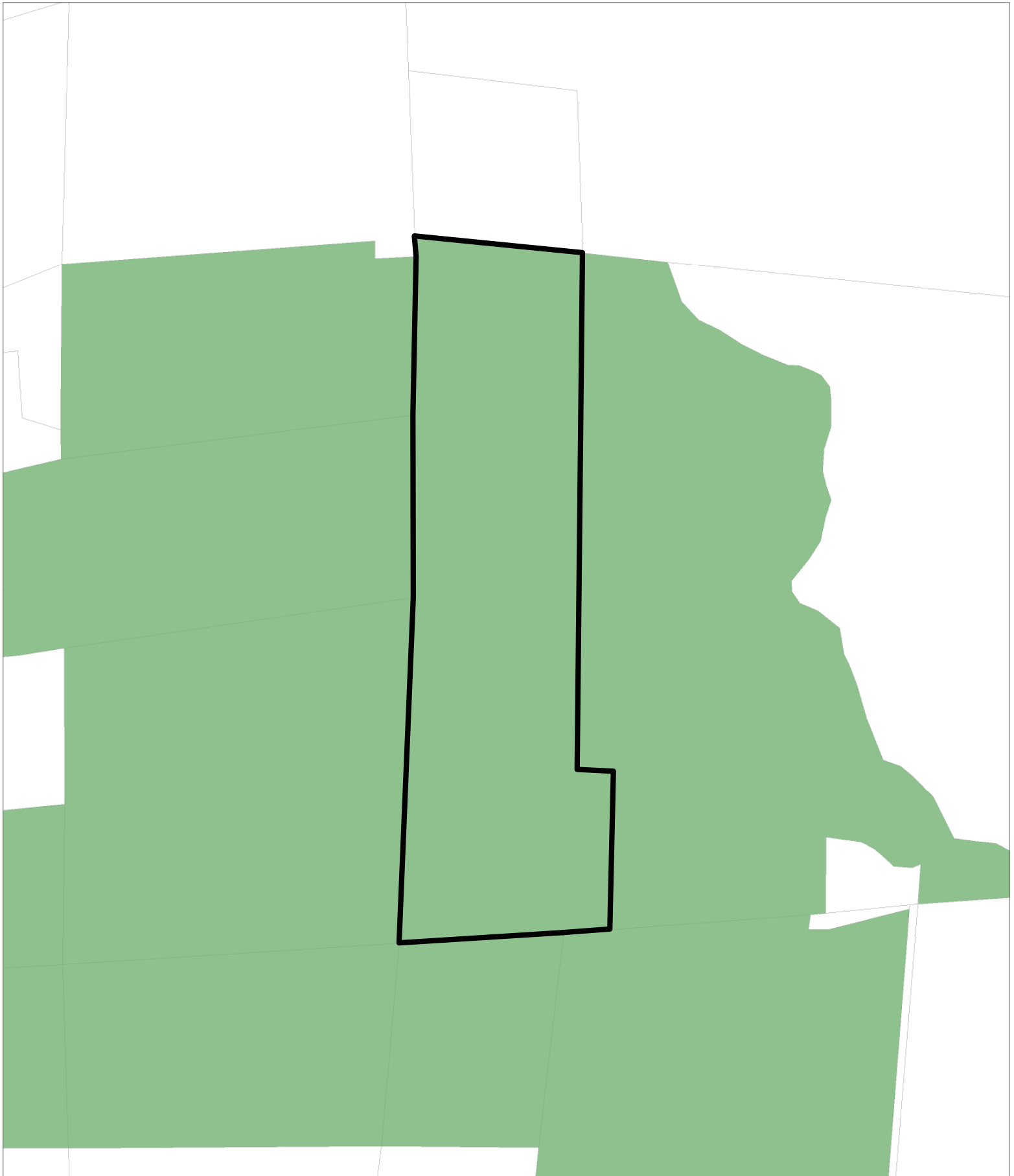
* * * * * Eastern Rock Inclusions
 * * * * * Eastern Study Soil Types



LOCAL SOILS

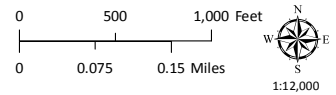
ATTACHMENT I

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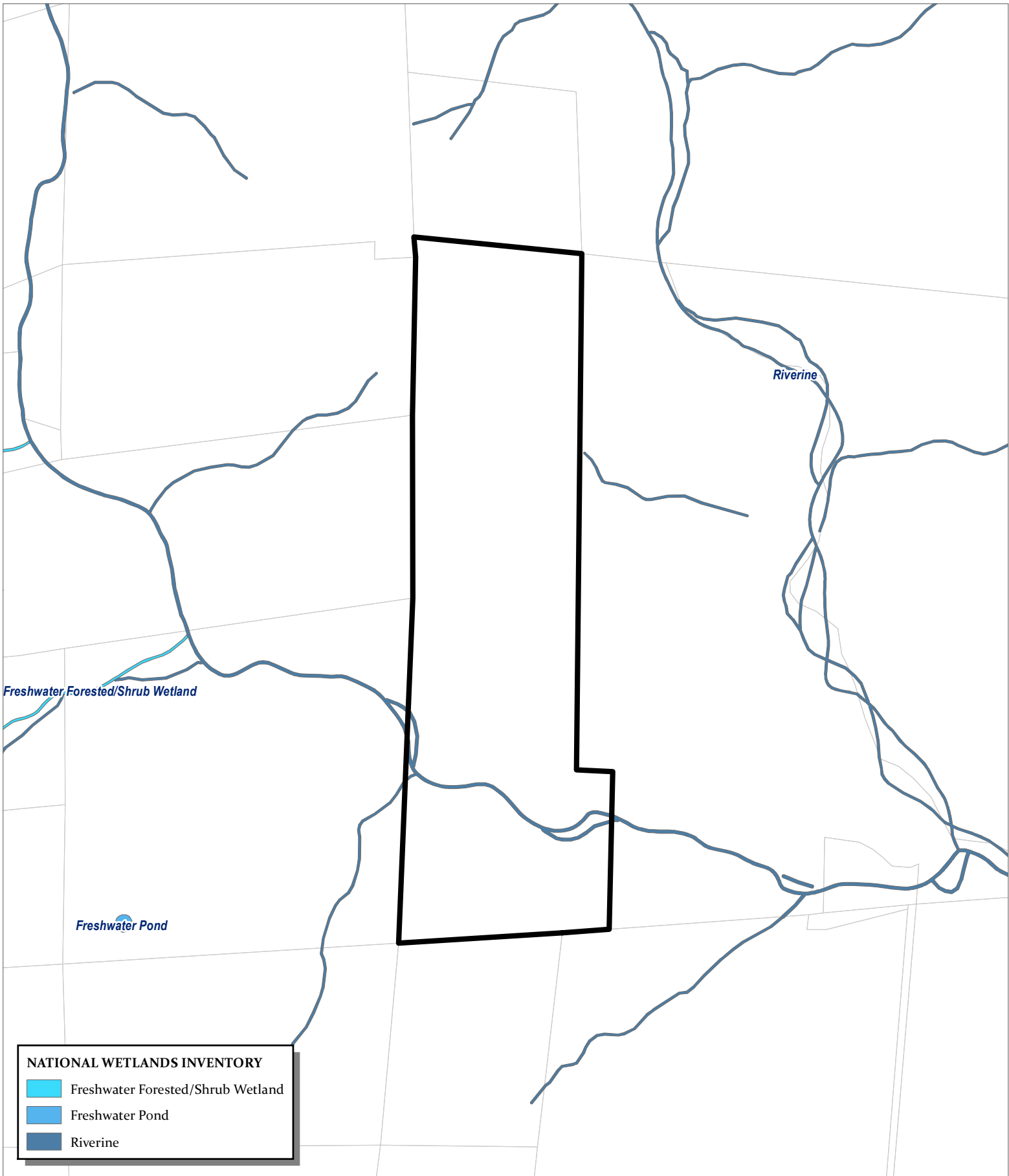
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TPZ 2017



TIMBER PRODUCTION ZONES
ATTACHMENT J

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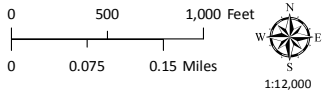
NATIONAL WETLANDS INVENTORY

Freshwater Forested/Shrub Wetland

Freshwater Pond

Riverine

CASE: V 2018-0006
OWNER: CRISPIN, Rebecca
APN: 037-310-66
APLCT: Curtis Pfahler
AGENT:
ADDRESS: 8800 Hearst Willits Road, Willits



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Resolution Number _____

County of Mendocino
Ukiah, California
November 8, 2018

V_2018-0006

RESOLUTION OF THE ZONING ADMINISTRATOR, COUNTY OF
MENDOCINO, STATE OF CALIFORNIA, GRANTING A VARIANCE
FOR CORRIDOR PRESERVATION SETBACK REDUCTION AND
ADMINISTRATIVE PERMIT FOR MIXED LIGHT CANNABIS
CULTIVATION

WHEREAS, the applicant, Curtis M. Pfahler, filed an application for a VARIANCE and ADMINISTRATIVE PERMIT with the Mendocino County Department of Planning and Building Services to eliminate the corridor preservation setback and mixed light cannabis cultivation site along Hearst Willits Road (CR 306) at 8800 Hearst Willits Rd., Willits, CA (APN: 037-310-66).

WHEREAS, the Secretary for Resources has found that certain classes of projects have been determined not to have a significant effect on the environment and are therefore exempt from the requirement for the preparation of environmental documents, and the Project was determined to meet the criteria for a Categorical Exemption from the California Environmental Quality Act (CEQA) under Class3(b); and

WHEREAS, in accordance with applicable provisions of law, the Zoning Administrator held a public hearing on, November 8, 2018, at which time the Zoning Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Zoning Administrator has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Zoning Administrator regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Administrator makes the following findings;

1. **General Plan Findings:** The subject property is classified Forest Land (FL160) under the General Plan. The proposed variance is consistent with the General Plan.
2. **Zoning Findings:** The subject property is zoned Timberland Production, 160 Acre Minimum (TP160). The project is consistent with the Variance provisions of Chapter 20.242 of the County Code. Mendocino County allows persons applying for a cannabis cultivation permit during 'Phase One' to provide the Agricultural Commissioner evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016. Under Mendocino County's Cannabis Ordinance, individuals with a valid proof of prior cultivation are allowed to undertake cultivation activities on the property where they had previously cultivated.
3. **Variance Findings:** The Zoning Administrator approves V_2018-0006 subject to the Conditions of Approval recommended by staff, and further finding:

(A) That there are special circumstances applicable to the property involved, including size, shape, topography, location, or surrounding;

Elevations at the site range from 2325± ft. above mean sea level (amsl) from the dwelling unit located to 1697± ft. amsl.¹ The identified cultivation site, however, is located within an alluvial plain near Rocktree Creek and features minimal slope, and is considered the most environmentally suitable site for cultivation

¹ Google Earth Maps. January 5, 2018.

activities, given the limited amount of required earth work. Staff concurs with the assessment of the Applicant that this proposed cultivation site is the only suitable option for continued cultivation on the subject parcel. Therefore, this finding can be made.

(B) That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the Division;

The conditions on the site predate the applicant's current intent to cultivate commercial cannabis at this location. Previously, the applicant had cultivated at a location on the site that would be considered unsuitable by current standards due to poor topography. The regulations governing the cultivation of cannabis, applied by various agencies, create the need for administrative flexibility to ensure enjoyment of a substantial property right otherwise enjoyed by similar properties. Therefore, this finding can be made.

(C) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question.

Mendocino County allows persons applying for a cannabis cultivation permit during 'Phase One' to provide the Agricultural Commissioner evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016. Under Mendocino County's Cannabis Ordinance, individuals with a valid proof of prior cultivation are allowed to undertake cultivation activities on the property where they had previously cultivated. Accordingly, relief from strict application of the zoning ordinance in this instance can be supported and this finding can be made.

(D) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located;

The request is for a variance reducing the corridor preservation setback. As indicated by the applicant, adjacent parcels along the roadway feature similar setback situations, due to the location of Rocktree Creek and Hearst Willits Road (CR 306). While staff was unable to identify any similar Variances on adjacent parcels, the Mendocino County Department of Transportation does not object to this request and provided a recommended conditional approval. Therefore, this finding can be made.

(E) That the granting of such variance will not adversely affect the General Plan.

The granting of the variance would not adversely affect the General Plan. The project is for a variance reducing the corridor preservation setback, leaving a distance of 50 ft. between any development and the County right of way. The cultivation site would be associated with a commercial use on a parcel designated for cannabis cultivation by the Mendocino County Board of Supervisors. The project would not influence the density, existing use, circulation or lot size of the subject parcel. Therefore, this finding can be made.

BE IT FURTHER RESOLVED that the Zoning Administrator hereby adopts the Categorical Exemption and the set forth in the Conditions of Approval. The Zoning Administrator certifies that the Categorical Exemption has been completed, reviewed, and considered, together with the comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Categorical Exemption reflects the independent judgment and analysis of the Zoning Administrator.

BE IT FURTHER RESOLVED that the Zoning Administrator hereby grants the requested VARIANCE and ADMINISTRATIVE PERMIT subject to the Conditions of Approval in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Zoning Administrator designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Zoning Administrator decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Zoning Administrator action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: VICTORIA DAVIS
Commission Services Supervisor

By: _____

BY: IGNACIO GONZALEZ
Zoning Administrator

EXHIBIT A

CONDITIONS OF APPROVAL

V_2018-0006

NOVEMBER 8, 2018

A Variance requesting the elimination of the corridor preservation setback along Hearst Willits Road (CR 306), allowing for the placement of a wildlife exclusionary fence fifty (50) feet from edge of the roadway obscuring mixed-light facilities for cannabis cultivation. Additionally, an Administrative Permit requesting a mixed light cannabis cultivation site.

APPROVED PROJECT DESCRIPTION: A Variance requesting the elimination of the corridor preservation setback along Hearst Willits Rd. (CR 306), allowing for the placement of wildlife exclusionary fencing (<7 ft. tall) at least 50 ft. from County right of way. The fencing will obscure mixed-light facilities for cannabis cultivation as required by Mendocino County Code Section 10A.17.040(A)(4). Additionally, an Administrative Permit requesting a medium mixed light cannabis cultivation site (Type 1B (5000 ft²); AG_2018-0115) of no more than 5,000 ft² of canopy expanding into a large mixed light cultivation (Type 2B (10,000 ft²) site of no more than 10,000 ft² of canopy in 2019.

CONDITIONS OF APPROVAL:

1. MCDOT does not object to the request for variance. No structures shall be constructed within 50 ft. from the edge of County right of way. It is the applicant's responsibility to determine the limits of the County Road right of way.
2. A standard commercial driveway approach shall be constructed at each entrance/exit located on Hearst Willits Rd. (CR 306), in accordance with Mendocino County Road and Development Standards No. A51B, or as modified by applicant and approved by Department of Transportation staff during field review, to be paved with asphalt concrete or comparable surfacing to the adjacent road. Concrete driveways shall not be permitted.
3. Shall a water line need to be installed within the County right of way, the applicant shall obtain an encroachment permit for the installation. No private electrical lines are permitted to be installed within the County right of way.
4. Applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation for any work within County rights-of-way.
5. The use of a recreational vehicle is not allowed for employee habitation or sanitation. Recreational Vehicles may only be utilized on the subject property per MCC Chapter §20.168.035 (Camping).
6. The applicant is advised that this variance will expire at the end of two (2) years after approval of the agricultural permit unless construction of the signs is commenced and diligently pursued in compliance with required building permits prior to that date.
7. The Applicant shall submit to Planning and Building Services within 30 days of the approval a signed letter of acknowledgment stating that they have read all Conditions of Approval for this permit and that this project will be consistent with all conditions.
8. The Administrative Permit granted for the cannabis cultivation site shall be limited to a period not to exceed 10 years. The Administrative Permit shall expire at the end of this period unless it is renewed prior to the end of the 10 year period, or at any time the approved MCCO permit for the cultivation site expires or is revoked.
9. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division I of Title 20 of the Mendocino County Code.

10. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Zoning Administrator.
11. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
12. Within one year, the Applicant shall secure all required building and health permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services and the Department of Environmental Health.
 - a. As noted by the Building Inspection Division, the applicant shall address additional submittal requirements as provided in the compliance agreement.
13. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
14. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
15. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the Applicant shall cease and desist from all further excavation and disturbances within one 100 ft. of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.
16. Removal of any commercial tree species, as defined by California Code of Regulations section 895.1 (Commercial Species for the Coast Forest District and Northern Forest District), and the removal of any true oak species (*Quercus* sp.) or Tan Oak (*Notholithocarpus* sp.) for the purpose of developing the cannabis cultivation site shall be prohibited. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to safety or disease concerns.
17. All external lighting shall be shielded and downcast to prohibit light from being cast beyond the property boundaries. Outdoor lighting shall be turned off at 7:00 p.m. in the evenings and not be turned back on until the following day after 6:00 a.m. in the morning. (24 hour security lighting would be exempt from this time requirement; however any exterior security lighting installed on the property shall utilize motion sensor activation). All lighting along the property boundaries shall be setback a minimum of 20 feet from all property lines.
18. The access road and interior circulation routes shall be treated with a dust suppressant and maintained in such a manner as to insure minimum dust generation subject to the Air Quality Management District's dust regulations.

19. For any structure utilizing supplemental lighting for the purposes of cannabis cultivation, the applicant shall provide a lighting plan demonstrating that that proposed cultivation area would not deliver or have the potential to deliver light pollution, during the hours of sunset to sunrise, which may affect fish and/or wildlife directly, or from a distance.
20. A completed Lake or Streambed Alteration Agreement (LSAA) will be required from the California Department of Fish and Wildlife (CDFW) for the project, including, but not limited to: diversion and use of water from a river, and potentially water use from springs. Surface water sources (streams, springs, and hydrologically connected wells and ponds) are generally jurisdictional for CDFW, and their use, for domestic purposes or otherwise, generally requires notification pursuant to Fish and Game Code 1602. Please note that existing jurisdictional projects or infrastructure that does not have a valid or current LSAA will likely require notification (e.g. existing stream crossings on roads). Please contact the local regional CDFW office to determine if a LSAA is necessary for the proposed project.
21. Any buildings, including greenhouses, used for the cultivation of cannabis shall be equipped with filtered ventilation systems, permitted by the Mendocino County Air Quality Management District (MCAQMD). Additionally, this project may be subject to District Regulation 1 regarding air quality permits for stationary sources of emissions. The applicant is required to an *Authority to Construct* permit from the District prior to beginning construction and/or installation of any equipment that emits or controls emissions or air containments, including odors.
22. CalFire Fire Safe Application (CalFire File No. 15-18) has been submitted by Applicant and processed. The Applicant shall call CalFire for final inspection at (707) 459-7414 once all standards outlined by CalFire for the project have been met, and provide updated CalFire documentation if the project is updated or altered.