



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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January 21, 2022

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Mendocino County Planning Commission on Thursday, February 3, 2022, at 9:00 a.m., will conduct a public hearing on the following project at the time listed or as soon thereafter as the item may be heard. This meeting will be conducted virtually and not available for in person public participation in an effort to slow the spread of COVID-19 and pursuant to the recommendation of the Mendocino County Health Officer and the California Department of Industrial Relations. In order to minimize the risk of exposure during this time of emergency, the public may participate digitally in meetings by sending comments to pbscommissions@mendocinocounty.org or via Telecomment. The telecomment form may be found at: <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas>. The meeting is available for viewing on the Mendocino County YouTube page, at <https://www.youtube.com/MendocinoCountyVideo>.

CASE#: R_2019-0013

DATE FILED: 10/30/2019

OWNER: VARIOUS

APPLICANT: BRANDY MOULTON

REQUEST: Rezone to create a Cannabis Accommodation Combining District of ten (10) parcels to facilitate greater flexibility in the development standards related to cannabis cultivation for existing commercial cannabis cultivation sites and suspend the 'Sunset Provision for Residential Districts' to facilitate continued operation.

ENVIRONMENTAL DETERMINATION: Addendum to Previously Adopted Mitigated Negative Declaration (SCH No. 2016112028)

LOCATION: 3.9± miles southeast of Fort Bragg City center, lying on the west side of Franklin Rd. (CR 414D), 0.2 miles south of its intersection with Simpson Ln. (CR 414); located at multiple addresses; APN's: 019-450-08, 019-440-21, 019-440-25, 019-480-08, 019-480-09, 019-480-10, 019-480-33, 019-480-34, 019-480-35, 019-480-36.

SUPERVISORIAL DISTRICT: 4

STAFF PLANNER: RUSS FORD

The staff report, and notice will be available 10 days before the hearing on the Department of Planning and Building Services website at: <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/planning-commission>

Your comments regarding the above project(s) are invited. Written comments should be submitted by mail to the Department of Planning and Building Services Commission Staff, at 860 North Bush Street, Ukiah, California. In order to minimize the risk of exposure during this time of emergency, the public may participate digitally in meetings by sending comments to pbscommissions@mendocinocounty.org by February 2, 2022 or orally in lieu of personal attendance. All public comment will be made available to the Commissioners, staff, and the general public as they are received and processed by staff, and can be viewed as attachments to this meeting agenda at <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/planning-commission>

The Planning Commission's action regarding this item shall be a recommendation to the Board of Supervisors, and the Boards action shall be final. If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Department of Planning and Building Services at, or prior to, the public hearing. All persons are invited to appear and present testimony in this matter.

AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE. Mendocino County complies with ADA requirements and upon request, will attempt to reasonably accommodate individuals with disabilities by making meeting material available in appropriate alternate formats (pursuant to Government Code Section 54953.2). Anyone requiring reasonable accommodation to participate in the meeting should contact the Department of Planning and Building Services by calling (707) 234-6650 at least five days prior to the meeting.

Additional information regarding the above noted item may be obtained by calling the Department of Planning and Building Services at 234-6650, Monday through Friday, 8:00 a.m. through 5:00 p.m. Should you desire notification of the Planning Commission's decision you may do so by requesting notification in writing and providing a self-addressed stamped envelope to the Department of Planning and Building Services.

IGNACIO GONZALEZ, Interim Director of Planning and Building Services



**PLANNING COMMISSION
STAFF REPORT- REZONE**

**FEBRUARY 3, 2022
R_2019-0013**

SUMMARY

OWNER(S): VARIOUS

APPLICANT/AGENT: BRANDY MOULTON
18601 NORTH HWY 1, PMB 166
FORT BRAGG, CA 95437

REQUEST: A Rezone request to create a Cannabis Accommodation Combining District of ten (10) parcels to facilitate greater flexibility in the development standards related to cannabis cultivation for existing commercial cannabis cultivation sites and suspend the 'Sunset Provision for Residential Districts' to facilitate continued operation.

LOCATION: 3.9± miles southeast of Fort Bragg City center, lying on the west side of Franklin Rd. (CR 414D), 0.2 miles south of its intersection with Simpson Ln. (CR 414), located at multiple addresses (APN's: 019-450-08, 019-440-21, 019-440-25, 019-480-08, 019-480-09, 019-480-10, 019-480-33, 019-480-34, 019-480-35, 019-480-36).

TOTAL ACREAGE: 12.79± Acre Cannabis Accommodation Combining District

GENERAL PLAN: Rural Residential, 80,000 square foot minimum and 5 acre minimum parcel size (R-R:2) and (R-R:5)

ZONING: Rural Residential, 80,000 square foot minimum and 5 acre minimum parcel size (R-R:2) and (R-R:5)

SUPERVISORIAL DISTRICT: 4 (Gjerde)

ENVIRONMENTAL DETERMINATION: Statutory Exemption pursuant to CEQA Guidelines section 15270 (staff recommendation)
Addendum to previously adopted Mitigated Negative Declaration (alternate recommendation)

STAFF RECOMMENDATION: The Planning Commission recommends that the Board of Supervisors deny Rezone R_2019-0013.

ALTERNATE RECOMMENDATION: The Planning Commission recommends that the Board of Supervisors adopt the Addendum to the Mitigated Negative Declaration and approve Rezone R_2019-0013.

STAFF PLANNER: RUSS FORD

BACKGROUND

PROJECT DESCRIPTION:

A Rezone request to create a Cannabis Accommodation (CA) Combining District of approximately 12.79 acres 3.9± miles southeast of Fort Bragg City center, lying on the west side of Franklin Rd. (CR 414D), approximately 0.2 miles south of its intersection with Simpson Ln. (CR 414) (See Attachment: Location map). The proposed district consists of ten (10) parcels Zoned Rural Residential (RR) that require an 80,000 square foot minimum parcel size (RR2). The applicant, a Mendocino County resident and long-time business operator and cannabis cultivator seeks to continue their small cannabis production operation which has existing with continued use one of the subject properties.

As set forth in Chapter 20.118 of the Mendocino County Zoning Code, the intent of the Cannabis Accommodation District is to facilitate greater flexibility in the development standards related to cannabis cultivation for existing commercial cannabis cultivation sites and suspend the "Sunset Provision for Residential Districts" and allow continued operation.

APPLICANT'S STATEMENT:

The purpose of this application is to create a cannabis inclusion zone. This has a 70% approval ratio.

There are two cannabis permits in this zone. Both provide jobs, economic stimulus, tax revenue and supply local dispensary "Sovereign" which is a part of the Fort Bragg community.

No improvements to be made. Project has been operational for years. Indoor cannabis cultivation attached to single family residence. Trees and bee friendly plants. Odor control in place. Lighting contained, no light pollution. Use Permit requires driveway modifications and ADA parking spot.

CANNABIS CULTIVATION REGULATORY BACKGROUND: The Mendocino County Board of Supervisors adopted Ordinance Number 4381 on April 4, 2017, adding Chapters 10A.17 and 20.242. A Mitigated Negative Declaration (MND) was adopted by Resolution Number 17-042, for the ordinance. The provisions of the ordinance intended to regulate production by licensed operators, and provide clear standards and permitting pathways to help bring baseline cannabis cultivation activities into compliance with existing regulatory frameworks. The ordinance outlines pathways for compliance with new and existing regulations that provide for local review, inspection and oversight ultimately reducing potential environmental effects from existing and proposed cultivation activities. The Board of Supervisors then adopted various amendments to Chapters 10A.17 and 20.242 of County Code that adjusted specific provisions further allowing continuance of current cultivation activities for qualified applicants. Even still, many existing small commercial operations were too constrained by the development standards in the code, related to cannabis cultivation operations, to meet the minimum requirements for obtaining a cultivation permit.

As such, the Mendocino County Board of Supervisors directed that a Request for Proposals (RFP), be circulated to identify and implement strategies to facilitate the permitting of commercial cannabis uses throughout the County. Michael Baker International was selected to assist the County with research and development of an appropriate regulatory framework, informed by public participation. Specific areas of concern were identified, and the Board furthermore requested analysis of the potential use of Overlay Zones or Combining Districts to allow for existing cultivation activities to continue in some zoning designations, and total prohibition of cultivation activities in others. Two types of districts were ultimately established by adoption of Ordinance No. 4420 on December 4, 2018, with corresponding new chapters to the zoning code. Chapter 20.118 created Cannabis Accommodation (CA) Combining Districts to support continued operation of existing cultivation sites and Cannabis Prohibition (CP) Combining Districts in Chapter 20.119, intended to prohibit new commercial cannabis use and would end existing permitted commercial cannabis use. On November 16, 2018, the Board of Supervisors adopted Resolution Number 18-174, which included

an addendum to the MND to allow for applications to be processed for Accommodation and Prohibition Combining Districts. In doing so, the County reviewed the provisions of CEQA and the CEQA Guidelines, including Section 15162 (Subsequent EIRs and Negative Declarations) and Section 15164 (Addendum to an EIR or Negative Declaration).

The study conducted by Michael Baker International identified six communities, or neighborhoods, as possible CA Combining Districts, and two (2) potential CP Combining Districts. Of those analyzed as prospective accommodation districts, the Mitchell Creek North proposal encompassed parcels included in this rezone request (See Attachment: *Project Locations*). As directed by the Board of Supervisors, community input was critical to informing staff and the Planning Commission's recommendations and the consulting firm held a meeting on July 26, 2018 at the Caspar Community Center. According to a staff memorandum, the meeting was well attended with regard to the number of participants, but homeowners felt they were underrepresented. More than one hundred people attended the meeting, including the staff planner for this Rezone, and 31 comment cards were received. As part of the community input process, a web address was established to receive comments from the public. At least 88 email comments were received regarding the Mitchell Creek CA District, referring to both the Mitchell Creek North and Mitchell Creek South Districts, nearly 90 percent in opposition. General concerns in order of frequency cited were, impacts to water supply (42 recorded inquires), increased crime (29 recorded inquires), and concerns of road conditions and traffic (23 recorded inquires). The company also conducted a series of community surveys, internet-based and post mail, to gauge landowner support for the district. Due to a myriad of issues such as inaccurate Assessor Parcel information, discarded postcards thought to be junk mail, the survey implementation was not without flaws. However, Michael Baker International identified a strong correlation between input received through community meetings, emailed comments and the surveys. At that time, the Mitchell Creek North approval rate was 10%, Mitchell Creek South was 33% and staff recommended against establishment of the Mitchell Creek North and Mitchell Creek South Combining Districts. For additional details please see Attachment *Summary of Community Input from OA_2018-0008*.

Cannabis Accommodation Combining Districts allow the permitting of cultivation sites that can demonstrate prior existence, and does not provide a basis for permitting new cultivation sites. Additionally, the robust permitting processes includes site inspections, and required compliance with County, regional and state permitting standards, therefore reducing the potential for negative impacts resulting from unpermitted cultivation activities.

CANNABIS ACCOMMODATION COMBINING DISTRICTS: Subject to the approval of a Rezone request, and pursuant to Chapter 20.118 of Mendocino County Zoning Code, Cannabis Accommodation (CA) Combining Districts may be applied to areas that include existing commercial cannabis cultivation operations and where the zoning designation of the majority of the lots allows residential use by right. A CA Combining District may range from neighborhood to community in scale and be comprised of at least ten (10) legal parcels, as defined in Section 10A.17.020, of Mendocino County Zoning Code. The parcels may only be separated by roads, rail lines, utility easements, or similar linear public facilities. Applicants seeking to establish a CA Combining District must demonstrate support of affected landowners. The regulations applied to CA Combining Districts is supplemental to the underlying zoning district. The CA Combining District is often referred to as a "Cannabis Overlay."

Establishment of a CA Combining District

- A Cannabis Accommodation Combining District may be initiated by one (1) or more property owner(s) within the boundaries of the proposed district.
- Applications for CA Combining Districts must include evidence of support for the proposed CA district by more than sixty percent (60%) of the affected property owners within that district.

Modified Cannabis Cultivation Regulations of Established CA Districts

- Sunset Provision for Residential Districts would not apply to permitted cannabis cultivation uses.
- Cannabis cultivation permit types (C) Small Outdoor, (C-A) Small Indoor, Artificial Light, and (C-B) Small, Mixed Light would not be subject to current 2-acre minimum lot size.

**Small refers to 2,500 square feet of flowering canopy.*

- Property line setback noted in Section 10A.17.040 (A)(5) would be reduced to 20 feet.
- Property line setback noted in Section 10A.17.040 (A)(5) may be reduced to less than 20 feet or waived subject to Administrative Permit approval.
- Setback from an occupied residential structure on adjacent property noted in Section 10A.17.040 (A)(2) could be reduced to 20 feet subject to Administrative Permit approval.

Restrictions on Modifications to Established CA Districts

- Ineligible for repeal or amendment by a member of the public until 10 years after date of approval.
- Once eligible, a request to repeal or amend an established CA District could be initiated by petition of sixty percent (60%) or more of all current property owners within that district.
- Adjacent parcels to the established district could be added within the 10 year period.
- If a CA Combining District is repealed, permitted cultivation authorized through the district could continue for three years.
- Three years following the date of repeal, rights for cultivation that does not meet the standards of the underlying zoning designation would cease.

Pursuant to section 20.118.030, CA District rezone applications are handled pursuant to Chapter 20.212 of the Zoning Code related to Amendments, Alterations, and Changes in Districts, and so are held to the same standards as other rezone applications. In addition to the above specific characteristics of CA Districts, these districts like all other zoning districts, are an exercise of the County's police power over land uses and development and are intended to protect health, safety and welfare. The rezoning of property is a legislative act, and zoning regulations and decisions must bear a substantial relationship to public health, safety, morals or general welfare and not be arbitrary or irrational.

RELATED APPLICATIONS:

On-Sites within the proposed CA District

- AG_2018-0172 (Indoor Cannabis Cultivation Permit) – Under Review
- U_2019-0002 (Use Permit Renewal for indoor cultivation activities) – Expired on May 4, 2020
- CFBL_2018-0053 (Cultivation, Distribution and Manufacturing Level 1) – On Hold

SITE CHARACTERISTICS: The proposed Cannabis Accommodation (CA) Combining District is 3.9± miles southeast of Fort Bragg City center, lying on the west and east side of Franklin Rd. (CR 414D), 0.2 miles south of its intersection with Simpson Ln. (CR 414) north east of Caspar (See Attachment: Aerial Imagery Map). The proposed ten (10) parcel district is bisected by Franklin Rd. and three of the parcels are on the west side and the remaining seven lie on the east. The proposed district is approximately 12.79 acres and all parcels are less than three acres in size with only one parcel meeting the required two acre minimum for cannabis cultivation eligibility. Primarily residential in nature and zoned Rural Residential (RR) the properties within the district are developed as such comprised of single family residences and standard ancillary developments like garages, shops and utility infrastructure. Given the proximity to the Mendocino County coastline, the rural attributes of the district more align with coastal forest habitat including Mendocino Cypress (See Attachment: *Mendocino Cypress Map*).

The primary soil type within the proposed district is Shinglemill-Gibney (199) found on elevation ranges from 200 to 750 feet where the average annual precipitation is 40 to 65 inches and vegetation mainly bishop pine and huckleberry (See Attachment: Soils Map). The California Farmland Mapping and Monitoring Program (FMMP) accessed through the Mendocino County Geographic Information System (GIS)

classified the lands within the proposed district as Urban & built-up or residential, industrial, institutional facilities etc. (See Attachment: *Farmland Map*).

Located in an area designated as Moderate Fire Hazard, structural fire protection services are provided by Fort Bragg Rural Fire Protection District and Wildfire protection provided by the California Department of Forestry and Fire Protection. All of the parcels in the proposed district are accessed by Franklin Rd. (CR 414D) and connect to private driveways where applicable (See Attachment: *Aerial Imagery Map*).

SURROUNDING LAND USE AND ZONING: The proposed CA District is surrounded by parcels with similar land-uses and zoning designations. The Rural Residential (RR) classification is intended to be applied to transitional lands adjacent to cities or towns. The following table summarizes adjacent land uses, zoning and property sizes:

	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	Rural Residential (RR2)	Rural Residential (RR:2)	45,254± Square Feet	Residential
EAST	Rural Residential (RR5)	Rural Residential (RR:5)	5± Acres	Residential
SOUTH	Rural Residential (RR2)	Rural Residential (RR:2)	42,636± Square Feet	Residential
WEST	Rural Residential (RR2)	Rural Residential (RR:2)	60,580± Square Feet	Residential

PUBLIC SERVICES:

Access: FRANKLIN RD. (CR 414D)
 Fire District: FORT BRAGG RURAL FIRE PROTECTION DISTRICT
 Water District: NONE
 Sewer District: NONE
 School District: FORT BRAGG UNIFIED SCHOOL DISTRICT

AGENCY COMMENTS:

On March 11, 2021 project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. A summary of the submitted agency comments are listed below.

REFERRAL AGENCIES	COMMENT
Department of Transportation	No Comment
Environmental Health-FB	Comment
Building Services-Ukiah	No Comment
Cannabis Division-Ukiah	No Comment
County Addresser	No Comment
Fort Bragg Rural Fire Department	No Comment
CALFIRE-Land Use	No Response
Redwood Valley Rancheria	Comment
Sherwood Valley Band of Pomo Indians	No Response
Noyo River Indian Community	No Response
Manchester Band of Pomo Indians	No Response

Environmental Health (Fort Bragg-Hazmat) - The Mendocino County Department of Environmental Health Hazardous Materials Division determined that any fuel storage exceeding 55 gallons shall require a Hazardous Material Business Plan (HMBP) to be submitted to the California Environmental Reporting System (CERTS) which can be attained online at <https://cers.calepa.ca.gov>.

Redwood Valley Rancheria – In response to the County request for comment regarding the proposed CA district, the Redwood Valley Rancheria indicated that the project should not increase water usage. Although the county may issue permits related to infrastructure developments such as wells and spring boxes, the *amount of water used* on the properties within the proposed district is not regulated by the Mendocino County Department of Planning and Building Services or the Department of Environmental Health. However, if the CA district is approved, all cultivation applicants must obtain cultivation permits from the County. To do so, cultivation applications must meet criteria which adequately addresses the water usage concern as expressed by the Rancheria.

If the CA district is approved, applicants are required to obtain a cultivation permit pursuant to Mendocino County Code Chapter 10A.17, the cultivation ordinance. Specifically, applications to cultivate cannabis within established accommodation districts are subject to Mendocino County Code Section 10A.17.081 otherwise referred to as *Phase I Permits*. To earn a Phase I cultivation permit from the County, applicants are subject to Section 10A.17.080(B)(1) or “Proof of Prior Cultivation” which is evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016. This eligibility requirement inherently restricts the number of potential operators as well as seeks to uphold the intent and spirit of the districts which is to provide the ability to continue an existing use. Additionally, applicants for Mendocino County cultivation permits are required to demonstrate compliance with the State Water Resource Control Board (SWRCB) which requires additional permits issued by the entities of the State of California that have jurisdictional authority over water. These include permits such as the Small Irrigation Use Registration (SIUR) and Water Rights with regard to water use and the Cannabis General Order which requires cultivators to report waste discharge. Other permits issued by the State may also be required to apply for a County cultivation permit if the source of water is a natural spring or waterway.

KEY ISSUES

1. General Plan and Zoning Consistency

The Mendocino County General Plan provide the comprehensive principles that are the basis for the goals and policies of the County. The entirety of the proposed Cannabis Accommodation “CA” Combining District is located within the Rural Residential land use classification and Rural Residential zoning district, but varies in terms of the minimum parcel size criteria with three parcels located west of Franklin Road zoned with a 2-acre (80,000 square-foot) minimum parcel size requirement (RR2) and seven parcels located east of Franklin Road zoned with a 5-acre minimum parcel size requirement (RR5).

Policy DE-14: “The Rural Residential classification is intended to encourage local small scale food production (farming) in areas which are not well suited for large scale commercial agriculture, defined by present or potential use, location, mini-climate, slope, exposure, etc. The Rural Residential classification is not intended to be a growth area, and residences should be located as to create minimal impact on agricultural viability.” General Uses within the classification include residential and agricultural uses, cottage industries, residential clustering, public facilities, public services, conservation and development of natural resources, and utility installations.¹

Mendocino County Zoning Code Section 20.048.005: Varying in size and conformity, the parcels that comprise the proposed district are developed with residences and additional ancillary structures including, but not limited to, storage sheds, workshops, garages and barns. All of the parcels within the subject district are located in the Rural Residential (RR) zoning district, and allow residential use by right. Cottage Industries, as defined in Section 20.008.024(M), refer to small scale businesses’ operated in, or around a residential use are allowed, subject to a Minor Use Permit. Staff notes that only Cottage Industries-Limited, as provided in Section 20.160.030(A), are permitted in the Rural Residential 2-acre minimum (RR2) zoning district, such as the three parcels located west of Franklin Road. Staff notes that Cottage Industries-General, as provided in Section 20.160.030(B), are permitted in the Rural Residential 5-acre minimum (RR5) zoning district, such as the seven parcels located east of Franklin Road. Cottage Industries-Limited are subject to stricter standards than Cottage Industries-General due to the zoning districts they are allowed

¹ Mendocino County General Plan Chapter 3: Development Element; Policy DE-14 Pg 3-74.

within and the average parcel sizes in each of those districts. In the case of approved CA districts, cannabis cultivation is limited and cannot exceed 2,500 square feet of canopy or the *Cottage Permit*. Due to the nature of the coastal forest environment, cannabis cultivation activities within the proposed district are likely limited to indoor or mixed light in technique.

Staff finds that the proposed CA Combining District aligns with the intent of the Rural Residential zoning designation and land use classification. The parcels within the proposed CA Combining District are developed with residential uses and ancillary development and limited commercial activities (cottage industries) are permissible, with approval of additional permits.

Beyond zoning district and land use classification consistency, staff reviewed the project for consistency with General Plan Policies and has identified several principles and policies that are pertinent to the Planning Commission's consideration of this application. The General Plan promotes employment opportunities within proximity to residential communities, but only when those employment opportunities are consistent with local community needs and environmental constraints (Planning Principle 2-2b).

*General Plan Policy DE-49: Expand economic opportunities that respect the individual character of each community area.*²

The proposed CA District is located southeasterly of the Fort Bragg Community Area. There are no community specific policies that address the appropriateness of the proposed CA District with the individual character of the community. Staff therefore reviewed the submitted public comment letters and past correspondence on establishment of a CA District in the Mitchell Creek area that was County-initiated in 2018 to understand the character of the community area and appropriateness for commercial activities. The majority of the comment letters stated that this community area is primarily residential in nature and evidenced a strong desire to keep the community residential in nature without additional allowances for commercial activities beyond what presently exists. As opposed to supporting an accommodation district, commenters generally desired this area to remain subject to the *Sunset Provision* included as part of Chapter 10A.17. This sentiment expressed by members of the community leads staff to find that the economic opportunity afforded by the CA District may be contrary to the character of the community area and may create a conflict among land uses if allowed.

*General Plan Policy DE-51: Encourage home occupations and cottage industries in conjunction with residential uses when limited in scope and compatible with residential or neighborhood character. Cottage industries and home occupations that grow beyond site or building limitations or become incompatible with the neighborhood should be relocated to appropriately zoned properties.*³

As cultivation within the proposed CA District is limited to the Cottage Permit, Staff finds that General Plan Policy DE-51 is applicable to the site. While Policy DE-51 encourages cottage industries with residential uses it also states that the use shall be limited in scope and compatible with residential or neighborhood character. The location of the proposed CA District is within what staff would consider to be the middle of the Mitchell Creek area, requiring that traffic associated with any cannabis cultivation activities within the proposed District would traverse through approximately half of the residential neighborhood before reaching the destination. Employees and/or owners of sites within the proposed CA District traverse approximately 1 mile of roads (Simpson Lane and Franklin Road) through residential areas before reaching the subject site. Staff finds that allowance for continued commercial cannabis activities within the proposed CA District has the potential to disrupt the residential character of the neighborhood. When the Board of Supervisors adopted the *Sunset Provision* it was intended to ensure that existing cultivation sites in residential areas with small parcel sizes were relocated out of these areas, generally finding that commercial cultivation of cannabis was incompatible in denser residential neighborhoods. The CA District process was established in response to Board of Supervisors direction that there may be denser residential neighborhoods within the County where commercial cultivation of cannabis was appropriate. With regards to this particular

² Mendocino County General Plan Chapter 3: Development Element; Policy DE-49 Pg 3-83

³ Mendocino County General Plan Chapter 3: Development Element; Policy DE-51 Pg 3-83

application and neighborhood, staff finds that commercial cultivation of cannabis may be incompatible with the Mitchell Creek neighborhood and pursuant to Policy DE-51 may be a use that should be relocated to an appropriately zoned property.

As noted previously, staff finds that the proposed CA Combining District aligns with the intent of the Rural Residential zoning designation and Rural Residential land use classification given the existing residential development on the parcels within the proposed CA Combining District and due to the fact that commercial activities are allowed, with approval of additional permits on Rural Residential parcels. However, staff finds that the proposed CA Combining District could be considered inconsistent with certain Mendocino County General Plan goals and policies discussed above, as well as planning principles. As noted previously, the General Plan promotes employment opportunities within proximity to residential communities, but only when those employment opportunities are consistent with local community needs and environmental constraints (Planning Principle 2-2b). It is not clear that the proposed CA Combining District is compatible with the character of the area.

2. Cannabis Accommodation Combining District

The application for R_2019-0013 was submitted by the applicant on behalf of property owners of parcels within the proposed district, including the owner of the property that the applicant leases for cultivation. The application was initiated in response to the County's *Sunset Provision*, regarding existing commercial cannabis cultivation operations on parcels less than two acres in size. Sixty percent (60%) of the affected property owners are required to demonstrate support for the district. Pursuant to Chapter 20.118.030(B), applications to establish these districts must be accompanied by either a petition or alternative demonstration of applicable landowner support. To protect the privacy of applicable landowners, the results of the petition are synthesized as follows. Of the ten (10) contiguous parcels within the proposed district, 70% (7) of the property owners signed the owner petition and support creation of the accommodation district. Three property owners did not vote for reasons unknown to staff.

Mendocino County Code section 20.118.020 states that “a *CA Combining District* may range from neighborhood to community in scale, but in no case be composed of fewer than ten (10) legal parcels as that term is defined in section 10A.17.020. All parcels within a *CA Combining District* shall be contiguous (excepting separations by public or private roads, rail lines, utility easements, or similar linear public facilities).” Neither Mendocino County Code nor the Mendocino County General Plan define either “neighborhood” or “community”. The Mendocino County General Plan states that *unless otherwise defined by Policy, standard dictionary definitions of words and terms shall be used. The Glossary to this General Plan provides definitions of many commonly used planning terms; these may be used as a starting point in resolving disputes about the meanings of words in Goals or Policies* (Mendocino County General Plan page 1-10).

The Merriam Webster Dictionary defines community and neighborhood as follows:

“Community” means *a group of people who live in the same area (such as a city, town, or neighborhood) or a group of people who have the same interests, religion, race, etc.*⁴

“Neighborhood” means *the people living near one another or a section lived in by neighbors and usually having distinguishing characteristics.*⁵

Staff does not believe that the proposed CA District is at either a neighborhood or community scale. While section 20.118.020 does provide that a proposed CA District must have a minimum of 10 parcels, based on the above definitions and consideration of the area surrounding the proposed CA District, the proposed district leaves out areas that would most reasonably need to be included to encompass a coherent community or neighborhood.

⁴ [Community Definition & Meaning - Merriam-Webster](http://www.merriam-webster.com/dictionary/community), www.merriam-webster.com/dictionary/community

⁵ [Neighborhood Definition & Meaning - Merriam-Webster](http://www.merriam-webster.com/dictionary/neighborhood), www.merriam-webster.com/dictionary/neighborhood

The proposed CA District has a contiguous area of 7 parcels east of Franklin Road and also includes 3 parcels to the west of Franklin Road that are nearly kitty-corner to the other 7. However, several parcels located primarily west of Franklin Road were not included in the proposed CA District. It is unclear to staff what distinguishing characteristics the 10 selected parcels for the proposed CA District share that separates them from being reasonably considered to be part of a larger community and/or neighborhood. In the opinion of staff, the shape of the proposed CA District cannot be said to include all relevant properties that would reasonably be community or neighborhood in shape.

Using the above definition from Merriam Webster, a community is considered to be a group of people who live in the same area (such as a city, town, or neighborhood). Staff finds that this would reasonably include additional parcels within the Mitchell Creek area beyond what is proposed within the current application. A community in this instance would at minimum include all parcels with frontage along Franklin Road, particularly the lots directly adjacent on either side of the 3 parcels located west of Franklin Road. In addition, as discussed above, this area comprises a small subset of what is generally referred to as the Mitchell Creek area and all access from the proposed CA District and main County roads and State Highways will travel through a large portion of the Mitchell Creek area. To give context to the size of what the County-initiated rezone in 2018 considered to be an appropriate neighborhood or community scale for a CA District in Mitchell Creek, this application is approximately 2.09% of the size of what was considered in 2018 to reasonably be the neighborhood or community. While the application meets the base requirement of being comprised of a minimum of 10 parcels, it does not appear to be proposed at a community or neighborhood scale.

The proposed CA District appears to have been gerrymandered to include only select properties in order to obtain the requisite 60% landowner support at the time of application. While gerrymandering is most commonly used to refer to the drawing of electoral districts for political gain, the proposed district appears to have been drawn in such a manner to exclude certain properties so that the district could meet the base requirements for support of the establishment of a CA District.

By not including all parcels that would reasonably be part of a community and/or neighborhood within the CA District, the boundaries as proposed become less rational and appear to be arbitrarily set to meet the County Code's support requirement. This shape, however, comes at the expense of identifying a coherent district that corresponds to a community or neighborhood in size and shape. Approving a district with an arbitrary or irrational shape introduces a concern that the County is using its zoning power in a way that does not bear a substantial relationship to public health, safety, morals or general welfare.

3. Environmental Determination

Due to the above analysis, Staff recommends that the Planning Commission recommend that the Board of Supervisors deny the requested Rezone due to inconsistencies with Chapter 20.118 of County Code in regards to the size and shape of the proposed district. If denied, the project is Statutorily Exempt pursuant to section 15270 of the California Environmental Quality Act (CEQA) guidelines. CEQA does not apply to projects which a public agency rejects or disapproves.

Should the Planning Commission wish to recommend approval of the project to the Board of Supervisors, Staff has prepared the required CEQA analysis. An Addendum to the existing Mitigated Negative Declaration (SCH #2016112028) has been completed in compliance with CEQA and CEQA guidelines. The Addendum includes analysis and findings that establish the basis for determining that none of the conditions described in Section 15162 of the CEQA Guidelines, calling for the preparation of a subsequent negative declaration or environmental impact report have occurred, should the project be recommended for approval.

STAFF RECOMMENDATION

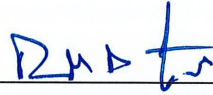
By Resolution, the Planning Commission recommends that the Board of Supervisors deny the requested Rezone, as proposed by the applicant, based on the facts and findings contained in the resolution.

ALTERNATE RECOMMENDATION

By Resolution, the Planning Commission recommends that the Board of Supervisors adopt the Addendum to the previously adopted Mitigated Negative Declaration and approve the requested Rezone, as proposed by the applicant, based on the facts and findings contained in the resolution.

1/24/22

DATE



RUSS FORD
SENIOR PLANNER

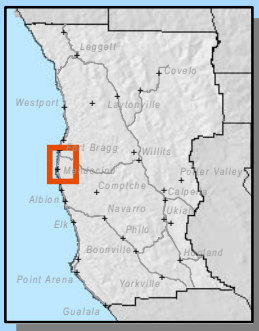
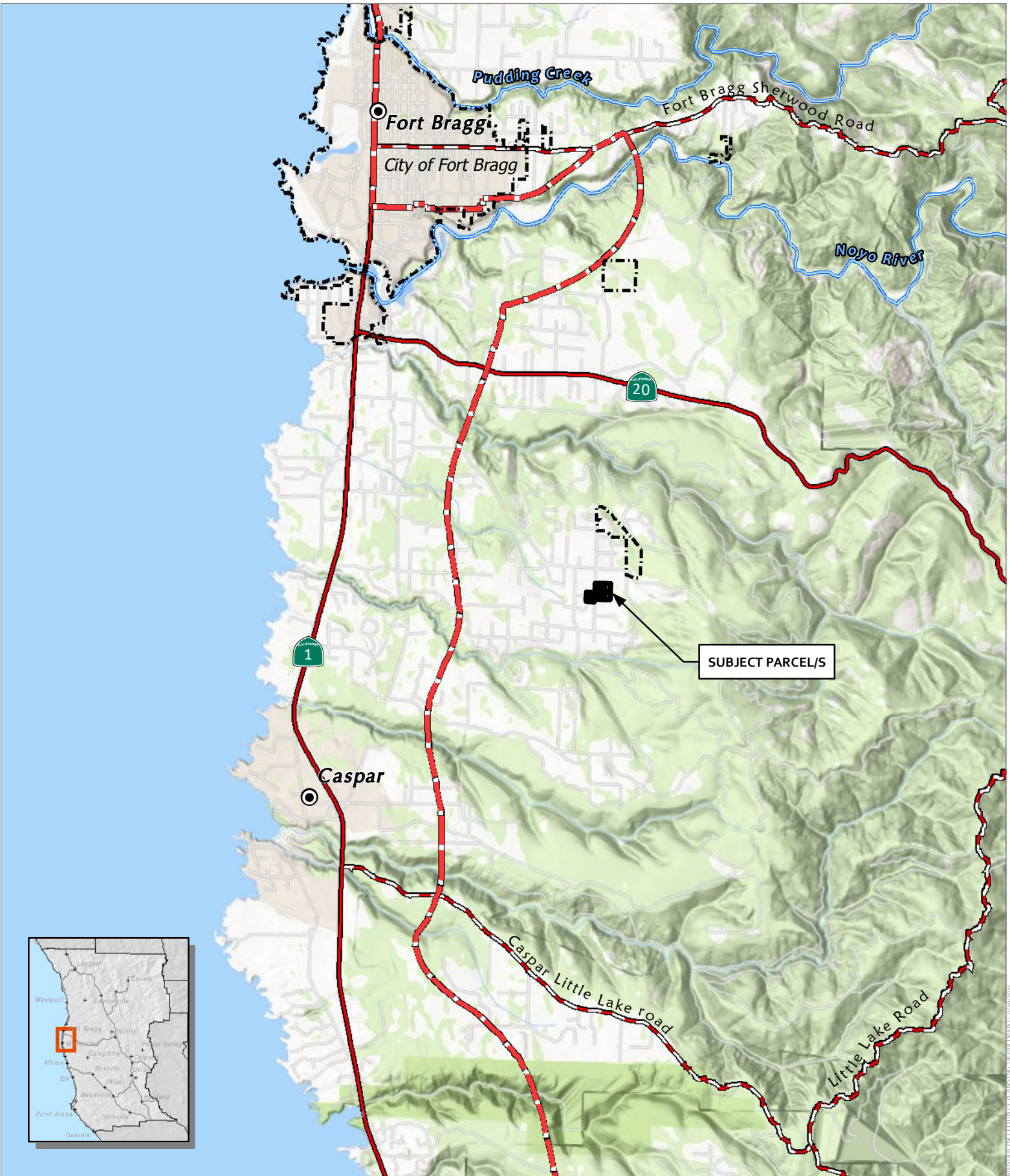
Appeal Period: 10 Days
Appeal Fee: \$1616.00

ATTACHMENTS:

- A. Location Map
- B. Project Locations Map
- C. Mendocino Cypress Map
- D. Aerial Imagery Map
- E. Zoning Map
- F. General Plan
- G. Adjacent Parcels Map
- H. Fire Hazard Zones and Responsibility Map
- I. Ground Water Resources Map
- J. Soils Map
- K. Farmland Classification Map
- L. Cannabis Sites Map
- M. Summary of Community Input from OA_2018-0008

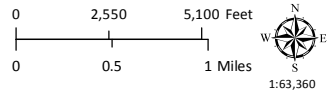
RESOLUTION FOR DENIAL

RESOLUTION FOR ADOPTION OF ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION (MND) AND APPROVAL

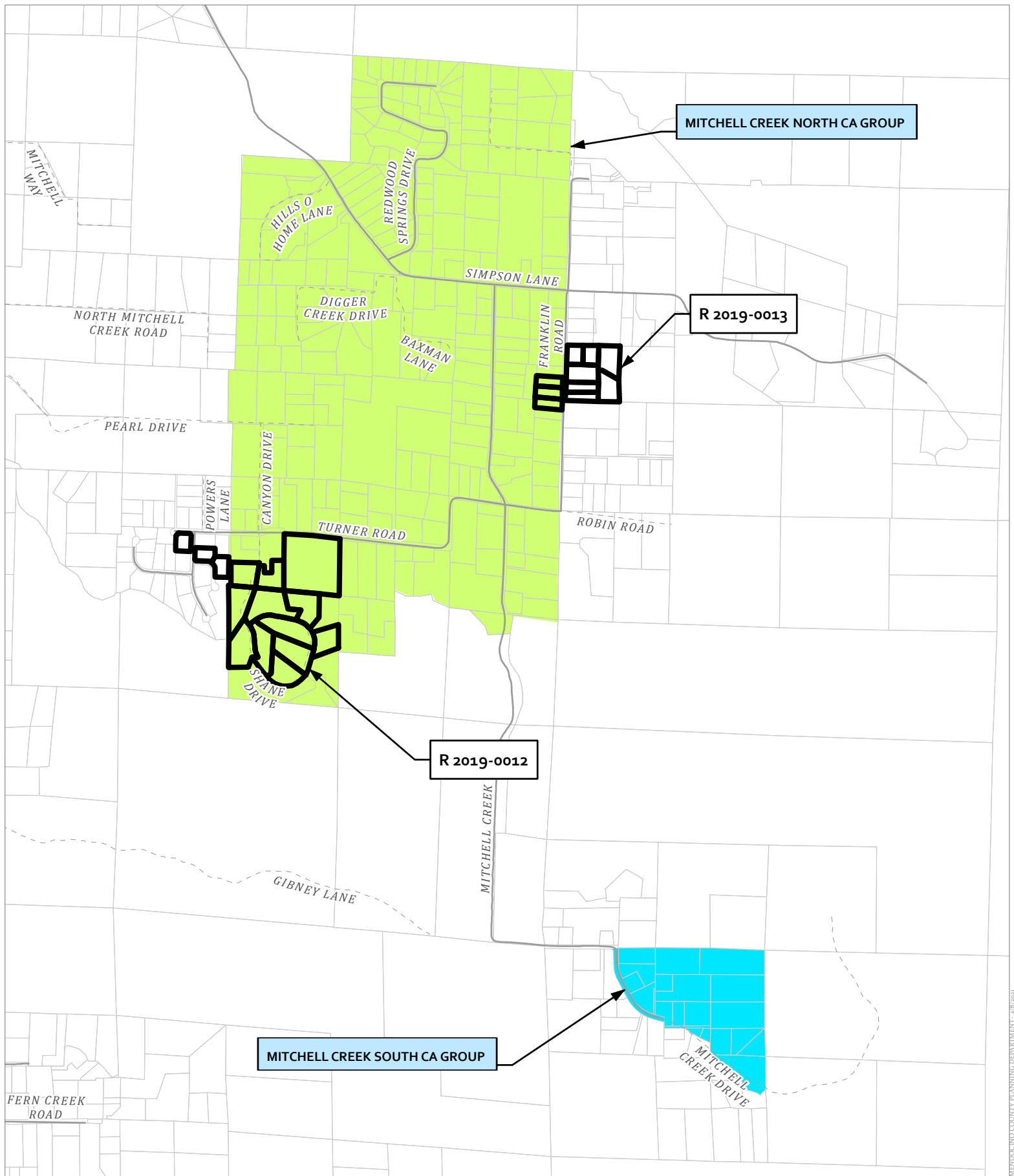


CASE: R 2019-0013
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Road, Fort Bragg

- Major Towns & Places
- City Limits
- Highways
- Coastal Zone Boundary
- Major Rivers
- Major Roads



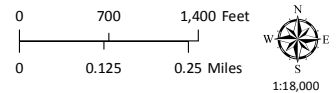
MENDOCINO COUNTY PLANNING DEPARTMENT (11/20/2019)



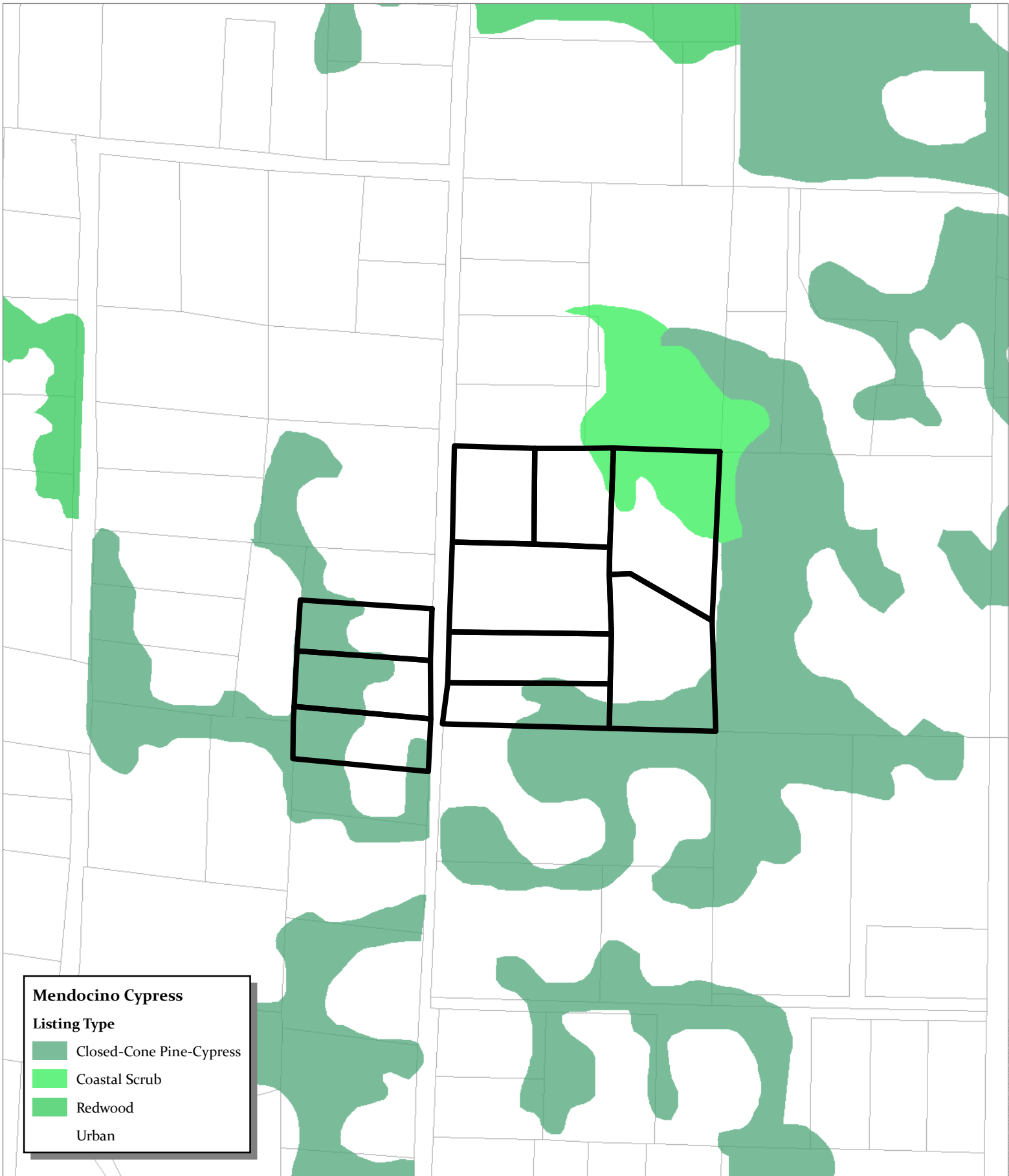
MENDOCINO COUNTY PLANNING DEPARTMENT - 4/8/2024

CASE: R 2019-0012 Various
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Rd, Fort Bragg

— Public Roads



PROJECT LOCATIONS
ATTACHMENT B

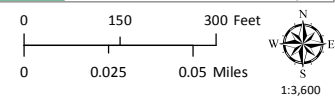


Mendocino Cypress

Listing Type

- Closed-Cone Pine-Cypress
- Coastal Scrub
- Redwood
- Urban

CASE: R 2019-0013
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Road, Fort Bragg



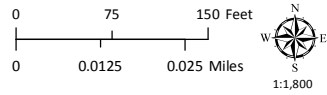
MENDOCINO COUNTY PLANNING DEPARTMENT - 11/20/2019



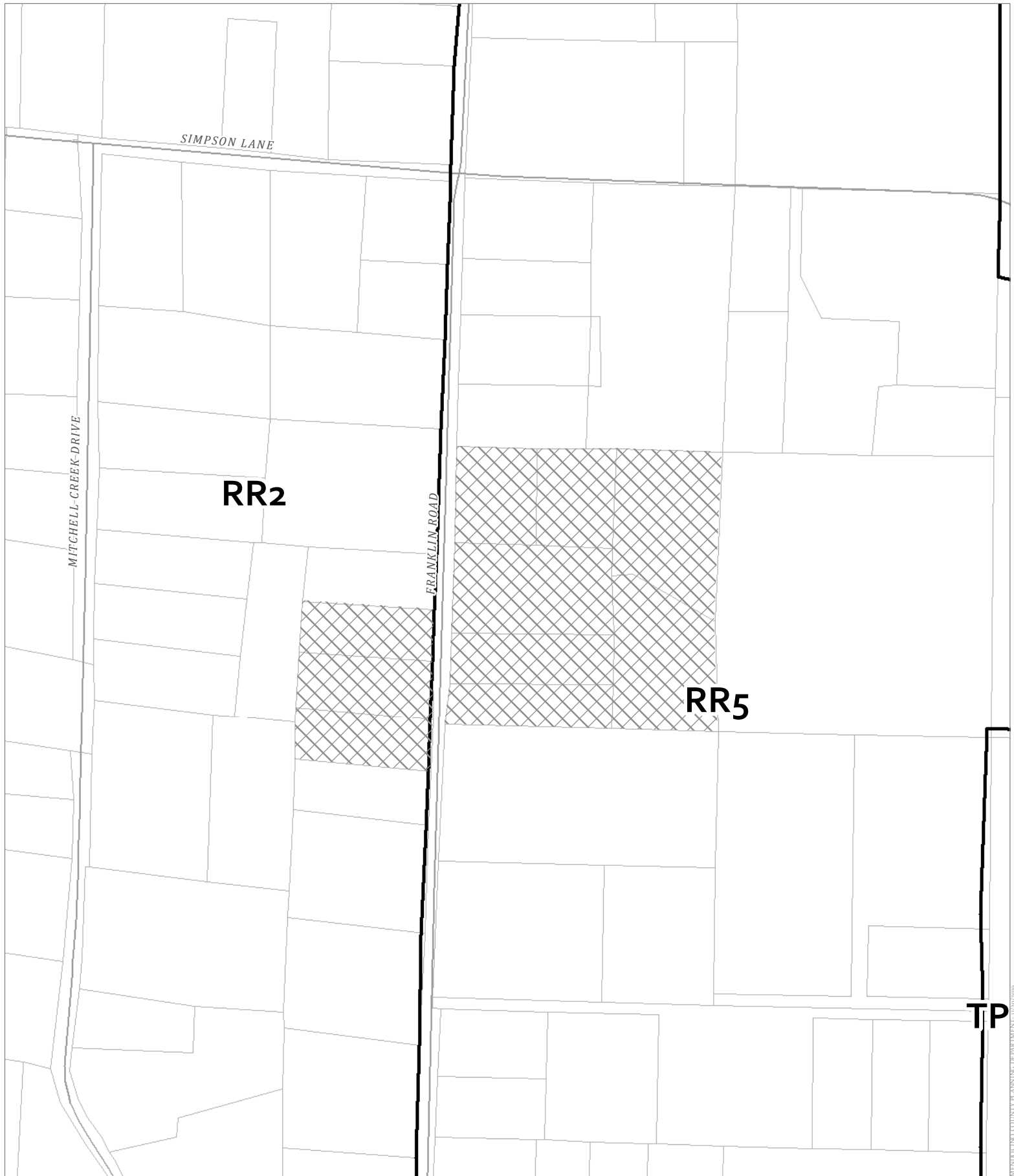
RENDERED BY COUNTY OF TARRANT DEVELOPMENT - 11/20/2019

CASE: R 2019-0013
OWNER: Various
APN: Various
APLCT: Brandy Moulton
AGENT: Brandy Moulton
ADDRESS: Franklin Road, Fort Bragg

 Public Roads





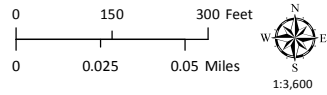
AERIAL IMAGERY
ATTACHMENT D

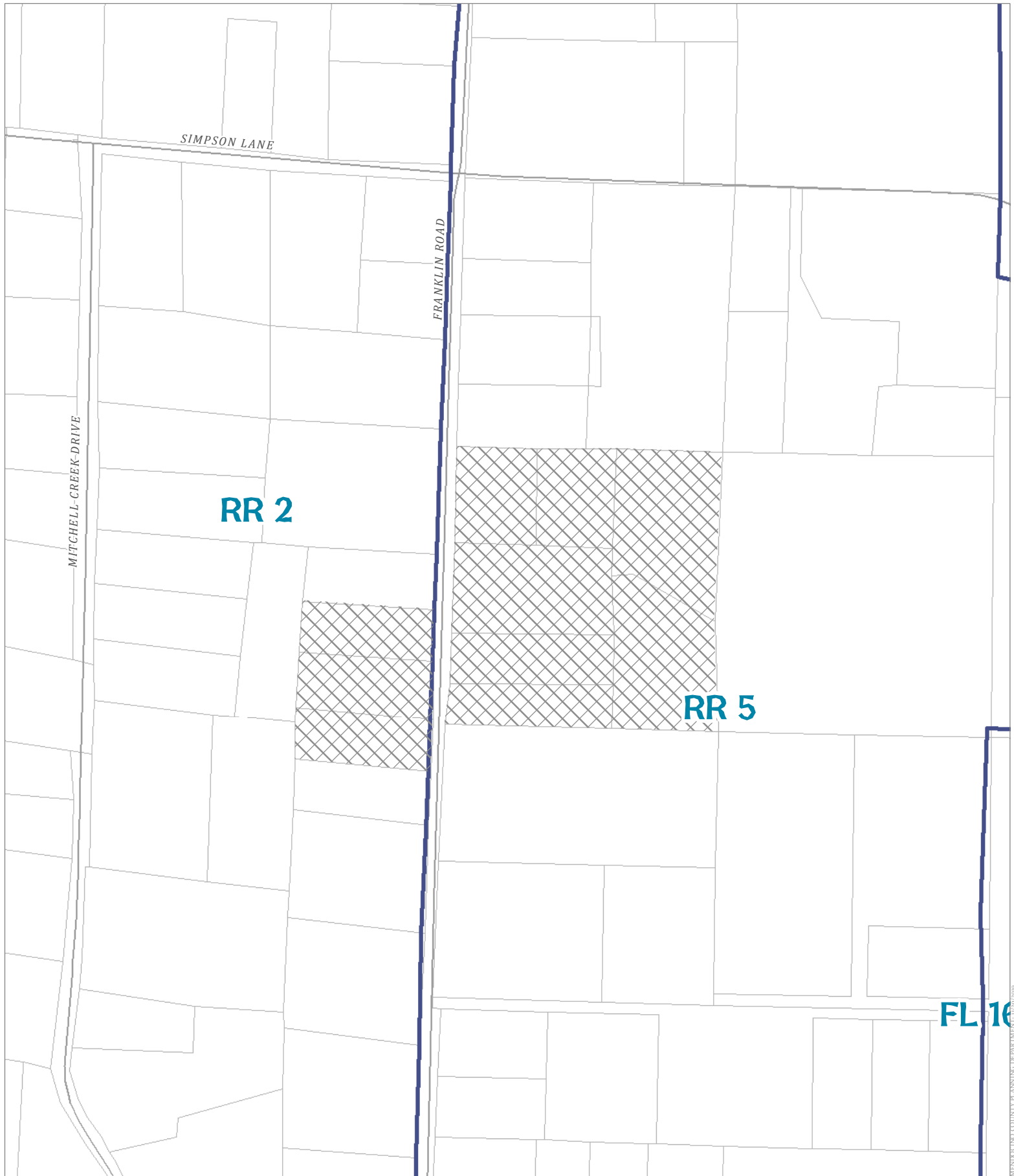


MENDOCINO COUNTY PLANNING DEPARTMENT - 07/27/2019

CASE: R 2019-0013
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Road, Fort Bragg



 Zoning Districts
 Public Roads

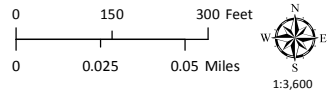


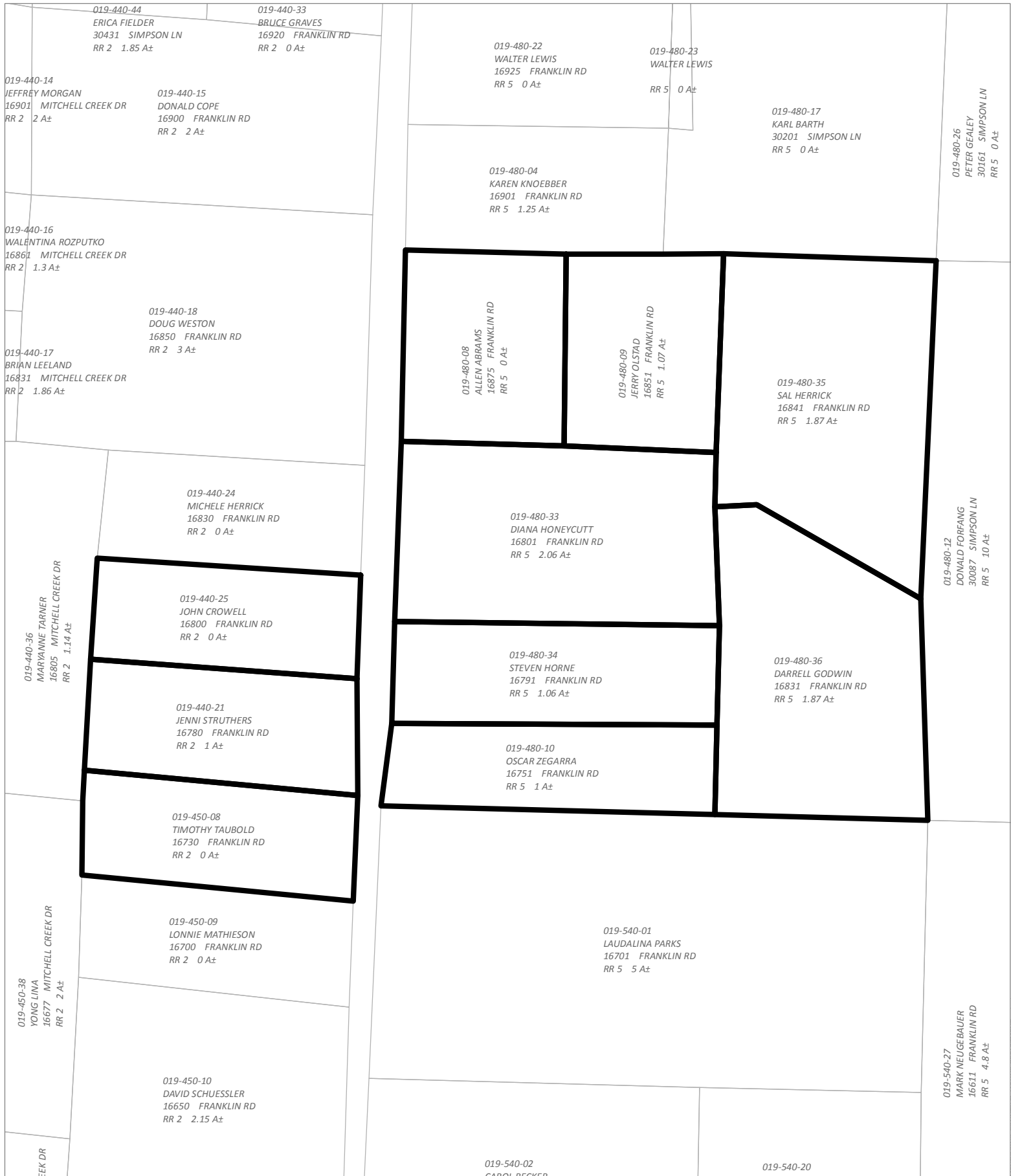


MENDOCINO COUNTY PLANNING DEPARTMENT (7/29/2019)

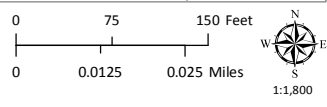
CASE: R 2019-0013
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Road, Fort Bragg

 General Plan Classes
 Public Roads



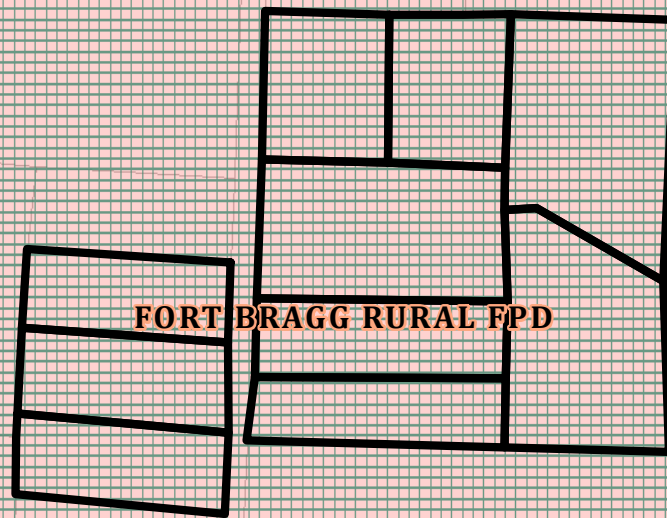


CASE: R 2019-0013
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Road, Fort Bragg



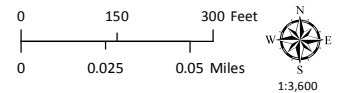
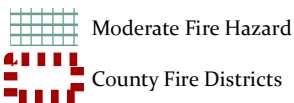
ADJACENT PARCELS
 ATTACHMENT G

MENDOCINO COUNTY PLANNING DEPARTMENT - 11/20/2019

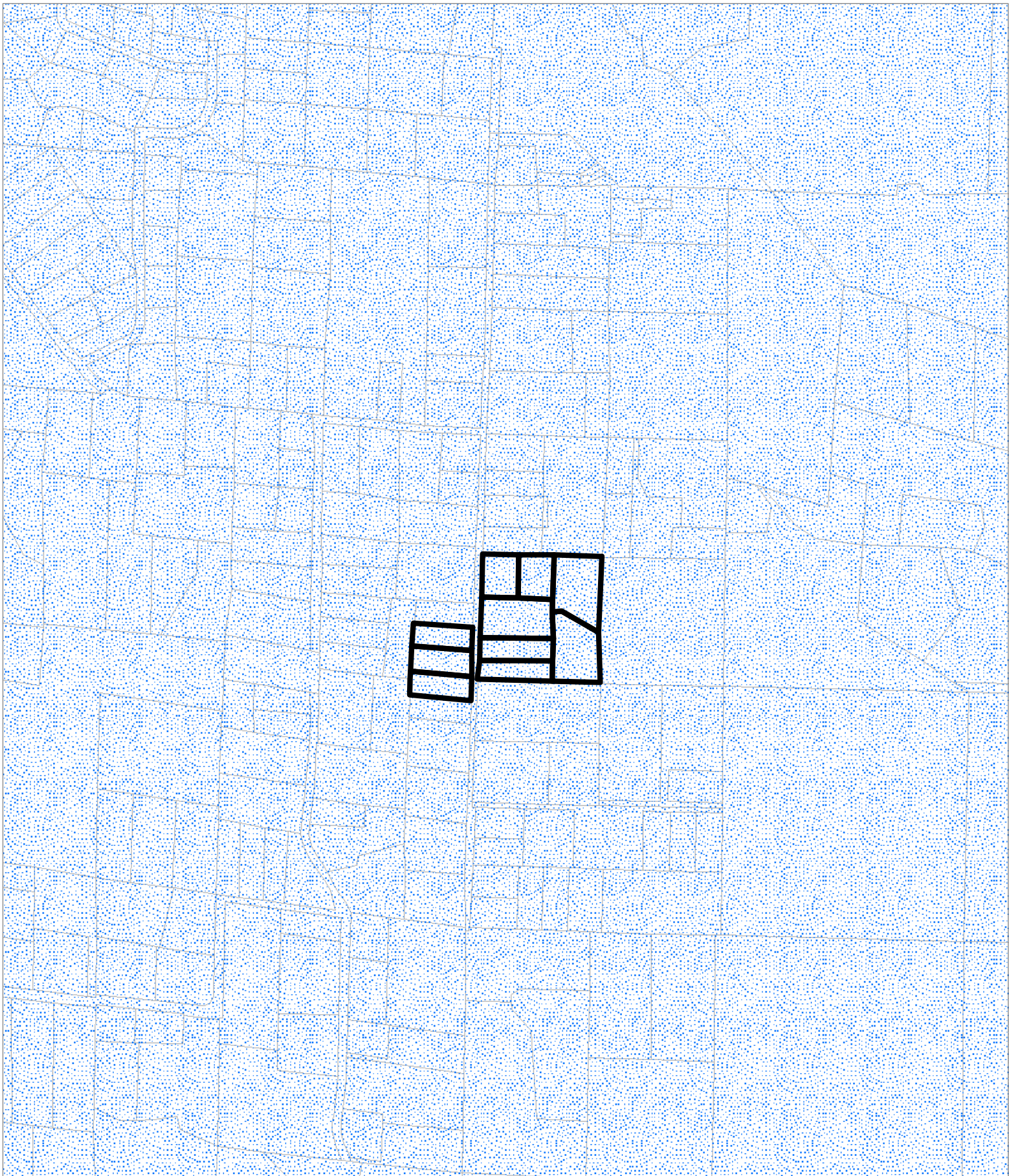


FORT BRAGG RURAL FPD

CASE: R 2019-0013
OWNER: Various
APN: Various
APLCT: Brandy Moulton
AGENT: Brandy Moulton
ADDRESS: Franklin Road, Fort Bragg



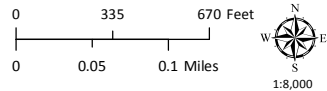
MERCANTILE COUNTY PLANNING DEPARTMENT 11/29/2019

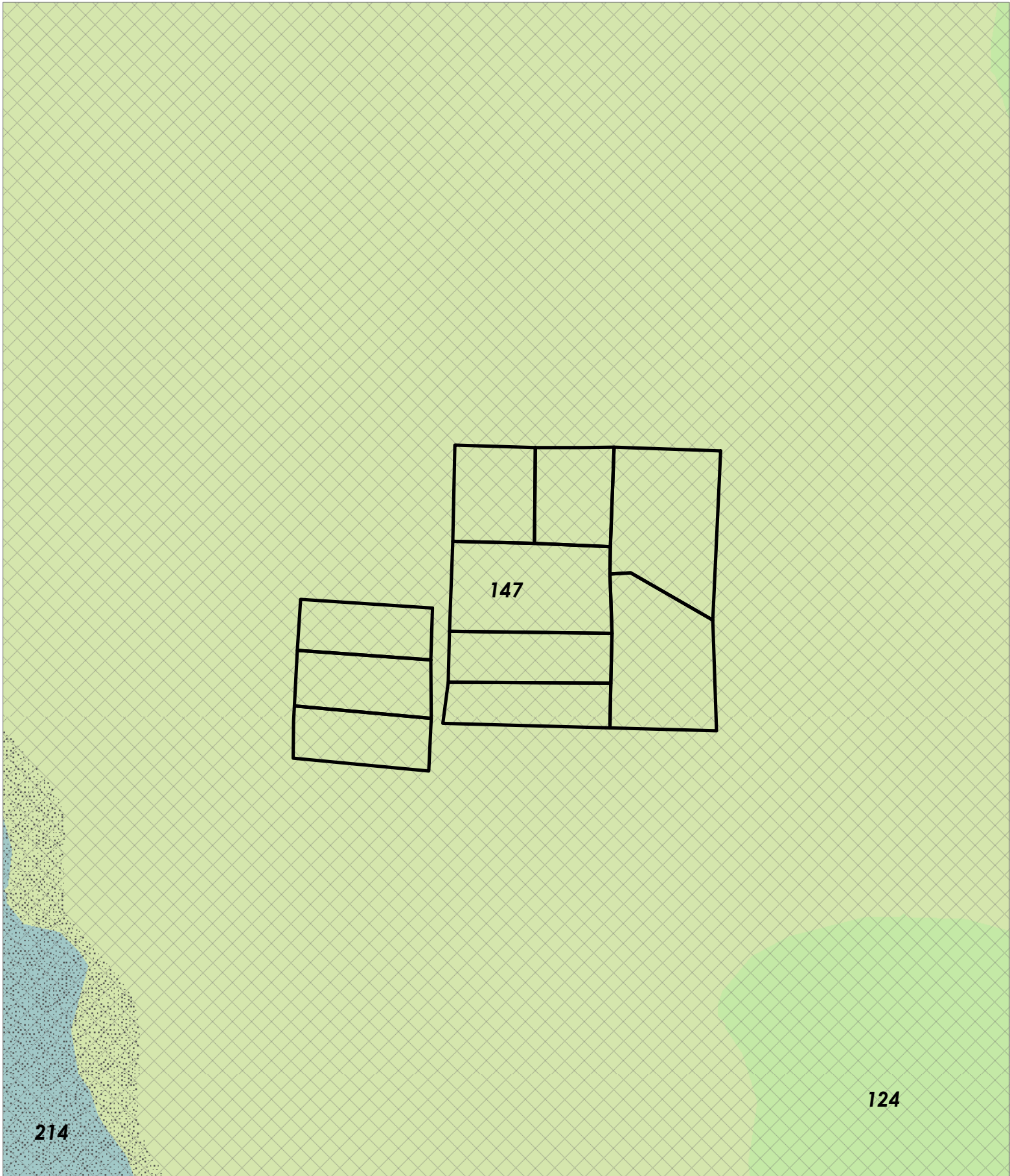


MERCED COUNTY PLANNING DEPARTMENT 1/12/2019



CASE: R 2019-0013
OWNER: Various
APN: Various
APLCT: Brandy Moulton
AGENT: Brandy Moulton
ADDRESS: Franklin Road, Fort Bragg

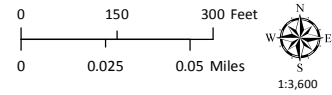
 Sufficient Water Resources



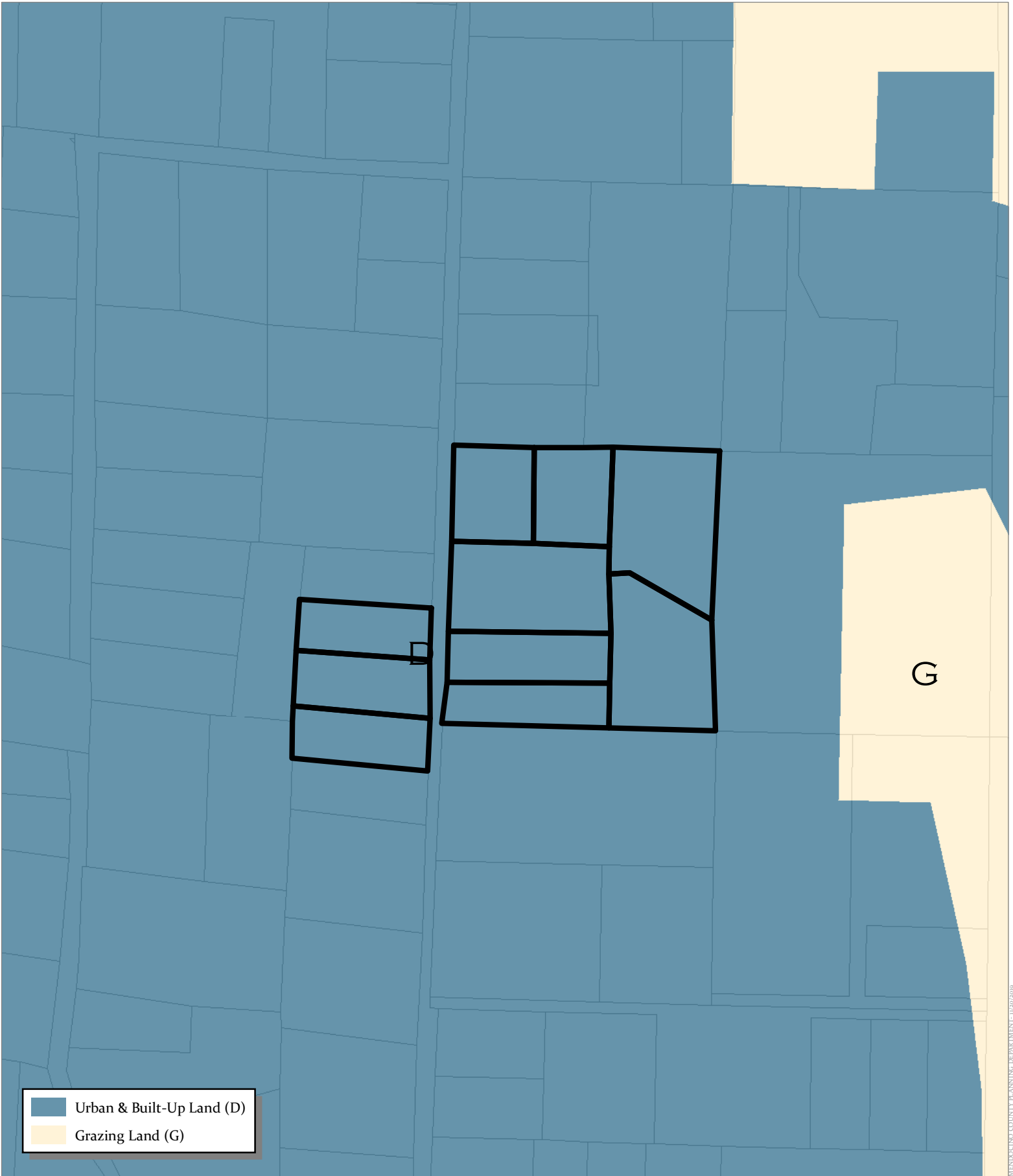


CASE: R 2019-0013
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Road, Fort Bragg

 Shinglemill-Gibney Complex
 Bishop Pine

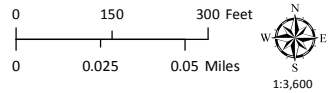


MENDOCINO COUNTY PLANNING DEPARTMENT - 11/20/2019



MENDOCINO COUNTY PLANNING DEPARTMENT - 11/20/2019

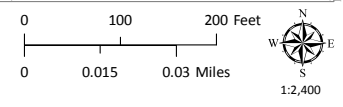
CASE: R 2019-0013
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Road, Fort Bragg





CASE: R 2019-0013
OWNER: Various
APN: Various
APLCT: Brandy Moulton
AGENT: Brandy Moulton
ADDRESS: Franklin Road, Fort Bragg

 Cannabis Cultivation Sites



MENDOCINO COUNTY PLANNING DEPARTMENT - 4/19/2021

Attachment M

Summary of Community Input from OA_2018-0008

Community input regarding the Cannabis Combining Districts and Cannabis Exceptions efforts occurred in three primary forms: community meetings held on July 26 and July 27; emails received through cannabisoverlay@mendocinocounty.org; and a community survey conducted for each of the proposed Combining Districts. Below are summaries of input received through each of these sources.

Community Meetings

On July 26 and July 27, Michael Baker International conducted four community meetings to solicit input from communities in which Cannabis Overlay Zones have been proposed. The format of these meetings included an introduction and overview of the Cannabis Overlay Zone concept, the efforts to date, and an explanation of how the Overlay Zones would affect cannabis regulations in the various communities. Following introductory remarks, Michael Baker staff responded to questions and accepted comments from community members. Community meetings were as follows:

- **Covelo – July 26, Opt-In Overlay Zone**
Round Valley Public Library, 23925 Howard Street, Covelo
- **Mitchell Creek – July 26, Opt-In Overlay Zone**
Caspar Community Center, South Room, 15051 Caspar Road, Caspar
- **Laytonville and South Leggett – July 27, Opt-In Overlay Zones**
Long Valley Garden Club, 375 Harwood Road, Laytonville
- **Deerwood and Boonville Road/Woody Glen – July 27, Opt-Out Overlay Zones**
County Administration Center, Board Chambers, 501 Low Gap Road, Ukiah

Provide below are summaries of comments shared by meeting participants, including verbal comments during the meetings and comment cards that were submitted to staff.

Covelo Community Meeting Notes – July 26, 10:00 a.m.–12 p.m.

Round Valley Public Library , 23925 Howard Street, Covelo

18 participants signed in/21 comment cards received.

Comments specific to Overlay Zone regulations:

- Near-unanimous support among participants to amend regulations to be more supportive of cannabis growers; some concerns regarding impacts to Native American tribes.
- Generally, the adjustments proposed under the Opt-In Overlay would be very helpful if applied to a broader area.
- Strong consensus that the proposed two small Overlay Zones are not adequate to help the majority of growers in the Covelo community.
- Covelo community is currently facing economic collapse; cannabis is currently the only viable means of income for many residents and local businesses.
- Largest single concern is sunset provision; local community analysis identified 135 growers (approximately 85% of growers) that would not be allowed under sunset.

Comment Card Summary	Times Mentioned
Need to substantially increase the Covelo Overlay Zone: <ul style="list-style-type: none"> • Proposed Overlay Zone is inadequate in area and does not help most growers. • Zone needs to be expanded to include much more area. • Covelo is a patchwork of zoning and land uses and small Overlay Zones don't address growers' issues. • Proposed Overlay Zones do not include 90% of growers in Covelo. 	18
Concern that cannabis business do not benefit long-time residents. Consider impacts on children, animals, and land.	1
Reducing setbacks will make it possible for more parcels to be eligible.	2
Cannabis has contributed to the Covelo economy and helped support businesses and the community. Loss of cannabis income and revenue would be disastrous.	1
The current Overlay Zone approach is ineffective and does not meet the needs of Covelo residents.	3
Would like to see an Overlay Zone for facilities.	1
Reductions in (property line) setbacks are helpful; would like reductions from other setbacks (schools, churches, parks).	1
Overlays are a "band-aid"; the County cannabis ordinance does not work for Covelo.	1
Total Cards Comments	21

Mitchell Creek Community Meeting Notes – July 26, 5:00 p.m.–7:00 p.m.

Caspar Community Center, South Room, 15051 Caspar Road, Caspar

57 participants signed in (100+ participants)/31 comment cards received.

- General comment: The majority of meeting participants appeared to be supportive of grower accommodations (Opt-In regulations), but property owners in attendance that were not supportive felt they were underrepresented in the audience due to lack of meeting notice.
- Meeting discussion was roughly evenly split between individuals supportive of cannabis cultivation and individuals opposed to cannabis cultivation.
- Concerns over cannabis cultivation in Mitchell Creek included:
 - Impacts to water supply; crime resulting from cultivation activities; impacts to property values; proliferation of cannabis cultivation; commercial uses fundamentally incompatible with residential character of the neighborhood.
- Comments in support of Opt-In Overlay:
 - Some long-time Mitchell Creek growers have contributed to overall improvement of Mitchell Creek; cultivators are also members of the community who own property, raise families, want the Mitchell Creek neighborhood to be a good place to live; sunset regulations will force growers to leave and will cause property values to drop.
- Information provided by Michael Baker and County staff:
 - A thorough process of evaluating water supply is conducted by regional and state agencies in the cannabis permit review process.
 - The proposed Opt-In Overlay would not allow for an increase in current cultivation; it would only allow existing cultivation to continue.

Master Comment	Times Mentioned
Supportive of Overlay/Opt-In.	7
If a Mitchell Creek Opt-In Zone is established, would prefer Alternative 2 (smaller area).	4
Concerned about water use – potential for cultivators to impact available water supplies.	4
Supportive of Alternative 1 (larger area), which includes a greater area in the Opt-Out zone.	3
Supports Alternative 1; Alternative 2 would be detrimental to local businesses that provide jobs and support the local economy.	2
If no Overlay is established, some existing growers will be forced to leave Mitchell Creek and this would impact the neighborhood.	2
Individual comments from comment cards: <ul style="list-style-type: none"> • Consider limiting cultivation to indoor only. • Loss of cannabis growers would be detrimental to local economy. • Cannabis is a highly regulated crop and permitting process addresses environmental (water) issues. • Redwood Springs Drive should not be included in the Overlay Zone. 	
Total Comments	31

Laytonville and South Leggett Community Meeting Notes – July 27, 10:00 a.m.–12 p.m.

Long Valley Garden Club, 375 Harwood Road, Laytonville

15 participants signed in/1 comment card received.

- Discussion of the petition process to qualify an Overlay Zone for consideration – comments that petition process is problematic and asked that other options be considered.
- Fence requirements – interest in relying upon existing perimeter fence as portion of the cultivation area fence.
- Request to expand the Laytonville Opt-In Zone eastward from Branscomb Road to include additional RR-1 zoned land.
- Request for flexibility on the 150-foot separation between cultivation area and adjacent house – no change to this requirement was proposed under the Opt-In or the Exceptions regulations at the time of the community meeting.
- Discussion of need for transferability of permits – Michael Baker staff responded this is outside the Cannabis Exceptions work.
- Question regarding how the Overlay will affect distribution/microbusiness/other commercial uses – Michael Baker staff responded that Overlay only applies to cultivation.
- Discussion on limitations of personal use cultivation – Michael Baker staff responded this is outside the Cannabis Exceptions work.

Comment	Times Mentioned
Please include all RR-1 to protect growers on the larger parcels from sunsetting out.	1
Total Comments	1

Deerwood and Boonville Road/Woody Glen Community Meeting Notes – July 27, 5:00 p.m.–7:00 p.m.
 County Administration Center, Board Chambers, 501 Low Gap Road, Ukiah
 29 participants signed in/10 comment cards received.

- Interest/concern regarding timing for new regulations to be considered by the Planning Commission – Michael Baker staff commented that likely three months to get to Planning Commission.
- Discussion of the process and implications of an Opt-Out Zone being repealed.
- For Deerwood and Boonville/Woody Glen, a petition process to demonstrate wide community support is feasible.
- Opposition to cannabis operations included that commercial operations in the affected neighborhoods just aren't appropriate.
- Interest in notifying potential property buyers of an existing or proposed Opt-Out Zone; avoid investment based on expectation to cultivate.
- Discussion of water regulations that apply to cultivators; regional and state agencies regulate water supplies and are involved in permitting cannabis cultivation.
- How will an application under review be affected by a proposed Opt-Out Zone?
- Residents in Lower Deerwood (subject to sunset and therefore not in the proposed Opt-Out Zone) are affected by cultivators in Upper Deerwood.
- Substantial majority of meeting participants were in favor of the proposed Opt-Out Zones. Show of hands resulted in the following:
 - 19 participants support Boonville Road/Woody Glen Opt-Out
 - 12 participants support Deerwood Opt-Out
- No one spoke in direct opposition to the proposed Opt-Out Zones, but comments were made regarding the fiscal impact of eliminating cultivation in Mendocino County.

Master Comment	Times Mentioned
Supportive of Opt-Out to preserve residential neighborhood.	10
Total Comments	10

Community Survey Results

Community surveys were conducted for each of the proposed Cannabis Accommodation and Cannabis Prohibition Combining Districts. Surveys were conducted using the online tool SurveyMonkey. Postcards were mailed to the owners of each property inside of or within 350 feet of a proposed Combining District. Each survey included a unique code associated with the property's Assessor Parcel Number. The surveys were, by design, brief and included a short explanation of the Combining District regulations, a map of the associated district, and a link with additional information. While it was possible for individuals to submit The survey was open from August 27 through September 17.

Response rates varied from approximately 12% to 49% of property owners within each District. Michael Baker's goal had been to generate at least a 20% response rate for each proposed district. Due to low response rates in Laytonville, Covelo, and South Leggett, a second postcard was mailed on September 7 to property owners in those communities, and surveys for those communities were held open for an additional week.

Upon completion of all surveys, the responses were filtered to exclude any responses that lacked a valid code. In one instance a respondent appeared to transpose two numbers on his/her code and that response was accepted. There were no other cases in which the response validity was in question.

Due to concerns over petitions, schedule and feasibility for larger proposed Combining Districts, the Community Surveys described herein are providing the basis for determining whether there is 60 percent support among landowners for the proposed CA (Opt-In) and CP (Opt-Out) Combining Districts. All proposed Combining Districts did achieve the 60% support threshold, except for the two Mitchell Creek CA Districts that were far below the required 60 percent support level.

Covelo Core CA District

Covelo Core area residents were asked the following three questions in their survey:

- Do you support the establishment of the Covelo Core Opt-In Combining District?
- Do you support allowing existing cannabis cultivators within the boundaries of the Covelo Core Opt-In Combining District to continue their cultivation activities provided they meet all state and County requirements?
- Do you support reducing setbacks (required distance from property lines) for cannabis cultivation sites within the boundaries of the Covelo Core Opt-In Combining District?

The number of yes and no responses to the three survey questions were identical:

- Response rate: 20%
- Support for District: 48
- Opposed to District: 11
- **Approval rate: 81%**

Covelo Fairbanks Road CA District

Covelo Fairbanks Road residents were asked the following three questions in their survey:

- Do you support the establishment of the Covelo Core Opt-In Combining District?
- Do you support allowing existing cannabis cultivators within the boundaries of the Covelo Core Opt-In Combining District to continue their cultivation activities provided they meet all state and County requirements?
- Do you support reducing setbacks (required distance from property lines) for cannabis cultivation sites within the boundaries of the Covelo Core Opt-In Combining District?

The number of yes and no responses to the three questions were identical:

- Response rate: 27%
- Support for District: 6
- Opposed to District: 4
- **Approval rate: 60%**

Mitchell Creek North CA District

Mitchell Creek North area residents were asked the following five questions in their survey:

- Do you support the general concept of establishing a Mitchell Creek Opt-In Combining District?
- Do you prefer the boundaries of Mitchell Creek Option 1 (larger area)?
- Do you prefer the boundaries of Mitchell Creek Option 2 (smaller area)?
- Do you support reducing setbacks (required distance from property lines) for cannabis cultivation sites within the boundaries of the Mitchell Creek Opt-In Combining District?
- Would you support the Mitchell Creek Opt-In Combining District if cannabis cultivation was limited to indoor cultivation only? Mendocino County defines Indoor Cultivation as cultivation occurring within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Mendocino.

The survey for Mitchell Creek included five questions to test preferences related to size of district and requirements for indoor cultivation. The number of yes and no responses to the five questions were very similar, with responses ranging from 87% to 94% in opposition to accommodating cannabis cultivation. The term “averaged” below refers to the average number of responses in support of and in opposition to the five questions:

- Response rate: 43%
- Averaged Support for District: 11
- Averaged Opposed to District: 101
- **Approval rate: 10%**

Mitchell Creek South CA District

Mitchell Creek South residents were asked the following three questions in their survey:

- Do you support the establishment of the Covelo Core Opt-In Combining District?
- Do you support allowing existing cannabis cultivators within the boundaries of the Covelo Core Opt-In Combining District to continue their cultivation activities provided they meet all state and County requirements?
- Do you support reducing setbacks (required distance from property lines) for cannabis cultivation sites within the boundaries of the Covelo Core Opt-In Combining District?

The number of yes and no responses to the three questions varied, with the lowest support for question 1 (25% support) and slightly higher support for questions 2 and 3 (37% support):

- Response rate: 15%
- Averaged Support for District: 2.66
- Averaged Opposed to District: 5.33
- **Approval rate: 33%**

Laytonville CA District

Laytonville area residents were asked the following three questions in their survey:

- Do you support the establishment of the Covelo Core Opt-In Combining District?
- Do you support allowing existing cannabis cultivators within the boundaries of the Covelo Core Opt-In Combining District to continue their cultivation activities provided they meet all state and County requirements?
- Do you support reducing setbacks (required distance from property lines) for cannabis cultivation sites within the boundaries of the Covelo Core Opt-In Combining District?

The number of yes and no responses were nearly identical for the three questions:

- Response rate: 12%
- Support for District: 33
- Opposed to District: 8
- **Approval rate: 80%**

South Leggett CA District

South Leggett residents were asked the following three questions in their survey:

- Do you support the establishment of the Covelo Core Opt-In Combining District?
- Do you support allowing existing cannabis cultivators within the boundaries of the Covelo Core Opt-In Combining District to continue their cultivation activities provided they meet all state and County requirements?
- Do you support reducing setbacks (required distance from property lines) for cannabis cultivation sites within the boundaries of the Covelo Core Opt-In Combining District?

The number of yes and no responses to the three survey questions were identical

- Response rate: 20%
- Support for District: 15
- Opposed to District: 2
- **Approval rate: 88%**

Deerwood CP District

Deerwood residents were asked the following question in their survey:

- Do you support the establishment of the Deerwood Opt-Out Combining District, thereby restricting commercial cannabis operations within the Deerwood Opt-Out Combining District?

The response to the survey was as follows:

- Response rate: 48%
- Support for District: 49
- Opposed to District: 3
- **Approval rate: 94%**

Booneville Road/Woody Glen CP District

Boonville Road/Woody Glen residents were asked the following question in their survey:

- Do you support the establishment of the Boonville Woody Glen Opt-Out Combining District, thereby restricting commercial cannabis operations within the Boonville Woody Glen Opt-Out Combining District?

The response to the survey was as follows:

- Response rate: 49%
- Support for District: 46
- Opposed to District: 4
- **Approval rate: 92%**

Email Messages – cannabisoverlay@mendocinocounty.org

A dedicated email address was established to receive input, questions and requests for support from community members. In total, more than 150 emails were received. Approximately 40 individuals posed questions or requested assistance with the Combining District Survey through this portal and direct responses to such messages were provided. Messages received through this portal have been organized by Combining District area and are summarized below.

Mitchell Creek Community		<i>Total Emails Received: 88</i>
<p>The majority of all emails received were in reference to the proposed Mitchell Creek Opt-In zoning overlay. Emails received related to the Mitchell Creek Districts were, overall, strongly in opposition.</p>		
MAIN COMMENTS	Times Mentioned	
<ul style="list-style-type: none"> Concern about water use and potential for cultivators to impact available water supplies for the surrounding residential area. 	42	
<ul style="list-style-type: none"> Concern over potential rise in crime in residential neighborhoods due to commercial cannabis cultivation and operations. 	29	
<ul style="list-style-type: none"> Road access and traffic impacts: Concern about wear and tear to roads from commercial trucks and increased traffic from activity of suppliers, employees, etc. Consensus that emergency access (ingress/egress) from Simpson Lane is inadequate. (Roads specifically mentioned include Simpson Lane, Turner Road, Shane Drive, and Redwood Springs Drive.) 	23	
<ul style="list-style-type: none"> Noticing of the community meetings was not adequate to allow many community members to attend. (References made to Brown Act violation = 5.) 	22	
<ul style="list-style-type: none"> Concern of overall incompatibility of commercial cannabis activity in a residential area (including but not limited to noise, lighting, odor, etc.) 	20	
<ul style="list-style-type: none"> Concern over negative impacts to residential property values from allowing commercial cannabis cultivation and operations. 	12	
<ul style="list-style-type: none"> Environmental concerns (pollution to land and waterways, etc.) 	10	
<ul style="list-style-type: none"> Opposition to any type of commercial agriculture operations in this district due to water scarcity. 	5	
<ul style="list-style-type: none"> Frustration expressed over “straw-vote” at community meeting being skewed due to lack of representation from opposition. 	5	
<ul style="list-style-type: none"> Concern that a 20-foot setback requirement for cultivation from adjacent properties is inadequate. 	5	
<ul style="list-style-type: none"> Request that an environmental impact report (EIR) be prepared to determine water usage impacts from cultivation activities on district. 	5	
<ul style="list-style-type: none"> Frustration with “revolving door renters” that stay a short period of time and are unfriendly with the neighborhood. 	2	
<ul style="list-style-type: none"> <i>Requested to be added to mailing list:</i> Roslyn Satten, Simpson Lane Daniel R. Barrett, Emerald Drive, danjane@mcn.org Mark and Kathy Bibbens, 16861 Hills O Home Lane Lin and Ginny Varnum, 17751 Redwood Springs Drive 		

Input from those in favor of Opt-In overlay zone:

- Opt-In overlay will protect the livelihood of small farmers who have been cultivating cannabis for years without negatively impacting property values, the healthy balance of our ecosystem, or public safety.
- The county overlay project does not increase cannabis cultivation in the Mitchell Creek area. It supports continuation of low-impact farming practices through the most stringent, lengthy requirements and regulations ever imposed on any agricultural sector in this country's history. The County Requirements for Commercial Cottage Indoor Cultivation (which is the category of most cannabis farms in this area) consist of 28 detailed steps to reach compliance that must be taken by permit applicants. The state regulations are as onerous, consisting of 24 specific requirements which applicants must meet. These regulations come with huge permit and license application fees and other costs associated with securing approval of the Water Board, Fish & Wildlife, and other agencies.
- Over the last ten years, wells have not dried up at any greater rate as a result of cannabis farms. Cannabis farmers in the Mitchell Creek area have offered to meter their water use and enact cultivation practices that reduce water use significantly.
- The opt-in overlay zone will not change Mitchell Creek from a residential zone to a commercial zone. The existing zoning explicitly allows agriculture. The opening definition in our zoning code says "Rural Residential Zoning "...is intended to create and enhance residential areas where agricultural use compatible with a permanent residential use is desired."
- Cannabis cultivation is less of a safety issue than it was in the underground market. By requiring compliance with stringent county and state requirements, existing small farmers in the Mitchell Creek area will be more engaged in taking safe business and property precautions than ever before. They will be operating in the light of official and public scrutiny and are less likely to engage with or attract criminal elements to their farms. Public safety has been increased with legalization and regulation.
- Sustained commercial cannabis cultivation on a small scale has existed harmoniously with the community for decades. Many of the residents of this area are dependent on cannabis for their livelihoods and have built businesses and reputations from their cultivation sites in Mitchell Creek.
- The Opt-In Overlay for Mitchell Creek would not cause cultivators to be allowed to enter the area, it would simply allow them to stay and continue what they have already been doing.
- The assumption that Cannabis Cultivators have no concern for the environment or water supply is inaccurate and offensive. By implementing specific use parameters and a robust record-keeping requirement there would be essentially no risk to the water supply Mitchell Creek.
- Allowing commercial cannabis cultivation will provide more jobs to the community and will boost the local economy.

Questions:

1. What research, if any, has the California Water Board done to determine that commercial level water use in this zone will not have a negative effect on residential wells?
2. Was there any geological or hydrology research done on the area?
3. What are the legal issues of giving a small group of cottage industries exclusive rights to do commercial business in this densely populated residential zone?
4. What contaminants will be added to that aquifer. Will this be total organic gardening? No fertilizers? Who will monitor what goes into the aquifer?
5. Will our roads have to have more industrial usage? They are already not taken care of too well. Cal Trans will get extra money to make sure the extra industrial use is considered?
6. Property values? Who will be reimbursing us for the loss in sales?
7. How did this proposal originally get started? Can you please tell me how to find out more information on this?
8. Will I have a choice in my neighbors choosing to enter the production of pot? I wish to OPT OUT. How do I do that? I do not want to be next to any pot farms.
9. When we moved into this neighborhood 1999, there were covenant restrictions that prohibited commercial farming and livestock production. What are the legal issues of giving a small group of cottage industries exclusive rights to do commercial agricultural business in this densely populated residential zone?
10. By what date is the survey due back?
11. Providing only a digital response option is problematic; is there another, paper, option more familiar to most folks? There are most likely a good number of residents in here still without Internet access, or in the least, unfamiliar with online apps. One suggestion you might consider would be to set up 'labs' in our residential area with Internet and lap top access to assist those who need it to complete the survey.
12. Has anyone considered the fact that publishing a map of a cannabis zone is basically providing a map to criminal home invaders of the most "productive" areas to target?
13. Has the California Water Resources Control Board been engaged at all? Have any consultants been engaged to study water effects?
14. Concerning depletion of the water table in this residential zone
 - a. What research has been done on the hydrology of the area?
 - b. Will there be a baseline study on the water table in the area?
 - c. Will commercial grows be metered for water use and required to pay into a remediation fund for the specific overlay area if granted?
15. Has CDFW been involved in this process at all? Has any thought been given to environmental effects? Has the effects of pesticides and other farm chemicals been considered at all for such a densely settled residential area?
16. Will current grows be allowed to expand?
17. What will happen when a permit owner sells his/her property?
18. Why is this area being targeted for commercial growing? How many other areas are being targeted?

Laytonville and South Leggett Communities	
<i>Total Emails Received: 4</i>	
MAIN COMMENTS	Times Mentioned
<ul style="list-style-type: none"> Request for reduction of 50-foot property boundary setback requirement for smaller RR-1 lots in Opt-In Overlay. No messages were received in opposition of the proposed districts. 	1
<p>Questions:</p> <ol style="list-style-type: none"> Can a better map be provided that shows how many parcels there are and what the average size of the parcel is within the range land zoning section of the Laytonville overlay map? There is a religious facility (Jehovah Witness Kingdom Hall) within the boundary of the proposed overlay zone. Will the current set back requirements for religious facilities within the ordinance be maintained? Are there any meetings regarding the overlay program in Laytonville scheduled that I can attend? I am also wondering why the proposed overlay district in Laytonville does not include my 1.3 acre property (zoned RR2) that seems to be a couple of hundred feet outside the proposed overlay zone? 	

Covelo Community; Covelo Commercial Cannabis Accommodation (Opt-In) Combining District
<i>Total Emails Received: 2</i>
No messages were received in direct opposition or support of the proposed Opt-In zoning overlay.
<p>Question(s):</p> <ol style="list-style-type: none"> The proposed map for the overlay area is just north of the existing elementary school and not far from additional educational facilities. Has the Round Valley School District or Board of Trustees been contacted regarding concerns to the youth attending the local schools in the area in relation to the proposed overlay area proposal? A tribal community member said that it is illegal for the county to be imposing the overlay on tribal land since the county does not have jurisdiction over land use on these property types. I was a member of the sub-committee that worked closely with the consultants (Michael Baker) to draft the proposed map and stated very clearly that Round Valley is a checkerboard reservation. Was this not considered when the final map proposal came out?

Deerwood and Boonville Road/Woody Glen Communities	
<i>Total Emails Received: 17 (Deerwood) 11 (Boonville Road/Woody Glen)</i>	
All messages received voiced support for the proposed Opt-Out zoning overlay.	
MAIN COMMENT	Times Mentioned
<ul style="list-style-type: none"> Support for Opt-Out Overlay to prohibit commercial cannabis activity in these districts. 	28

Resolution Number _____

County of Mendocino
Ukiah, California

FEBRUARY 3, 2022

R_2019-0013 VARIOUS

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, MAKING ITS REPORT AND RECOMMENDATION TO THE MENDOCINO COUNTY BOARD OF SUPERVISORS RECOMMENDING THE DENIAL OF THE REZONING OF CERTAIN PARCELS TO CREATE A COMMERCIAL CANNABIS ACCOMMODATION COMBINING DISTRICT (R_2019-0013).

WHEREAS, the applicant, Brandy Moulton, filed an application to establish a Commercial Cannabis Accommodation (CA) Combining District with the Mendocino County Department of Planning and Building Services. The district and all affected parcels are shown in Exhibit "A" to this Resolution, which is attached hereto and incorporated herein by this reference; located 3.9± miles southeast of Fort Bragg City center; lying on the west side of Franklin Rd. (CR 414D), 0.2 miles south of its intersection with Simpson Ln. (CR 414), located at multiple addresses; APN's: 019-450-08, 019-440-21, 019-440-25, 019-480-08, 019-480-09, 019-480-10, 019-480-33, 019-480-34, 019-480-35, 019-480-36. Rural Residential Zoning and General Plan designations; Supervisorial District 4; (the "Project"); and

WHEREAS, pursuant to Public Resources Code section 21080(b)(5), the California Environmental Quality Act (Public Resources Code section 21000 et seq.; "CEQA") does not apply to projects which a public agency rejects or disapproves and CEQA Guidelines section 15270 provides that the projects which are disapproved are Statutorily Exempt from CEQA. However, an Addendum to the previously adopted Mitigated Negative Declaration (SCH #2016112028) was prepared for the Project in accordance with CEQA and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provision of law, the Planning Commission held a public hearing on February 3, 2022, to solicit public comments on the Project, at which time the Planning Commission 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, pursuant to Government Code Section 65850 et seq., the Planning Commission is to provide its report and recommendation to the Board of Supervisors on ordinances related to land use regulation; and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission, based on the evidence in the record, makes the following report and recommendation to the Mendocino County Board of Supervisors regarding the proposed Project:

1. The Planning Commission recommends that the Board of Supervisors deny Rezone application R_2019-0013 to create a Commercial Cannabis Accommodation Combining District over 10 parcels, as listed in Exhibit "A" to this Resolution, and find the following:

- a. That the proposed Commercial Cannabis Accommodation Combining District is inconsistent with the requirements of Chapter 20.118 of Mendocino County Code. Commercial Cannabis Accommodation Districts are intended to be neighborhood or community in scale. The boundaries of the proposed District consist of only a small portion of the area in which it is situated, though certain impacts like traffic will impact the entire surrounding area. The boundaries also exclude properties that reasonably should be included if attempting to be neighborhood or community in scale, such as the parcels adjacent along Franklin Road. The proposed District boundaries are designed in an irrational and arbitrary manner and are not proposed at a community or neighborhood scale.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the 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.

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

ATTEST:

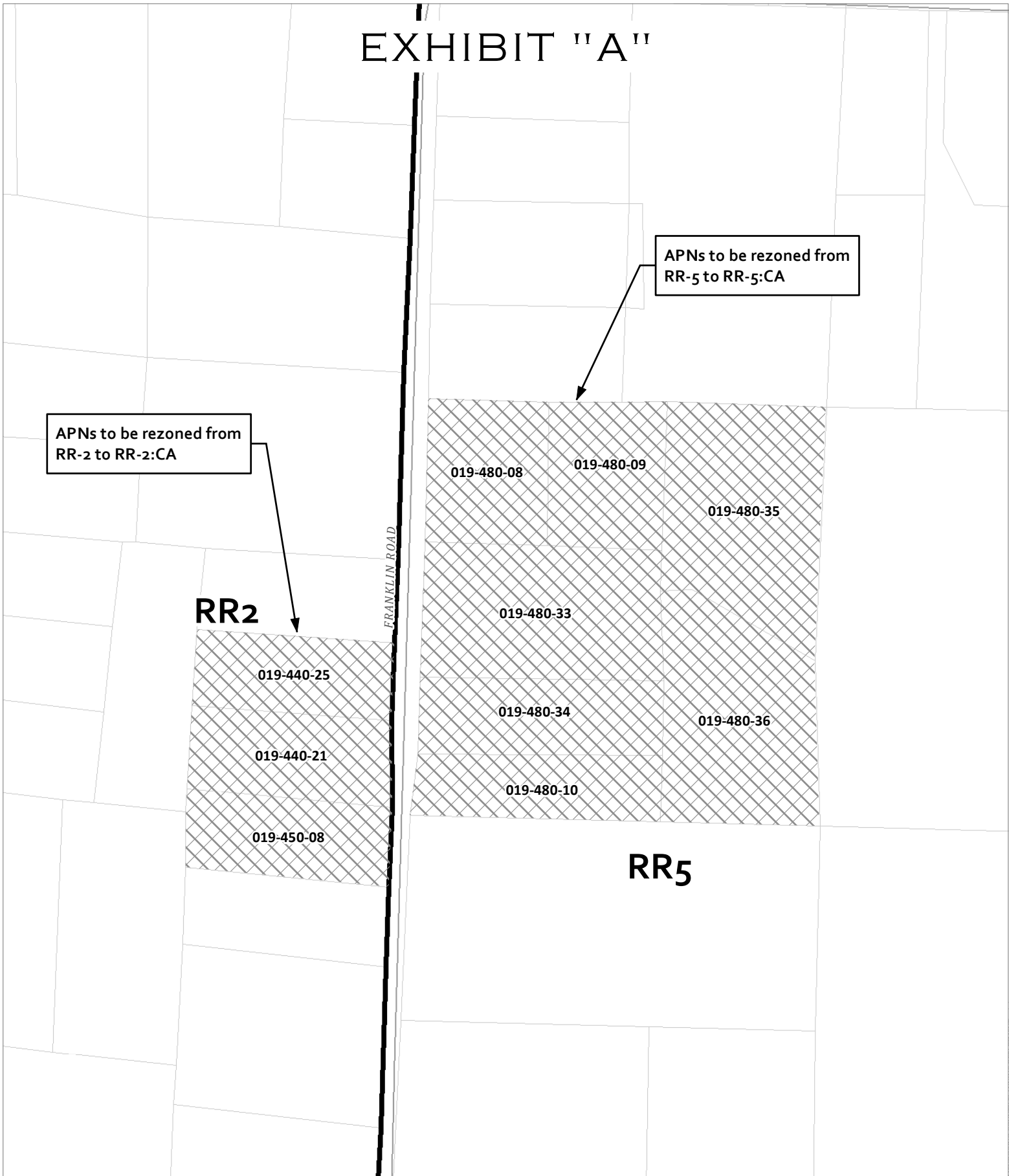
BY: JAMES F. FEENAN
Commission Services Supervisor

BY: IGNACIO GONZALEZ
Interim Director

Alison Pernell, Chair
Mendocino County Planning Commission

EXHIBIT A: REZONE EXHIBIT MAP

EXHIBIT "A"



APNs to be rezoned from RR-2 to RR-2:CA

APNs to be rezoned from RR-5 to RR-5:CA

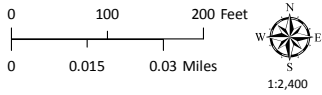
RR2

RR5

FRANKLIN ROAD

CASE: R 2019-0013
OWNER: Various
APN: Various
APLCT: Brandy Moulton
AGENT: Brandy Moulton
ADDRESS: Franklin Road, Fort Bragg

- Zoning Districts
- Public Roads
- REZONE FROM: RR-2 & RR-5 (Rural Residential 2 & 5 acre minimums)
TO: RR-2:CA & RR-5:CA (Rural Residential 2 & 5 acre minimums, Cannabis Accommodation)



MENDOCINO COUNTY PLANNING DEPARTMENT - 4/9/2023

Resolution Number _____

County of Mendocino
Ukiah, California

FEBRUARY 3, 2022

R_2019-0013 VARIOUS

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, MAKING ITS REPORT AND RECOMMENDATION TO THE MENDOCINO COUNTY BOARD OF SUPERVISORS REGARDING ADOPTION OF AN ADDENDUM TO THE PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION (MND; SCH#2016112028), IN COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS TO REZONE CERTAIN PARCELS AND CREATE A COMMERCIAL CANNABIS ACCOMMODATION COMBINING DISTRICT (R_2019-0013).

WHEREAS, the applicant, Brandy Moulton, filed an application to establish a Cannabis Accommodation (CA) Combining District with the Mendocino County Planning and Building Services Department. The district and all affected parcels are shown in Exhibit "A" to this Resolution, which is attached hereto and incorporated herein by this reference; located 3.9± miles southeast of Fort Bragg City center; lying on the west side of Franklin Rd. (CR 414D), 0.2 miles south of its intersection with Simpson Ln. (CR 414), located at multiple addresses; APN's: 019-450-08, 019-440-21, 019-440-25, 019-480-08, 019-480-09, 019-480-10, 019-480-33, 019-480-34, 019-480-35, 019-480-36. Rural Residential Zoning and General Plan designations; Supervisorial District 4; (the "Project"); and

WHEREAS, on April 4, 2017, the Board of Supervisors adopted Ordinance Number 4381, adding Chapters 10A.17 and 20.242 to the Mendocino County Zoning Code, referred to as the Mendocino Cannabis Cultivation Regulations (MCCR); and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; CEQA) and the CEQA Guidelines (Title 14 California Code of Regulations section 15000 et seq.) an Initial Study was prepared, which determined that the Project will not have a significant effect on the environment with the implementation of mitigation measures, which supported the adoption of a Mitigated Negative Declaration (MND); and

WHEREAS, the Mendocino County Board of Supervisors adopted a Mitigated Negative Declaration (MND) (SCH #2016112028) for the initial adoption of the Mendocino County Code Chapter 10A.17 Mendocino Cannabis Cultivation Ordinance and Chapter 20.242 Cannabis Cultivation Sites Project on March 27, 2017, following a public review period as required by CEQA and the CEQA Guidelines; and

WHEREAS, following the initial adoption of the MCCR, multiple ordinance amendments have been processed which have been reviewed pursuant to CEQA and for which addenda pursuant to CEQA have been adopted, including the adoption of a new Chapter 20.118 "Commercial Cannabis Accommodation Combining District" and Chapter 20.119 "Commercial Cannabis Prohibition Combining District"; and

WHEREAS, Section 15164 of the CEQA Guidelines provides that an addendum to a previously adopted MND may be prepared if only minor technical changes or additions to the project are necessary and if none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent environmental impact report or mitigated negative declaration have occurred; and

WHEREAS, County staff has prepared an Addendum to the adopted Mitigated Negative Declaration related to the proposed Project, which is attached to this resolution as Exhibit "B" and incorporated herein by this reference ("Addendum"), and which determines that none of the conditions described in CEQA Guidelines Section 15162 will occur as a result of the Project; and

WHEREAS, in accordance with applicable provision of law, the Planning Commission held a public hearing on February 3, 2022, to solicit public comments on the proposed Project, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the addendum and proposed Project. All interested persons were given an opportunity to hear and be heard regarding the Addendum and the Project; and

WHEREAS, pursuant to Government Code Section 65850 et seq., the Planning Commission is to provide its report and recommendation to the Board of Supervisors on ordinances related to land use regulation; and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission, based on the evidence in the record, makes the following report and recommendation to the Mendocino County Board of Supervisors regarding the Project and Addendum related thereto:

1. The Planning Commission recommends that the Board of Supervisors adopt the Addendum to the previously adopted Mitigated Negative Declaration (SCH #2016112028) for the Mendocino County Cultivation Regulations as described in Exhibit "B" to this Resolution.
2. The Planning Commission recommends that the Board of Supervisors approve Rezone application R_2019-0013 to create a Cannabis Accommodation Combining District over ten (10) parcels as listed in Exhibit "A" to this Resolution.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the 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.

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

ATTEST:

BY: JAMES F. FEENAN
Commission Services Supervisor

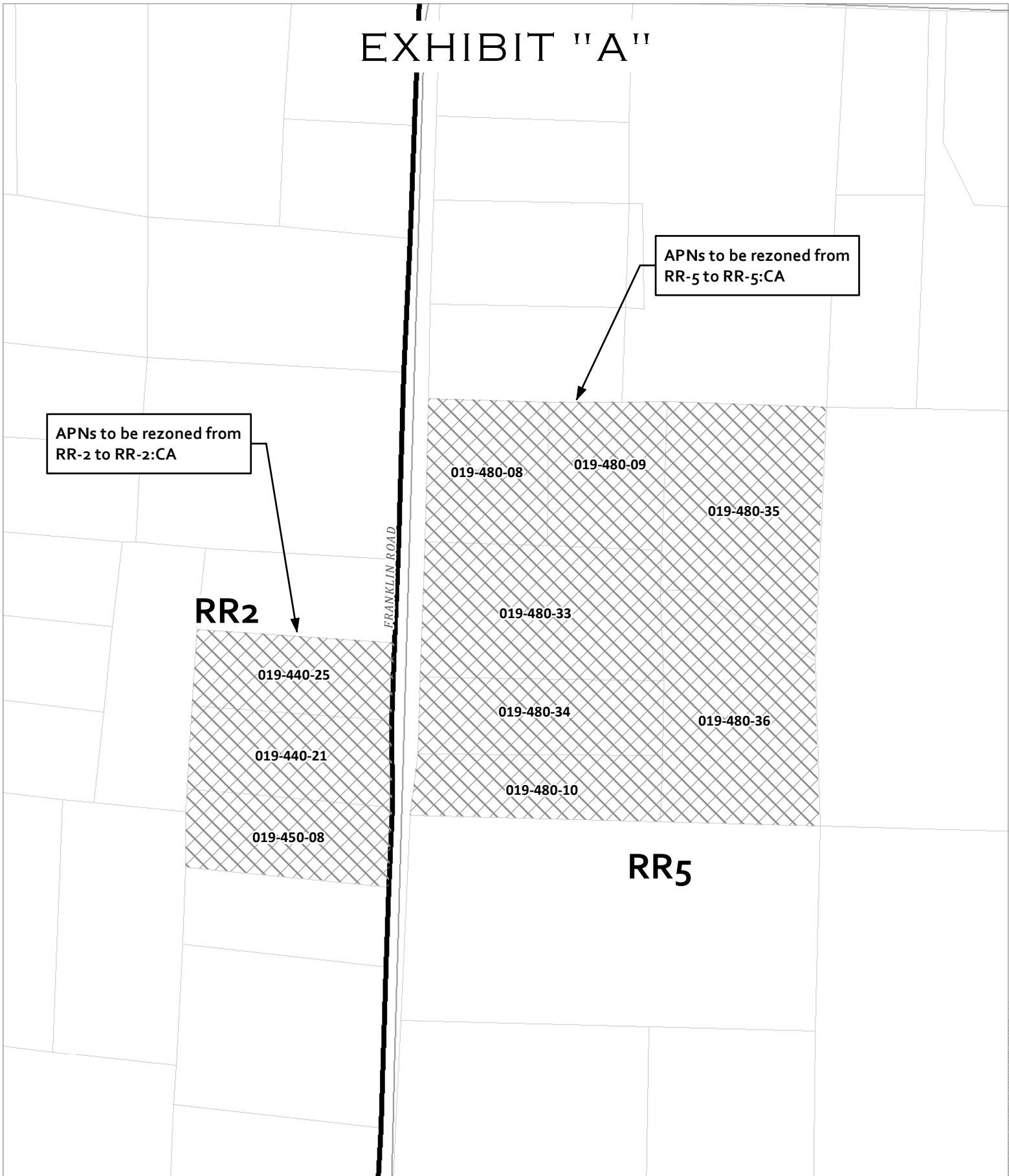
BY: IGNACIO GONZALEZ
Interim Director

ALLISON PERNELL, Chair
Mendocino County Planning Commission

EXHIBIT A: REZONE EXHIBIT MAP

EXHIBIT B: ADDENDUM TO MND

EXHIBIT "A"



APNs to be rezoned from RR-2 to RR-2:CA

APNs to be rezoned from RR-5 to RR-5:CA

RR2

RR5

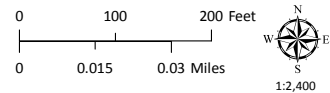
FRANKLIN ROAD

CASE: R 2019-0013
 OWNER: Various
 APN: Various
 APLCT: Brandy Moulton
 AGENT: Brandy Moulton
 ADDRESS: Franklin Road, Fort Bragg

Zoning Districts

Public Roads

REZONE FROM: RR-2 & RR-5 (Rural Residential 2 & 5 acre minimums)
 TO: RR-2:CA & RR-5:CA (Rural Residential 2 & 5 acre minimums, Cannabis Accommodation)



MENDOCINO COUNTY PLANNING DEPARTMENT - 4/9/2023

REZONE EXHIBIT

Exhibit B

February 3, 2022

**Addendum to the previously adopted Mitigated Negative Declaration (MND: SCH#2016112028
Adopted April 4, 2017 by the Mendocino County Board of Supervisors) for the County of
Mendocino Cannabis Cultivation Regulations**

Commercial Cannabis Accommodation Combining District

Rezone Application R_2019-0013

Assessor Parcel Numbers: 019-450-08, 019-440-21, 019-440-25, 019-480-08, 019-480-09, 019-480-10,
019-480-33, 019-480-34, 019-480-35, 019-480-36

Prepared By: Chevon Holmes
Planner II

This Addendum has been prepared in accordance with Section 15164 Article II, Title 14 of the California Code of Regulations (CCR) as required by the California Environmental Quality Act (CEQA) and serves as an Addendum to the previously adopted Mitigated Negative Declaration (MND; SCH#2016112028) for the Mendocino Cannabis Cultivation Regulations. The County of Mendocino was the lead agency for the environmental review of the Cannabis Cultivation Regulations.

BACKGROUND

The Mendocino County Board of Supervisors adopted Ordinance No. 4381, on April 4, 2017, adding Chapters 10A.17 and 20.242 to Mendocino County Code, to regulate commercial cannabis cultivation. By Resolution Number 17-042 a Mitigated Negative Declaration (MND) was adopted for Ordinance Number 4381 to regulate production by licensed operators and provide clear standards and permitting pathways to help bring baseline cannabis cultivation activities into compliance with existing regulatory frameworks. The ordinance outlines pathways for compliance with new and existing regulations that provide for local review, inspection, and oversight ultimately reducing potential environmental effects from existing cultivation activities. The County then adopted various amendments to Chapters 10A.17 and 20.242 of the County Code, that adjusted specific provisions, further allowing continuance of current cultivation activities for qualified applicants.

Impacts discussed in the MND were primarily focused on methods to reduce, and ultimately eliminate clandestine cannabis cultivation activities occurring in remote and off-grid environments throughout the County. Cannabis cultivation facilities exclusively powered by generators that operate for extended periods produce significant levels of emissions compared to operations with access to grid-supplied energy via public utility or alternative renewable energy sources. Unauthorized water diversions from natural waterways contribute to the dewatering of streams and provide a mechanism for sediment delivery from land disturbance, and pollutant discharge such as pesticides. To attenuate these impacts, the MND proposed changes to the ordinance as mitigating actions required for projects covered in the MND. Even still, many existing small commercial operations were too constrained by development standards related to cannabis cultivation operations to meet minimum requirements for cultivation permits.

As such, the Mendocino County Board of Supervisors directed that a Request for Proposals (RFP) be circulated to identify, and implement strategies to facilitate the permitting of commercial cannabis uses throughout the County. Specific areas of concern were identified, and the Board subsequently requested analysis of the potential use of Overlay Zones or Combining Districts to allow for existing cultivation activities to continue in some zoning designations and total prohibition of cultivation activities in others.

On December 4, 2018, the Board of Supervisors adopted Ordinance 4420, and two types of districts were ultimately established with corresponding new chapters to the zoning code. Chapter 20.118 created Cannabis Accommodation (CA) Combining Districts, to support continued operation of existing cultivation sites, and Cannabis Prohibition (CP) Combining Districts in Chapter 20.119, intended to prohibit new commercial cannabis use and end existing commercial cannabis activities.

Prior to creation of the applicable zoning codes, the Board of Supervisors adopted Resolution Number 18-174 on November 16, 2018, which included an addendum to the MND. In doing so, the County reviewed the provisions of CEQA and the CEQA Guidelines, including Section 15162 (Subsequent EIRs and Negative Declarations) and Section 15164 (Addendum to an EIR or Negative Declaration). Cannabis Accommodation Combining Districts will only allow the permitting of cultivation sites that can demonstrate prior existence and will not provide a basis for permitting new cultivation sites. Additionally, the robust permitting processes includes site inspections and required compliance with County, regional and state permitting standards, the potential for negative impacts resulting from unpermitted cultivation is reduced through the process of securing and maintaining a cannabis cultivation permit.

PURPOSE

As provided in Section 15164 of the California Environmental Quality Act (CEQA), the lead agency shall determine whether an Addendum is the appropriate document to analyze proposed modifications to a project. In the case with the subject Rezone application R_2019-0013, the applicant seeks to create the Cannabis Accommodation (CA) Combining District. If approved, eligible cannabis cultivation operations can function with greater flexibility in the development standards related to cannabis cultivation and alleviate the 'Sunset Provision for Residential Districts' and continue operation.

DECISION ANALYSIS

Establishment of a new Cannabis Accommodation Combining District constitutes a “project” subject to CEQA, which precipitates the requirement for further environmental review under the CEQA Act. Section 15162 of the California Environmental Quality Act explains that when a Negative Declaration (ND) has been adopted for a project, no subsequent ND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the negative declaration was adopted shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous negative declaration;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternative; or
 - d. Mitigation measures or alternative which are considerably different from those analyzed in the previous negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

No additional mitigation is required. Creation of the district itself does not affect the effectiveness of the mitigation measures outlined in the adopted Mitigated Negative Declaration, as there will be no additional environmental impacts associated with establishing the district. The Cannabis Accommodation (CA) Combining Districts allow existing, and eligible cannabis cultivation operations that are actively seeking County approval, or cultivation permits flexibility of regulations, and ultimately provide standards and permitting pathways to bring baseline commercial cannabis cultivation activities into compliance. As part of the cannabis cultivation permitting process for legacy applicants, proof of prior cultivation functions as an eligibility requirement, an affirmation that existing cultivation activities were in operation in 2016 or earlier. Cultivation sites for which applicants are seeking permits, are subject to inspection, and must comply with applicable regulations and any requirements applied through the cannabis permit review process, as well as review and permitting by regional and state agencies. Staff has determined that baseline conditions considered at the time of adoption of the ND have not changed.

The applicant’s request to create a Cannabis Accommodation (CA) Combining District does not meet the criteria for preparing a subsequent negative declaration. An Addendum is appropriate, as none of the conditions constituting preparation of a subsequent negative declaration have occurred.

FINDINGS

1. For the proposed Rezone application, R_2019-0013, to create a Cannabis Accommodation (CA) Combining District, no substantial changes that would require major revisions to the previously adopted Mitigated Negative Declaration (MND) have been identified. No new significant environmental effects increase in the severity of those previously identified in the adopted MND.

Allowing the continuation of use on sites currently in cultivation would not create a new significant impact, or increase severity, as the eligibility requirement of proof of prior cultivation demonstrates that the activities are ongoing and already existed when the MND was drafted and are therefore considered part of the baseline conditions; and

2. For the Cannabis Accommodation (CA) Combining District, no substantial changes occurred with respect to the circumstances under which the project is undertaken that requires major revisions of the previous negative declaration, due to the involvement of new significant environmental effects, or a substantial increase in the severity of previously identified significant effects.

The circumstances under which the project is undertaken remain the same and based on the discussion above, no new significant environmental effects resulting from the proposed project are anticipated. At least one of the sites in the proposed Cannabis Accommodation (CA) Combining District has aggressively initiated compliance as demonstrated by additional pending and approved permits issued by the Mendocino County Department of Planning and Building Services. A Mendocino County Cannabis Cultivation application is under review, pending the creation of the requested CA Combining District (AG_2018-0172 for indoor cultivation) and the applicant's indoor cultivation operation activities were subject to the Conditions of Approval, as assigned by Use Permit U_2019-0002, an additional requirement for indoor cultivation activities. The applicant also holds a Cannabis Facilities Business License (CFBL_2018-0053) issued by Mendocino County; and

3. For the Cannabis Accommodation (CA) Combining District, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

There has been no new information of substantial importance that was not known and could not have been known at the time the previous MND was prepared and adopted April 4, 2017 by the Mendocino County Board of Supervisors. The baseline conditions describing the overall impacts of existing cannabis cultivation remain the same; and

4. The proposed district does not constitute a change in the level of significance previously discussed in the adopted MND. As such, it is concluded that the current Cannabis Accommodation (CA) Combining District will not have one or more significant effects not discussed in the previous MND. There are no mitigation measures previously found not to be feasible that would in fact be feasible, and substantially reduce one or more significant effects of the project.

The proposed district does not require changes to any mitigation measures. No new potential impacts have been identified requiring new mitigation measures to be developed; and

5. Finally, there are no mitigation measures or alternatives identified in this analysis which are considerably different from those analyzed in the previous MND, and which would substantially reduce one or more significant effects on the environment.

The Rezone, R_2019-0013, request to create a Cannabis Accommodation (CA) Combining District does not involve changes to, or analysis of, any mitigation measures previously identified or adopted.

CONCLUSION

Based on the above discussion it is concluded that an Addendum to the previously adopted Mitigated Negative Declaration is appropriate to address the requirements under CEQA for the proposed Cannabis Accommodation Combining District, because there are no new significant environmental effects that would require new mitigation. The proposed project is consistent with Section 15164 Article II, Title 14 of the California Code of Regulations (CCR) as required by the California Environmental Quality Act (CEQA). Therefore, no additional analysis is required.