



**COUNTY OF HUMBOLDT  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING DIVISION**

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Phone: (707)445-7541 Fax: (707) 268-3792

Hearing Date: September 19, 2019  
To: Humboldt County Planning Commission  
From: John H. Ford, Director of Planning and Building Department  
Subject: **PLN-12209-CUP Fox Creek Gardens; PLN-11854-CUP Cannatopia;  
PLN-11857-CUP Cannatopia**  
Assessor's Parcel Numbers 206-151-067; 216-205-006; 216-202-014

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Please contact Devin Sutfin, Planner, at 707-268-3778 or by email at [dsutfin1@co.humboldt.ca.us](mailto:dsutfin1@co.humboldt.ca.us) if you have any questions about the scheduled public hearing item.

**AGENDA ITEM TRANSMITTAL**

<b>Hearing Date</b> September 19, 2019	<b>Subject</b> Three Conditional Use Permits	<b>Contact</b> Devin Sutfin
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**Project Description** Three applications recommended for denial as follows:

**A) PLN-12209-CUP Fox Creek Gardens**

A Conditional Use Permit for 43,560 square feet of existing outdoor cultivation and 5,560 square feet of existing mixed light cultivation on APN 206-151-067.

**B) PLN-11854-CUP Cannatopia**

A Conditional Use Permit for 18,000 square feet of existing outdoor cultivation and 3,000 square feet of existing mixed light on APN 216-205-006.

**C) PLN-11857-CUP Cannatopia**

A Conditional Use Permit for 20,000 square feet of existing outdoor cannabis cultivation on APN 216-202-014.

**Project Locations:** As follows:

**A) PLN-12209-CUP Fox Creek Gardens**

The project is located in the Carlotta area, on the north side of Fox Creek Road, approximately 1.25 miles northeast from the intersection of State Highway 36 and Fox Creek Road, on the property known as 1271 Fox Creek Road.

**B) PLN-11854-CUP Cannatopia**

The project is located in the Alderpoint area, on the northwest side of Ware Ranch Road, approximately 1,500 feet north from the intersection of Ware Ranch Road and Stewart Ranch Road, on the property known to be in the northeast, southwest, and southeast quarters of the northwest quarter, and the southwest quarter of the northeast quarter of Section 12 of Township 03 South, Range 05 East, Humboldt Base & Meridian.

**C) PLN-11857-CUP Cannatopia**

The project is located in the Alderpoint area, on the west side of Ware Ranch Road, approximately 5,500 feet north from the intersection of Ware Ranch Road and Stewart Ranch Road, on the property known to be in the southwest and southeast quarters of the southwest quarter, and the southwest quarter of the southeast quarter of Section 1, and the northwest quarter of the northwest quarter of Section 12 of Township 03 South, Range 05 East, Humboldt Base & Meridian.

**Applicants:** As follows:

**A) PLN-12209-CUP Fox Creek Gardens**

Fox Creek Gardens, Neville Lee Steen-Clark, PO Box 315, Carlotta, CA 95528

**B) PLN-11854-CUP Cannatopia**

Cannatopia, Tim Clark, PO Box 147, Alderpoint, CA 95511

**C) PLN-11857-CUP Cannatopia**

Cannatopia, Tim Clark, PO Box 147, Alderpoint, CA 95511

**Environmental Review:** The proposed projects are statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines.

**State Appeal Status:** The proposed projects are NOT appealable to the California Coastal Commission

**Major Issues:** Inconsistency with Humboldt County Code, lack of adequate information to support making required findings for approval, and uncooperative applicants.

## FOX CREEK GARDENS, CANNATOPIA

Record No. PLN-12209-CUP, PLN-11854-CUP, PLN-11857-CUP  
Assessor's Parcel Numbers 206-151-067, 216-205-006, 216-202-014

### Recommended Commission Action

1. Describe the applications as on the consent agenda;
2. Survey the audience for any person who would like to discuss the applications;
3. If no one requests discussion, make the following motion to deny the applications as part of the consent agenda:

Find that the projects are exempt from environmental review pursuant to Section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines, find that the project sites have violations initiated after submittal of the application, and that the applicants have not provided the County the information necessary to make the required findings for approval and adopt the Resolutions denying the proposed projects.

**Executive Summary:** For Planning Commission consideration are three applications under the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) for Conditional Use Permits that are being recommended by staff for denial.

All of the applications presented in this report have violated County ordinance requirements after applications were submitted and have not provided a substantial response to multiple County requests for information and efforts to resolve the violations. The sites continue to be in violation of County code with no sign of abating the violations. Additionally, the submitted applications do not include evidence to support making the required findings under Section 312-17.1 of the Humboldt County Code (required findings for all permits) and the applicants have not provided a substantial response to repeated requests for this information.

All of these applications are not in compliance with Section 314-55.4.8.2.2 which states that existing cultivation may be permitted only when possible to bring them into compliance with all applicable development standards and to eliminate existing violations. This section also states that no expansion of the existing cultivation area shall be permitted. All of these sites have expanded the cultivation area after January 1, 2016.

Additionally, all of these cases are not consistent with section 314-55.4.8.1, which states that all commercial cannabis cultivation, processing, manufacture, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws. By expanding cultivation, converting timer, grading, and installing greenhouse structures without approval they have violated the Humboldt County Code, and these applications have also violated provisions of state law as described below.

Each of these applications are described below:

### **A) PLN-12209-CUP Fox Creek Gardens**

The project application is for a Conditional Use Permit for 43,560 square feet of existing outdoor cultivation and 5,560 square feet of existing mixed light cultivation on APN 206-151-067. The project was removed from processing status in December 2017 because of an apparent cultivation expansion in addition to timber conversion and grading in the Streamside Management Area of Fox Creek. Analysis of application materials and aerial imagery did not find evidence of existing cultivation and concluded that the cultivation area expanded by approximately 6,100 square feet in 2016.

The conversion of timber for cannabis cultivation is not consistent with the Mitigated Negative Declaration that was adopted for the CMMLUO, as a finding that there would be no significant impact on forestry resources was made due to the fact that no timber conversion would be permitted for cannabis cultivation. The unauthorized development including grading, timber conversion, and cannabis cultivation in the Streamside Management Area violates the Streamside Management Areas and Wetlands Ordinance.

The applicant was contacted October 31, 2018 and given 30 days to provide a substantial response to address the violations (Exhibit **A-1**). The applicant met with Planning Department staff to discuss the violations on June 21, 2018 and November 30, 2018. However, the applicant did not provide any of the requested materials including evidence of existing cultivation, evidence of removal of the expanded cultivation, a report assessing the unauthorized timber conversion and grading, or payment of the penalty fee. An additional letter requesting resolution of the violations was sent on March 18, 2018 (Exhibit **A-2**). A final letter requesting resolution of the violations was sent on April 23, 2019 (Exhibit **A-3**).

On December 31, 2018 the applicant submitted a letter of intent to retire and relocate the cultivation areas under the Retirement, Remediation, and Relocation (RRR) program. The applicant was informed on multiple occasions that the property would not be eligible for consideration of RRR benefits without submitting substantial evidence of existing cultivation and resolution of the violations. On August 18, 2019 the applicant informed the Planning Department that tenants were engaged in cannabis cultivation on the property. Analysis of August 2019 aerial imagery showed approximately 4,000 square feet of apparent cannabis cultivation in the Streamside Management Area. No Interim Permit or State License has been issued for the subject parcel. In addition to the unresolved violations, the application contains substantial deficiencies and has remained incomplete for referral since the application date of December 21, 2016.

The application does not include the information necessary to make a determination of consistency with county code, and the cultivation operation is currently in violation of county code and the applicant has not provided substantial information on how they intend to resolve the violations. Without the requested information the County cannot find the application to be consistent with the Commercial Medical Marijuana Land Use Ordinance (CMMLUO). As a result, the findings for approval of the project cannot be made and the project should be denied.

**B) PLN-11854-CUP Cannatopia**

The project applications are for Conditional Use Permits for 18,000 square feet of existing outdoor cultivation and 3,000 square feet of existing mixed light cultivation on APN 216-205-006 (11854) and 22,000 square feet of existing outdoor cultivation on APN 216-202-014 (11857). The projects were removed from processing status in December 2017 because of an apparent cultivation expansion. Analysis of application materials and aerial imagery concluded that after January 1, 2016 the cultivation area expanded by approximately 25,760 square feet in addition to conversion of timber and grading to accommodate the expanded cultivation on both parcels.

The conversion of timber for cannabis cultivation is not consistent with the Mitigated Negative Declaration that was adopted for the CMMLUO, as a finding that there would be no significant impact on forestry resources was made due to the fact that no timber conversion would be permitted for cannabis cultivation.

The applicant was contacted on November 1, 2018 and given 30 days to provide a substantial response to address the violations (Exhibit **B-1**). An additional letter requesting resolution of the violation was sent on March 18, 2018 (Exhibit **B-2**). The applicant met with Planning Department staff to discuss the outstanding violations on December 11, 2018, December 31, 2018, March 21, 2019, March 26, 2019 and called the Department on April 23, 2019. However, the applicant did not provide any of the requested materials including evidence of removal of the expanded cultivation, a report assessing the unauthorized timber conversion and grading, or payment of the penalty fee.

On December 31, 2018 the applicant submitted a letter of intent to retire and relocate the cultivation areas under the Retirement, Remediation, and Relocation (RRR) program. The applicant was informed on multiple occasions that the property would not be eligible for consideration of RRR benefits without resolution of the violations. Analysis of August 2019 aerial imagery showed approximately 9,000 square feet of apparent cannabis cultivation on APN 216-205-006. No Interim Permit or State License has been issued for the subject parcel. In addition to the unresolved violations, both applications contain substantial deficiencies and have remained incomplete for referral since the application date of December 14, 2016.

The application does not include the information necessary to make a determination of consistency with county code, and the cultivation operation is currently in violation of county code and the applicant has not provided substantial information on how they intend to resolve the violations. Without the requested information the County cannot find the application to be consistent with the Commercial Medical Marijuana Land Use Ordinance (CMMLUO). As a result, the findings for approval of the project cannot be made and the project should be denied.

**C) PLN-11857-CUP Cannatopia**

See item B above.

**ALTERNATIVES:** The Planning Commission could elect to direct staff to work continue to work with the applicants to resolve the outstanding issues and continue processing the application in accordance with HCC §312-4.1 et seq. However, given that in all of these cases staff has made multiple attempts to work with the applicants and they have been not provided a substantial response, staff does not recommend this alternative.

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 19-**

**Record No. PLN-12209-CUP  
Assessor Parcel Numbers: 206-151-067**

**The Humboldt County Planning Commission makes the required findings for certifying compliance with the California Environmental Quality Act and denies the Fox Creek Gardens Conditional Use Permit request.**

**WHEREAS**, Fox Creek Gardens submitted an application requesting approval of a Conditional Use Permit for 43,560 square feet of existing outdoor cannabis cultivation and 5,560 square feet of existing mixed light cannabis cultivation located on APN 206-151-067.

**WHEREAS**, Section 314-55.4.8.2.2 of the Humboldt County Code provides that a permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in zoning districts AE (no parcel size limitation), RA (on parcels of five acres or larger), and AG, FP, DF, FR, U, and TPZ districts (on parcels of one acre or larger) only when possible to bring them into compliance with all applicable standards set forth in this section and to eliminate existing violations as specified in this ordinance. No expansion of the existing cultivation area shall be permitted.

**WHEREAS**, the County Planning and Building Department has reviewed the submitted application and evidence and was unable to determine that any cannabis cultivation existed on the property prior to January 1, 2016; and

**WHEREAS**, after January 1, 2016 Fox Creek Gardens converted timber in the Streamside Management Area, graded the property and installed greenhouse structures to cultivate 6,100 square feet of cannabis without proper permits or authorization; and

**WHEREAS**, the application was removed from processing status in December 2017 because of the apparent cultivation expansion and other violations; and

**WHEREAS**, Fox Creek Gardens was contacted by the Department on October 31, 2018 and given 30 days to respond to the violations; and

**WHEREAS**, the Department made subsequent requests for resolution of the violations on March 18, 2019 and April 23, 2019; and

**WHEREAS**, the Department has not received a substantial response addressing the violations; and

**WHEREAS**, unauthorized cannabis cultivation continued to occur on the parcel as of August 2019; and

**WHEREAS**, 312-17.1 of the Humboldt County Code requires the County to make the finding that the proposed development conforms with all applicable standards and requirements of these regulations in order to approve a permit; and

**WHEREAS**, the proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and

**WHEREAS**, a public hearing was held on the matter before the Humboldt County Planning Commission on September 19, 2019.

**NOW, THEREFORE**, be it resolved, determined, and ordered by the Humboldt County Planning Commission that:

1. The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and
2. The project is not consistent with Section 314-55.4.8.1 of the Humboldt County Code because Fox Creek Gardens has not operated in compliance with state and local laws; and
3. The project is not consistent with Section 314-55.4.8.2.2 of the Humboldt County Code because expansion over the amount of cultivation existing prior to January 1, 2016 has occurred; and
4. The required findings for approval in Section 312-17.1 of the Humboldt County Code cannot be made because the project is inconsistent with Sections 314-55.4.8.1 and 314-55.4.8.2.2 of the Humboldt County Code; and
5. Conditional Use Permit Record No. PLN-12209-CUP is denied.

Adopted after review and consideration of all the evidence on September 19, 2019.

The motion was made by Commissioner \_\_\_\_ and seconded by Commissioner \_\_\_\_.

AYES: Commissioners:  
NOES: Commissioners:  
ABSTAIN: Commissioners:  
ABSENT: Commissioners:  
DECISION: Motion carries

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

\_\_\_\_\_  
John Ford  
Director, Planning and Building Department



**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 19-**

**Record No. PLN-11854-CUP  
Assessor Parcel Numbers: 216-205-006**

**The Humboldt County Planning Commission makes the required findings for certifying compliance with the California Environmental Quality Act and denies the Cannatopia Conditional Use Permit request.**

**WHEREAS**, Cannatopia submitted an application requesting approval of a Conditional Use Permit for 18,000 square feet of existing outdoor cannabis cultivation and 3,000 square feet of existing mixed light cultivation located on APN 216-205-006.

**WHEREAS**, Section 314-55.4.8.2.2 of the Humboldt County Code provides that a permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in zoning districts AE (no parcel size limitation), RA (on parcels of five acres or larger), and AG, FP, DF, FR, U, and TPZ districts (on parcels of one acre or larger) only when possible to bring them into compliance with all applicable standards set forth in this section and to eliminate existing violations as specified in this ordinance. No expansion of the existing cultivation area shall be permitted.

**WHEREAS**, the County Planning and Building Department has reviewed the submitted application and evidence and determined that 38,940 square feet of cannabis cultivation may have existed on the property prior to January 1, 2016; and

**WHEREAS**, after January 1, 2016 Cannatopia converted timber, graded the property and installed greenhouse structures to cultivate 59,680 square feet of cannabis without proper permits or authorization; and

**WHEREAS**, the application was removed from processing status in December 2017 because of the apparent cultivation expansion and other violations; and

**WHEREAS**, Cannatopia was contacted by the Department on November 1, 2018 and given 30 days to respond to the violations; and

**WHEREAS**, the Department made a subsequent attempt to contact Cannatopia on March 18, 2019; and

**WHEREAS**, the Department has not received a substantial response addressing the violations; and

**WHEREAS**, unauthorized cannabis cultivation continued to occur on the parcel as of August 2019; and

**WHEREAS**, 312-17.1 of the Humboldt County Code requires the County to make the finding that the proposed development conforms with all applicable standards and requirements of these regulations in order to approve a permit; and

**WHEREAS**, the proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and

**WHEREAS**, a public hearing was held on the matter before the Humboldt County Planning Commission on September 19, 2019.

**NOW, THEREFORE**, be it resolved, determined, and ordered by the Humboldt County Planning Commission that:

1. The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and
2. The project is not consistent with Section 314-55.4.8.1 of the Humboldt County Code because Cannatopia has not operated in compliance with state and local laws; and
3. The project is not consistent with Section 314-55.4.8.2.2 of the Humboldt County Code because expansion over the amount of cultivation existing prior to January 1, 2016 has occurred; and
4. The required findings for approval in Section 312-17.1 of the Humboldt County Code cannot be made because the project is inconsistent with Sections 314-55.4.8.1 and 55.4.8.2.2 of the Humboldt County Code; and
5. Conditional Use Permit Record No. PLN-11854-CUP is denied.

Adopted after review and consideration of all the evidence on September 19, 2019.

The motion was made by Commissioner \_\_\_\_ and seconded by Commissioner \_\_\_\_.

AYES: Commissioners:  
NOES: Commissioners:  
ABSTAIN: Commissioners:  
ABSENT: Commissioners:  
DECISION: Motion carries

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

\_\_\_\_\_  
John Ford  
Director, Planning and Building Department

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 19-**

**Record No. PLN-11857-CUP  
Assessor Parcel Numbers: 216-202-014**

**The Humboldt County Planning Commission makes the required findings for certifying compliance with the California Environmental Quality Act and denies the Cannatopia Conditional Use Permit request.**

**WHEREAS**, Cannatopia submitted an application and evidence requesting approval of a Conditional Use Permit for 20,000 square feet of existing outdoor cannabis cultivation located on APN 216-202-014.

**WHEREAS**, Section 314-55.4.8.2.2 of the Humboldt County Code provides that a permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in zoning districts AE (no parcel size limitation), RA (on parcels of five acres or larger), and AG, FP, DF, FR, U, and TPZ districts (on parcels of one acre or larger) only when possible to bring them into compliance with all applicable standards set forth in this section and to eliminate existing violations as specified in this ordinance. No expansion of the existing cultivation area shall be permitted.

**WHEREAS**, the County Planning and Building Department has reviewed the submitted application and evidence and determined that 27,900 square feet of cannabis cultivation may have existed on the property prior to January 1, 2016; and

**WHEREAS**, after January 1, 2016 Cannatopia converted timber, graded the property and installed greenhouse structures to cultivate 32,920 square feet of cannabis without proper permits or authorization; and

**WHEREAS**, the application was removed from processing status in December 2017 because of the apparent cultivation expansion and other violations; and

**WHEREAS**, Cannatopia was contacted by the Department on November 1, 2018 and given 30 days to respond to the violations; and

**WHEREAS**, the Department made a subsequent attempt to contact Cannatopia on March 18, 2019; and

**WHEREAS**, the Department has not received a substantial response addressing the violations; and

**WHEREAS**, unauthorized cannabis cultivation continued to occur on the parcel as of August 2019; and

**WHEREAS**, 312-17.1 of the Humboldt County Code requires the County to make the finding that the proposed development conforms with all applicable standards and requirements of these regulations in order to approve a permit; and

**WHEREAS**, the proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and

**WHEREAS**, a public hearing was held on the matter before the Humboldt County Planning Commission on September 19, 2019.

**NOW, THEREFORE**, be it resolved, determined, and ordered by the Humboldt County Planning Commission that:

1. The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and
2. The project is not consistent with Section 314-55.4.8.1 of the Humboldt County Code because Cannatopia has not operated in compliance with state and local laws; and
3. The project is not consistent with Section 314-55.4.8.2.2 of the Humboldt County Code because expansion over the amount of cultivation existing prior to January 1, 2016 has occurred; and
4. The required findings for approval in Section 312-17.1 of the Humboldt County Code cannot be made because the project is inconsistent with Sections 314-55.4.8.1 and 55.4.8.2.2 of the Humboldt County Code; and
5. Conditional Use Permit Record No. PLN-11857-CUP is denied.

Adopted after review and consideration of all the evidence on September 19, 2019.

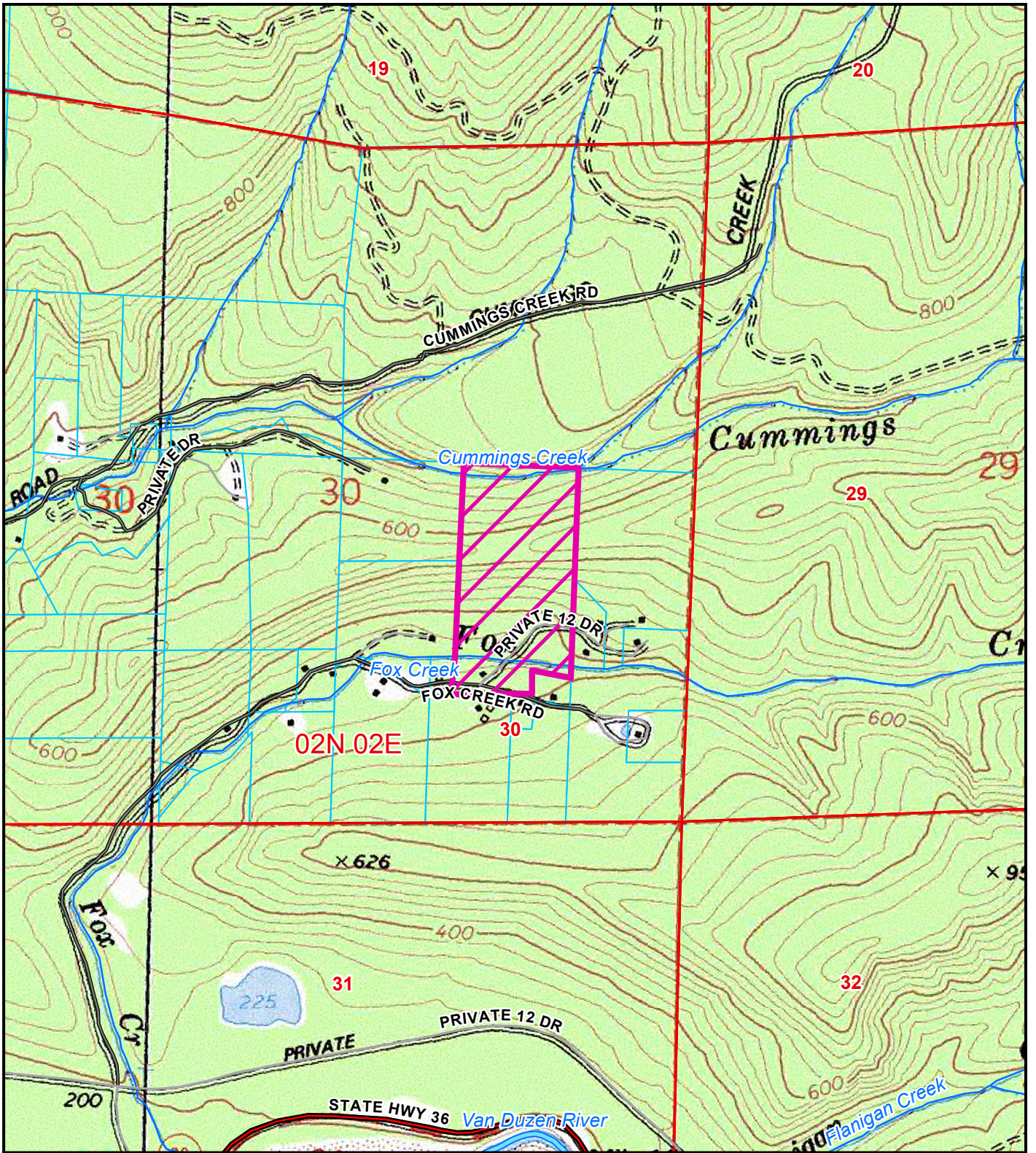
The motion was made by Commissioner \_\_\_\_ and seconded by Commissioner \_\_\_\_.

AYES: Commissioners:  
NOES: Commissioners:  
ABSTAIN: Commissioners:  
ABSENT: Commissioners:  
DECISION: Motion carries

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

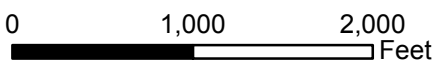
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John Ford  
Director, Planning and Building Department

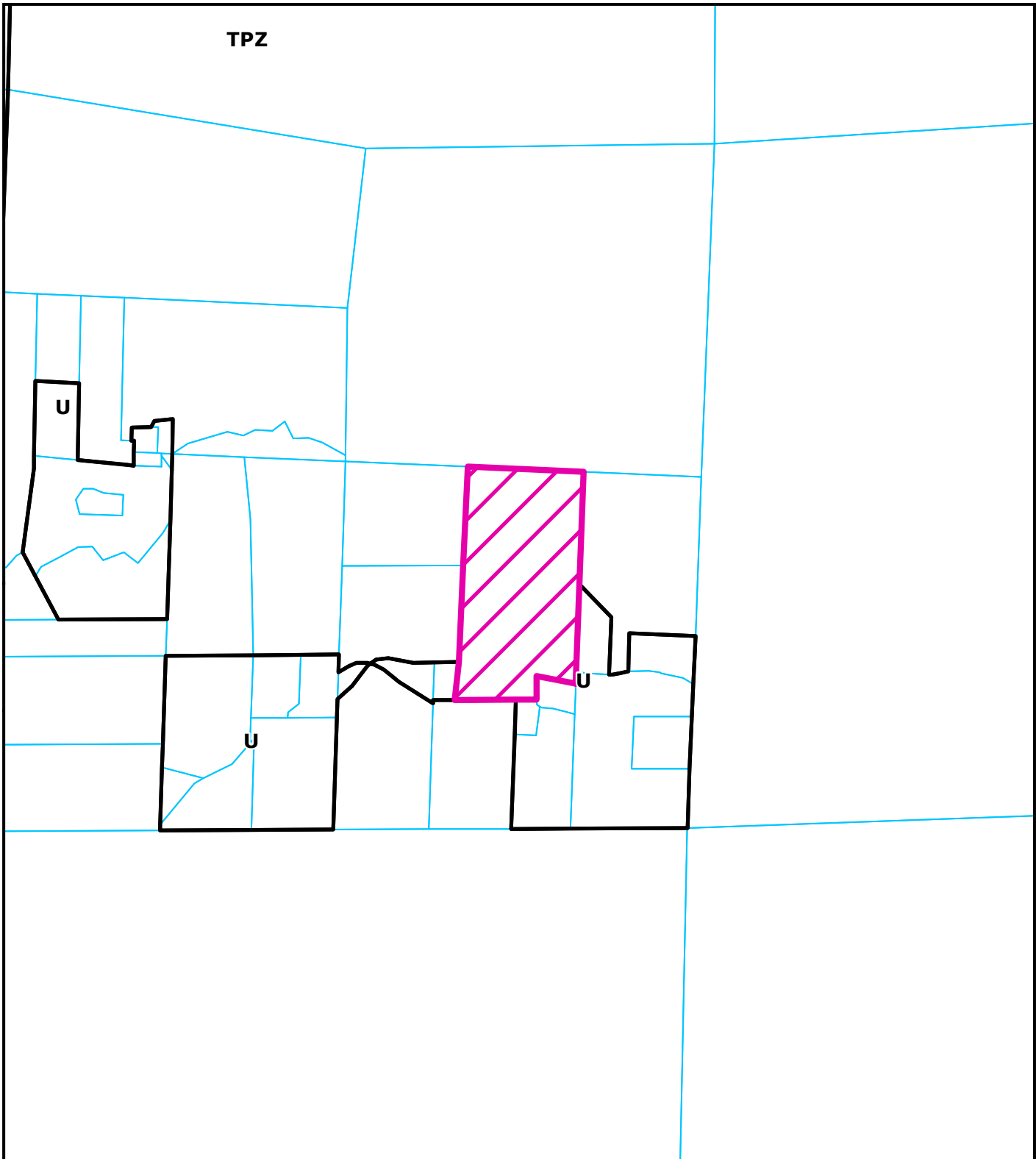


Project Area = 

**TOPO MAP**  
**PROPOSED FOX CREEK GARDENS**  
**CARLOTTA AREA**  
**CUP-16-566**  
**APN: 206-151-067-000**  
**T02N R02E S30 HB&M (OWL CREEK)**

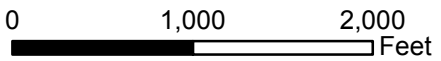


This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

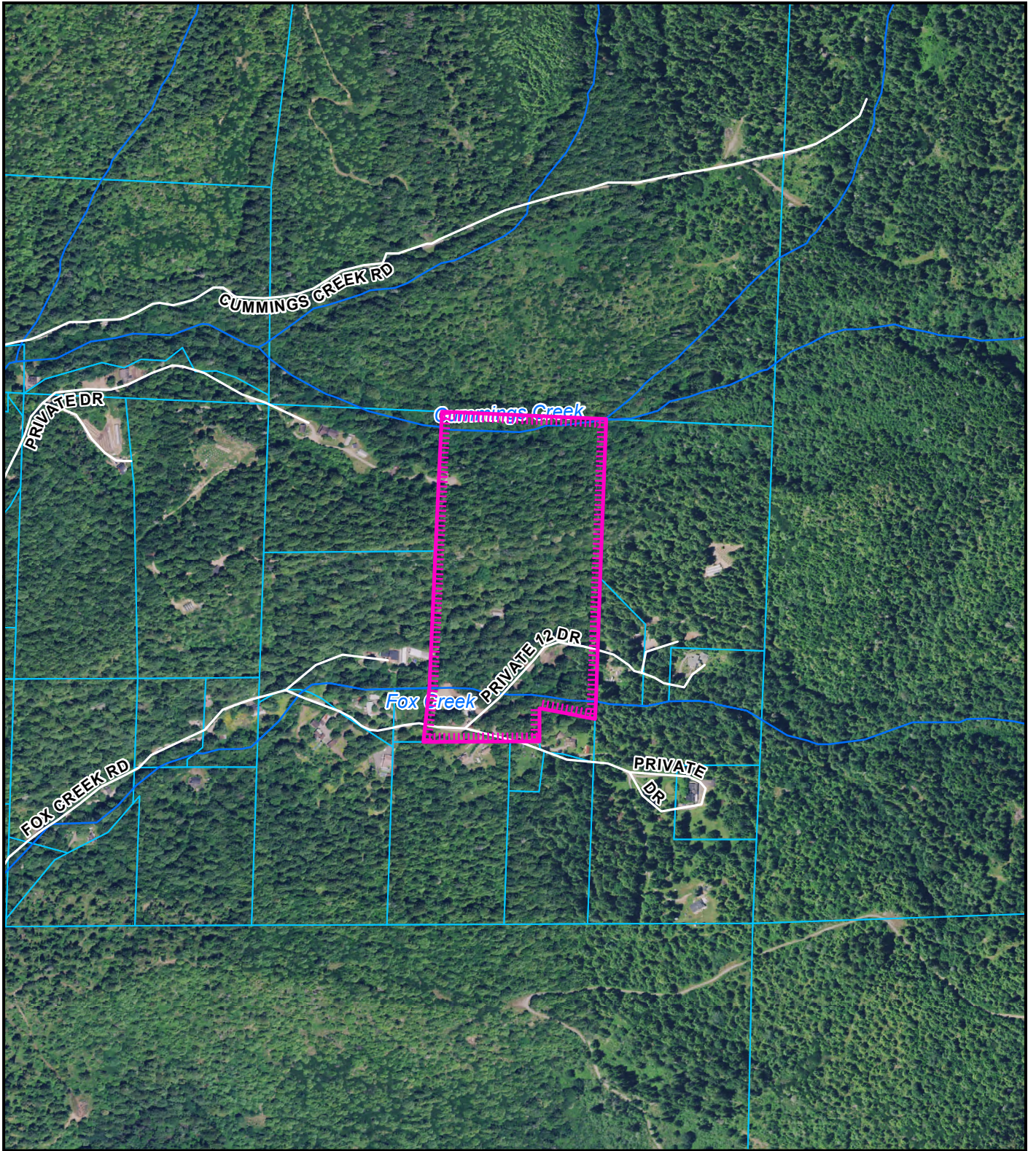


Project Area = 

**ZONING MAP**  
**PROPOSED FOX CREEK GARDENS**  
**CARLOTTA AREA**  
**CUP-16-566**  
**APN: 206-151-067-000**  
**T02N R02E S30 HB&M (OWL CREEK)**



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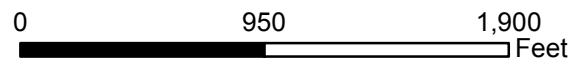


Project Area = 


**AERIAL MAP**  
**PROPOSED FOX CREEK GARDENS**  
**CARLOTTA AREA**  
**CUP-16-566**  
**APN: 206-151-067-000**  
**T02N R02E S30 HB&M (OWL CREEK)**



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Parcel # 206-151-067

 Cultivation areas

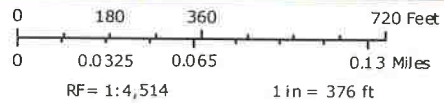
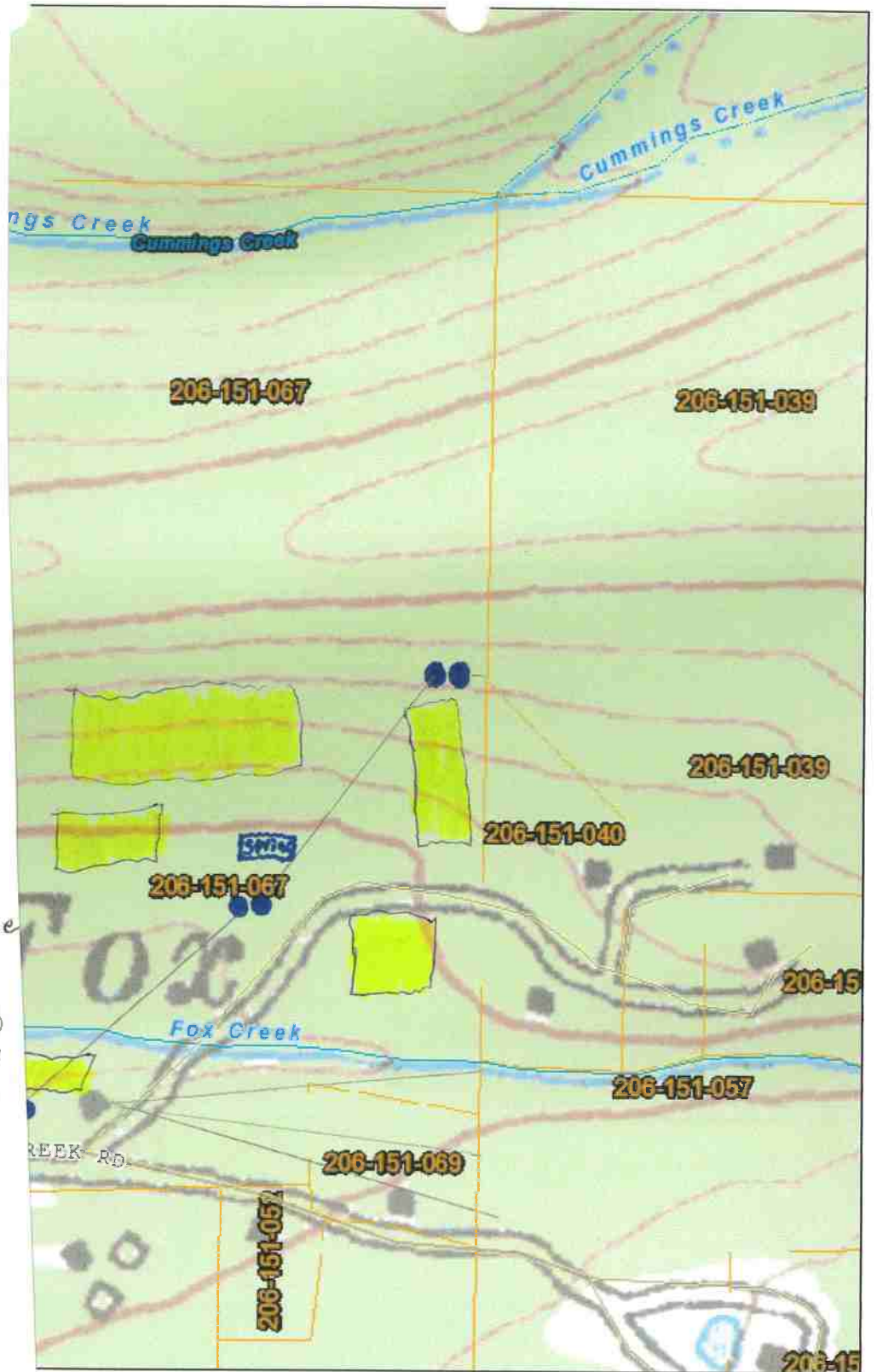
- Water storage 15,000 gallons  
Water comes from a spring

Indoor grow in barn and done operation

- manufacturing/processing  
drying/trimming/storage

- Fertilizer storage  
- garbage storage  
- Septic systems

- Power source is P.G.E.



Department

Permittent

Surface

Boundary

Utilities

Wells

Printed: September 20, 2017

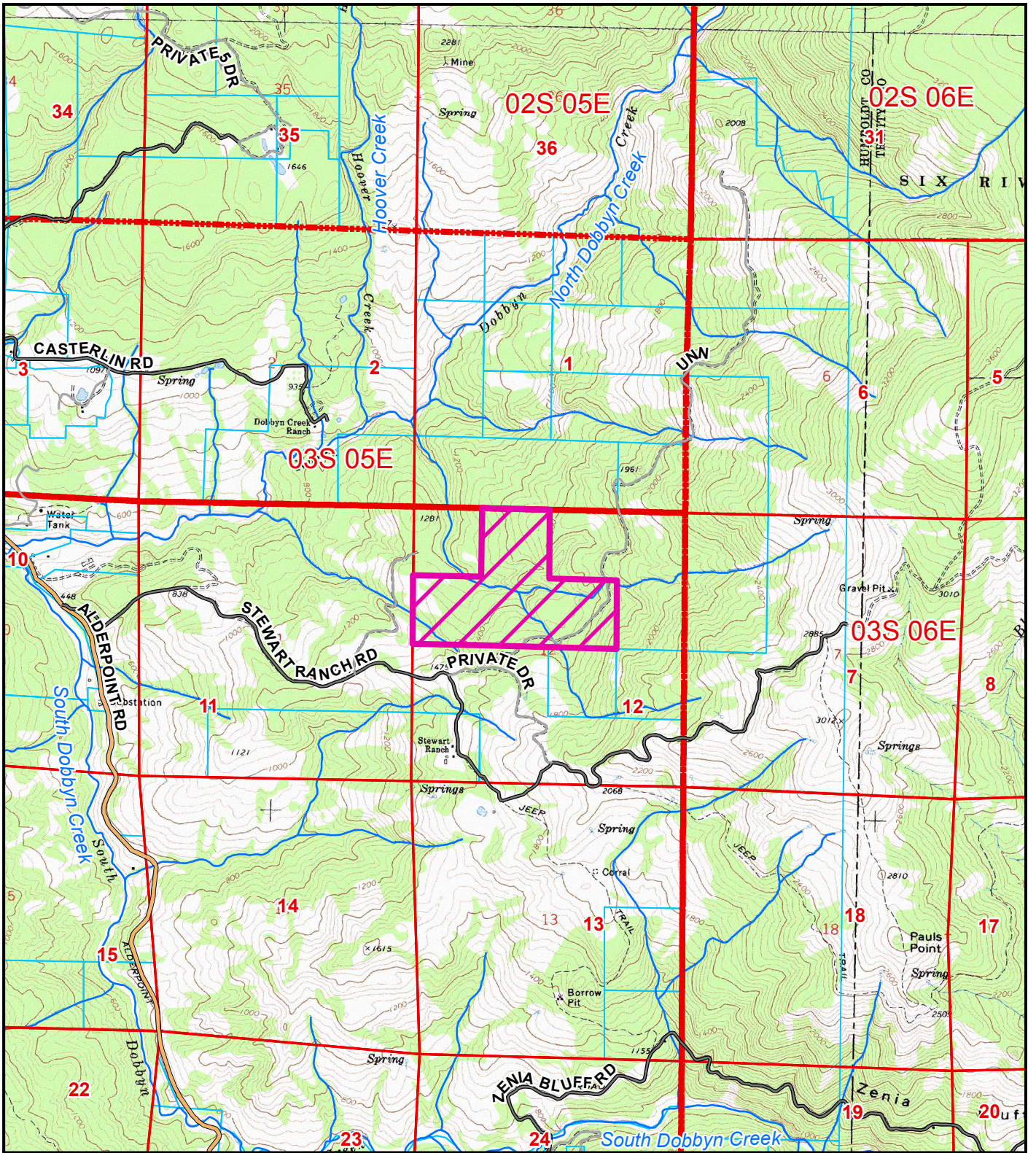
Web AppBuilder 2.0 for ArcGIS

Map Disclaimer:

While every effort has been made to assure the accuracy of this information, it should be understood that it does not have the force & effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.

Source: NRCS, Humboldt County GIS, Healthy Rural Roads, Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, FRAP, FEMA, USGS

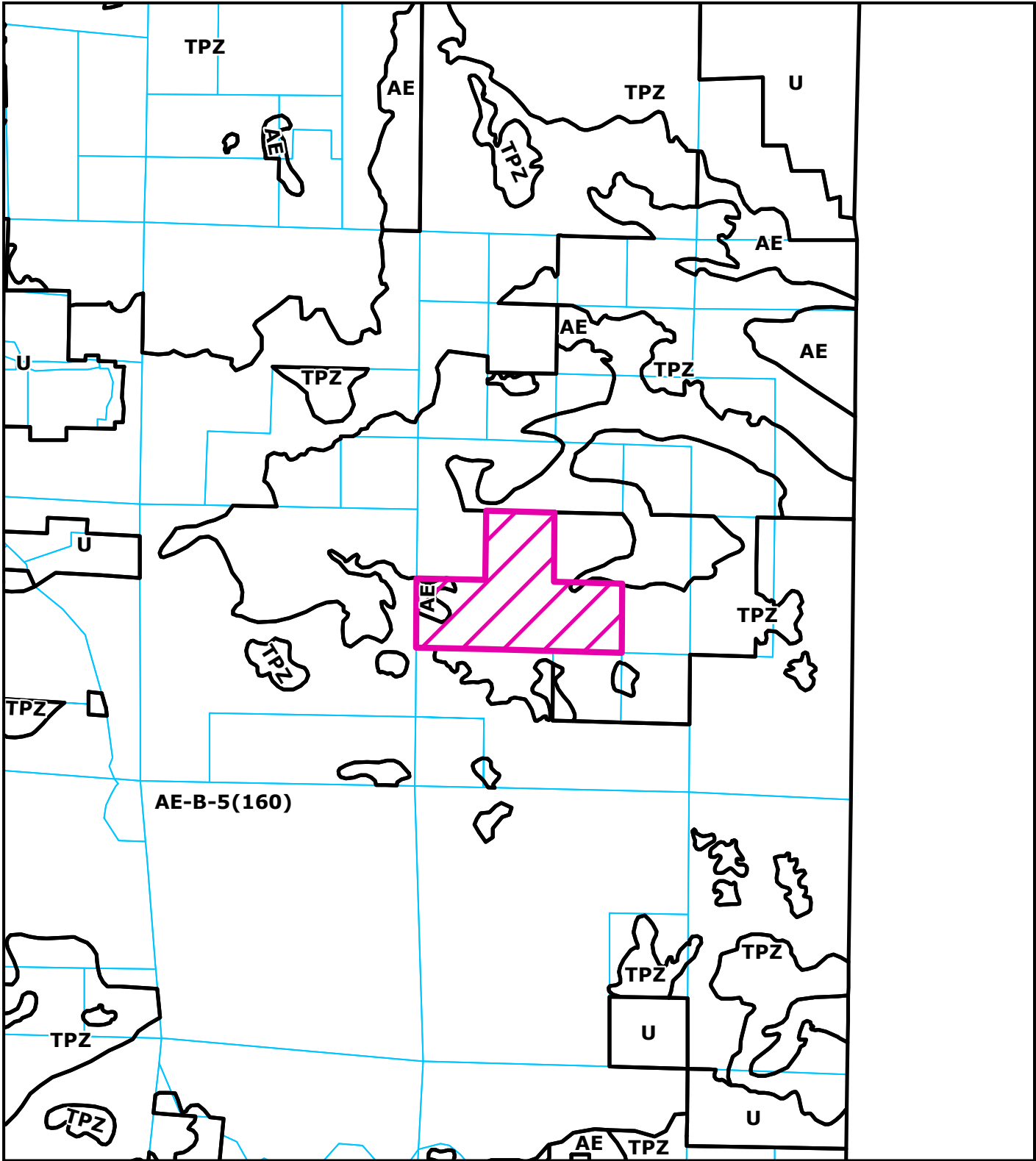




**TOPO MAP  
PROPOSED CANNATOPIA  
FORT SEWARD AREA  
CUP-16-413  
APN: 216-205-006-000  
T03S R05E S12 HB&M (ALDERPOINT)**

**Project Area =**

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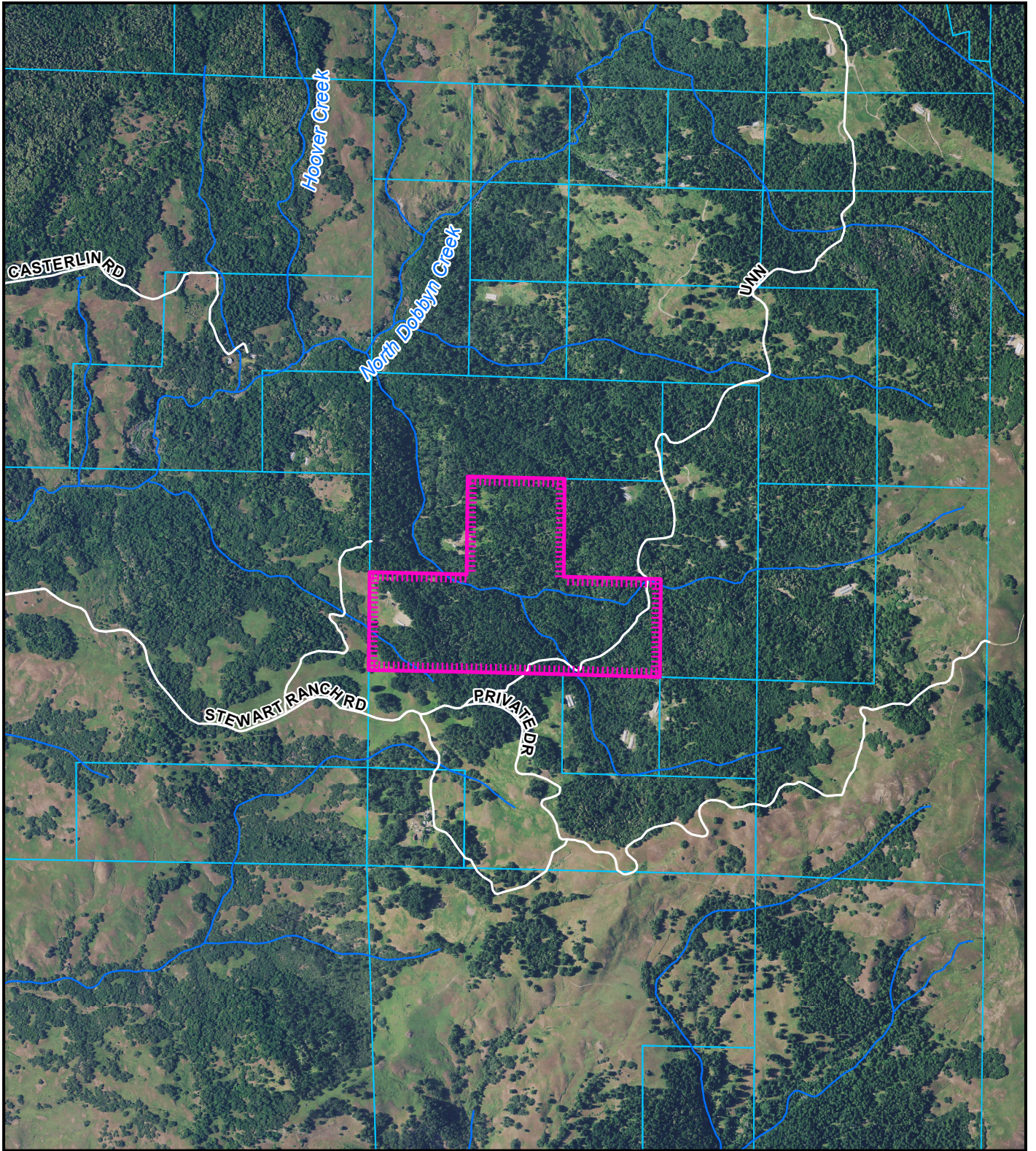


**ZONING MAP**  
**PROPOSED CANNATOPIA**  
**FORT SEWARD AREA**  
**CUP-16-413**  
**APN: 216-205-006-000**  
**T03S R05E S12 HB&M (ALDERPOINT)**

Project Area = 



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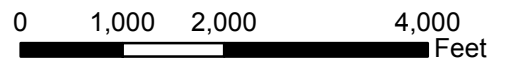


Project Area = 

**AERIAL MAP**  
**PROPOSED CANNATOPIA**  
**FORT SEWARD AREA**  
**CUP-16-413**  
**APN: 216-205-006-000**  
**T03S R05E S12 HB&M (ALDERPOINT)**



This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

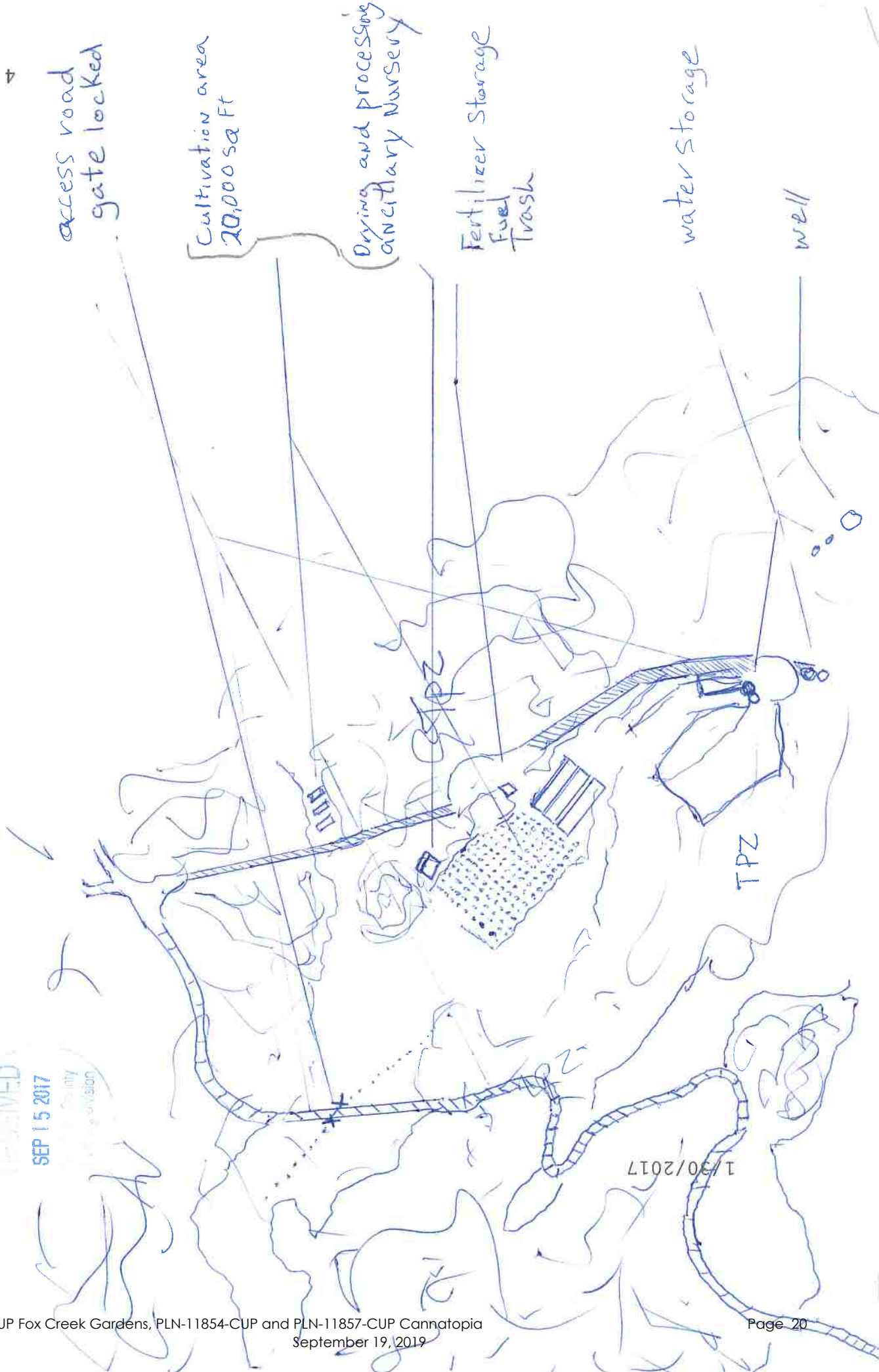


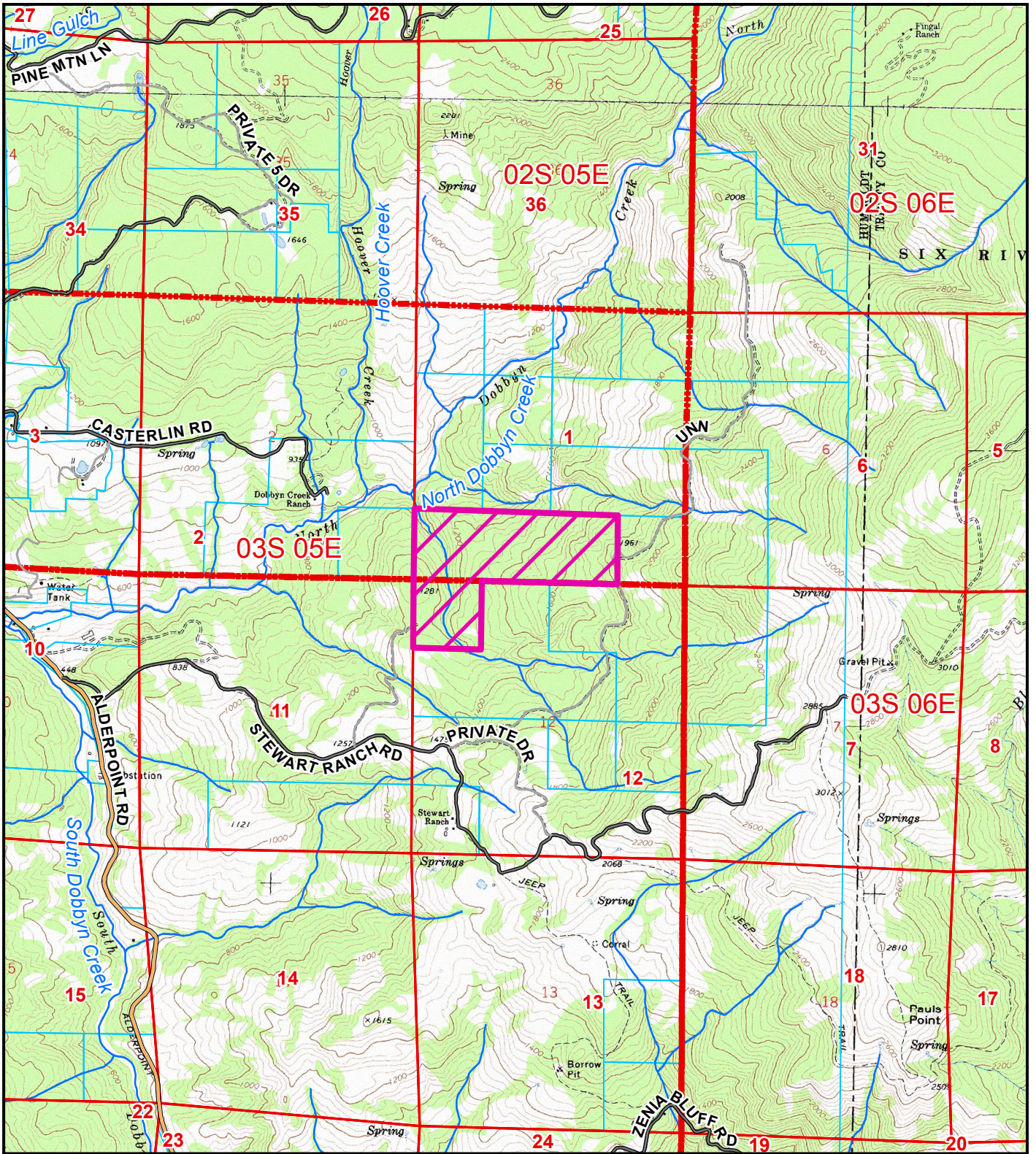
APN 216-205-006

Plot Plan

RECEIVED  
SEP 15 2017  
City of San Jose  
Planning Division

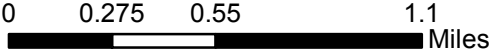
1/30/2017



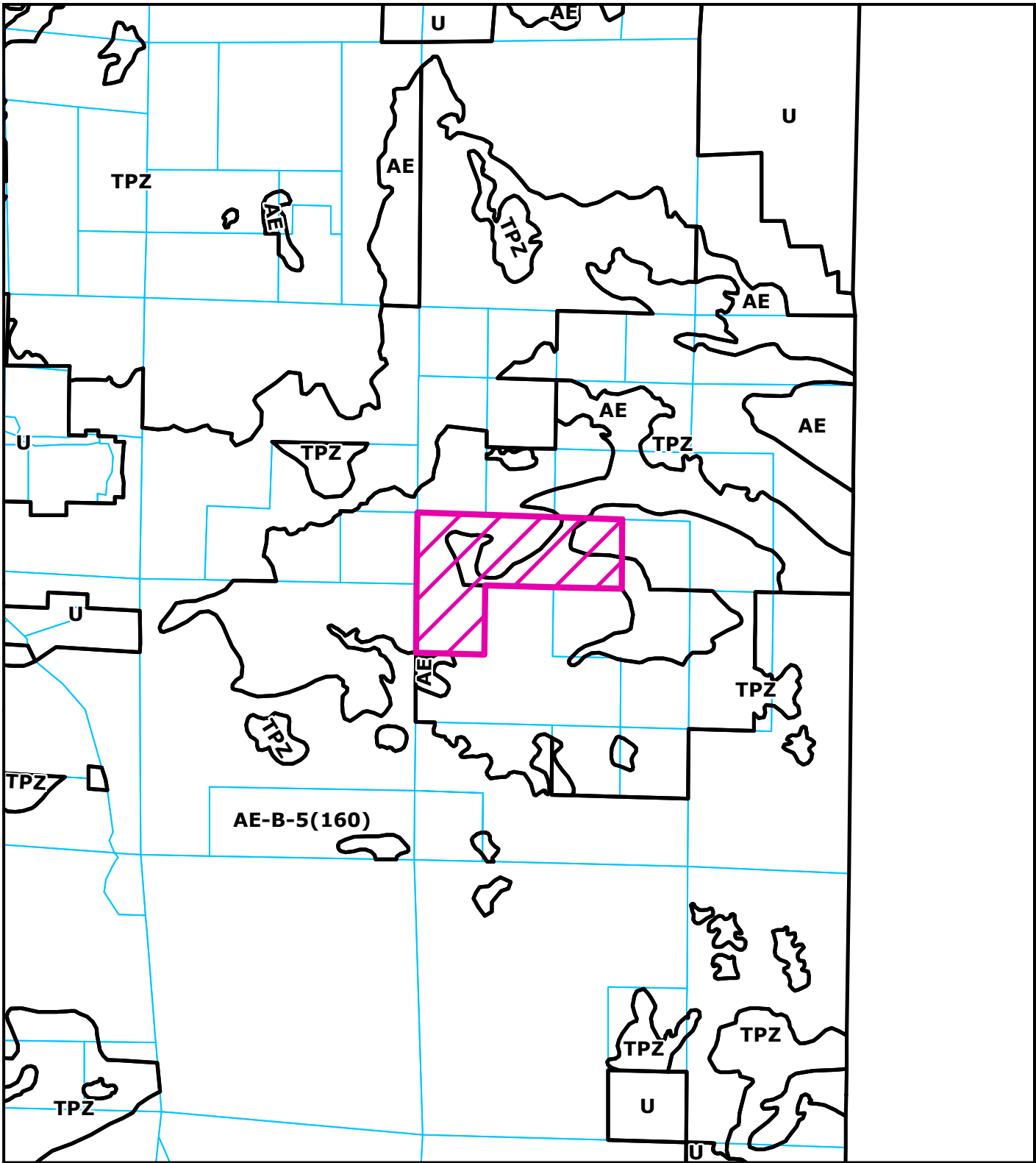


**TOPO MAP  
PROPOSED CANNATOPIA  
FORT SEWARD AREA  
CUP-16-420  
APN: 216-202-014-000  
T03S R05E S1; S12 HB&M (ALDERPOINT)**

**Project Area =** 

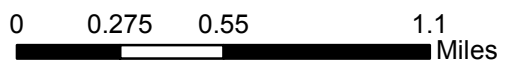
This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



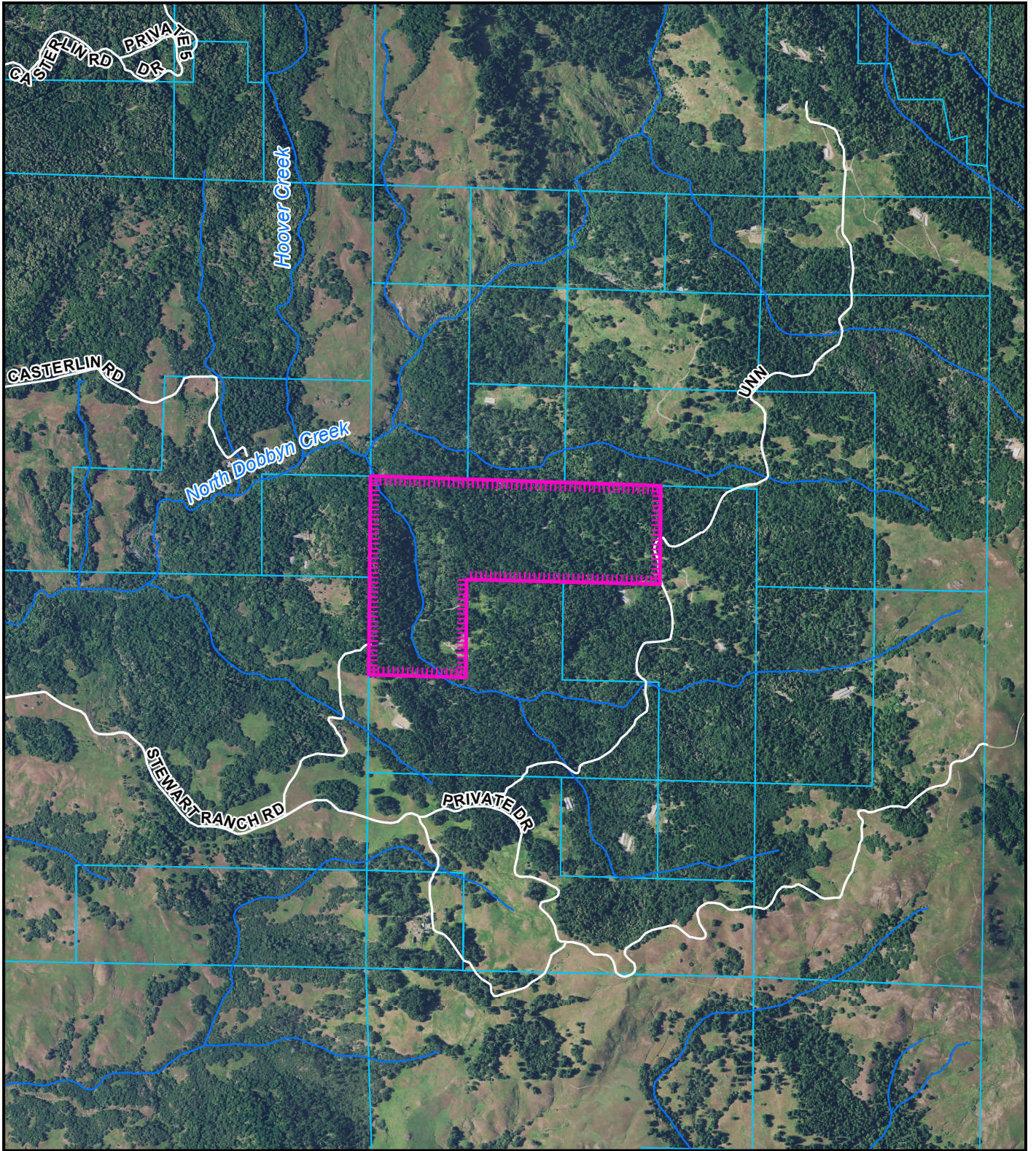
AE-B-5(160)

**ZONING MAP  
 PROPOSED CANNATOPIA  
 FORT SEWARD AREA  
 CUP-16-420  
 APN: 216-202-014-000  
 T03S R05E S1; S12 HB&M (ALDERPOINT)**

Project Area = 



This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

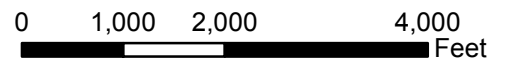


Project Area = 

**AERIAL MAP**  
**PROPOSED CANNATOPIA**  
**FORT SEWARD AREA**  
**CUP-16-420**  
**APN: 216-202-014-000**  
**T03S R05E S1; S12 HB&M (ALDERPOINT)**



This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



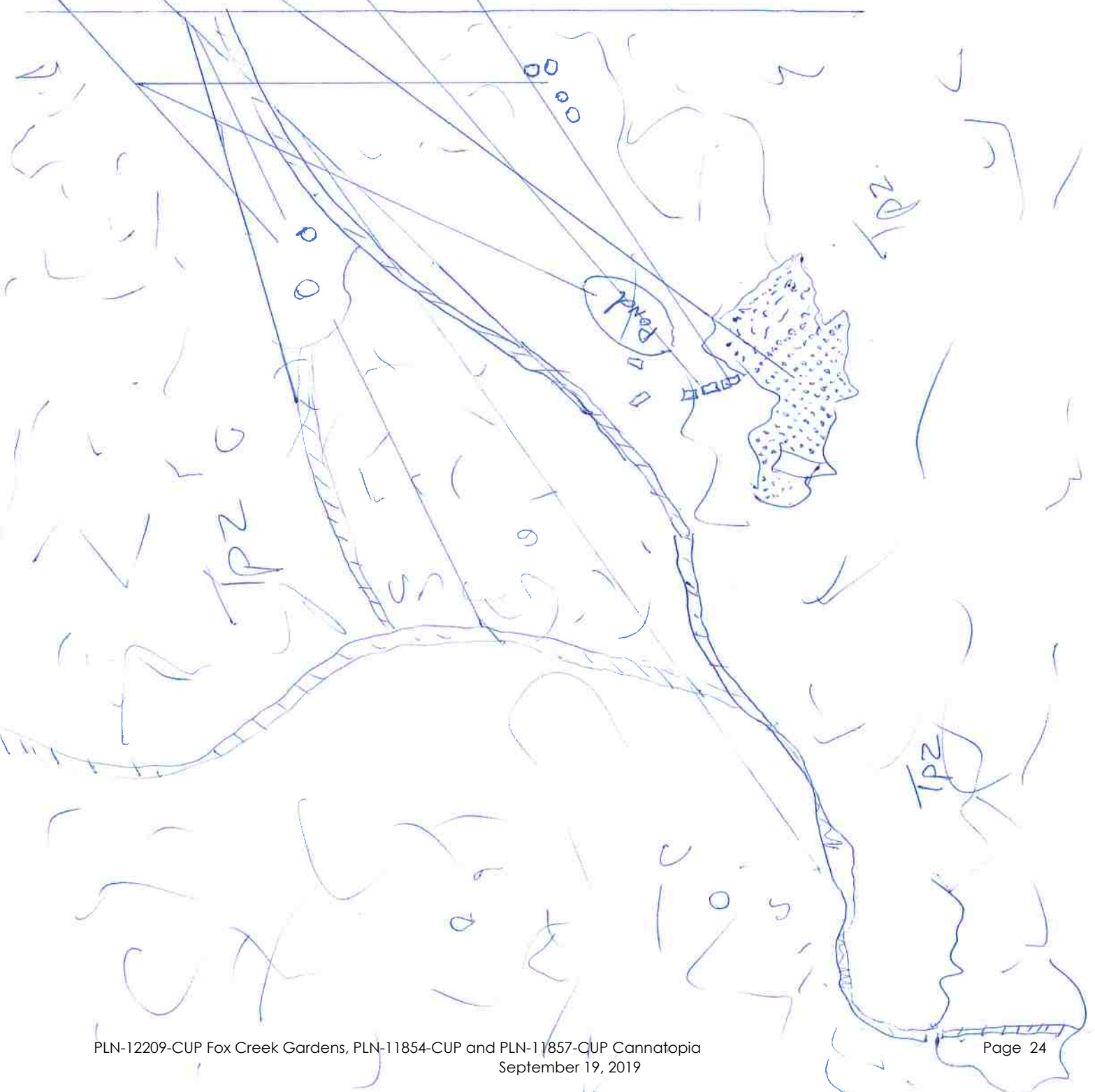
well & water  
 Storage  
 Pond  
 access road

Cultivation Area  
 20000 sqft outdoor  
 Seasonal nursery

Drying &  
 Processing

Fertilizer  
 Fuel  
 Storage  
 Trash

APN# 216202-014





**ATTACHMENT A-1**

**October 31, 2018 Violation Letter**

October 31, 2018

Neville Lee Steen-Clark  
PO Box 315  
Carlotta, CA 95528

RE: Permit Application No. 12209  
Key APN 206-151-067

Dear Mr. Steen-Clark,

As you may be aware, cannabis cultivation requires a local permit and a state license to be deemed legal. Applicants with cultivation existing<sup>1</sup> prior to January 1, 2016 are eligible for an Interim Permit, which offers a temporary pathway to legal commercial cannabis cultivation. However, problems have been identified on this parcel that prevents the issuance of an Interim Permit. The County is committed to working with all cannabis applicants to remedy violations and continue toward compliance with all local and state regulations. Your immediate action is needed to resolve the following issue.

Staff review of aerial imagery shows what appears to be a violation of County Code. Specifically, the outdoor cultivation area expanded by 6,100 square feet in 2016 and no existing outdoor cannabis cultivation could be verified. Planning Department policy is to levy a fee of twice the Measure S excise tax for the expanded area. The penalty fee for the expansion of 6,100 square feet outdoor area is therefore \$12,200. The cultivation must cease and all infrastructure removed. Additionally, it appears there was timber conversion and grading for the purposes of cannabis cultivation without the proper permits. Some of this development may have occurred within the streamside management area of Fox Creek in violation of County Code. These areas must be remediated and restored.

#### ACTION NEEDED

The following options are available to you, and your decision must be communicated to this Department in writing within 30 days:

1. Resolve the violation by paying the penalty fee and removing the expanded cultivation area. Restoration of the expansion area will be a condition of provisional permit issuance.

<sup>1</sup> Existing cultivation is defined as the greatest total verifiable cultivation area in a single year existing on the subject parcel prior to January 1, 2016. County Code section 55.4.8.2.2 states that no expansion of cultivation area may be permitted. The new ordinance provides an option for existing cultivators to add cultivation area, but that expansion may not occur until a permit has been issued.

2. Withdraw the application, remove all cannabis related fixtures and equipment from the parcel, and remediate, restore, and restock any disturbed area to their natural condition; OR
3. Respond to this letter with clear and substantial evidence to establish why the cultivation area did not expand.

Responses must be received within 30 days of the date of this letter. If no response is received within 30 days of the date of this letter, the application will be prepared for hearing with the evidence presently in the file. Staff will recommend denial and refer the project for enforcement actions.

If you have questions about this letter, please contact Steven Santos at 707-268-3749 or [santos@co.humboldt.ca.us](mailto:santos@co.humboldt.ca.us).

Sincerely,

Bob Russell  
Deputy Director

ENC: Aerial Imagery

**Exhibit A:**

Figure 1: Evidence of site configuration prior to timber conversion, grading, and expanded cannabis cultivation. Image date 05/28/2014. No evidence of existing outdoor cultivation.

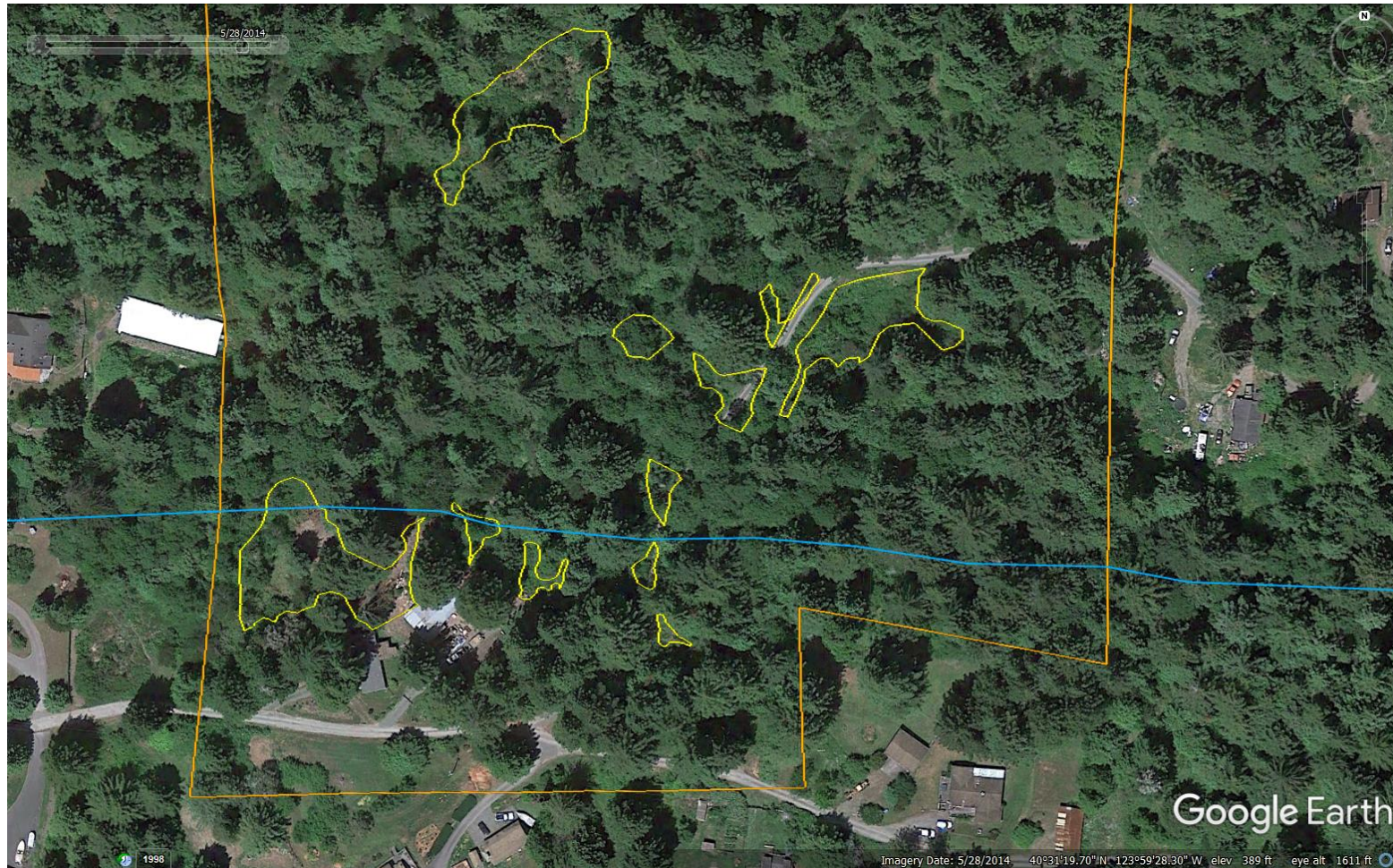
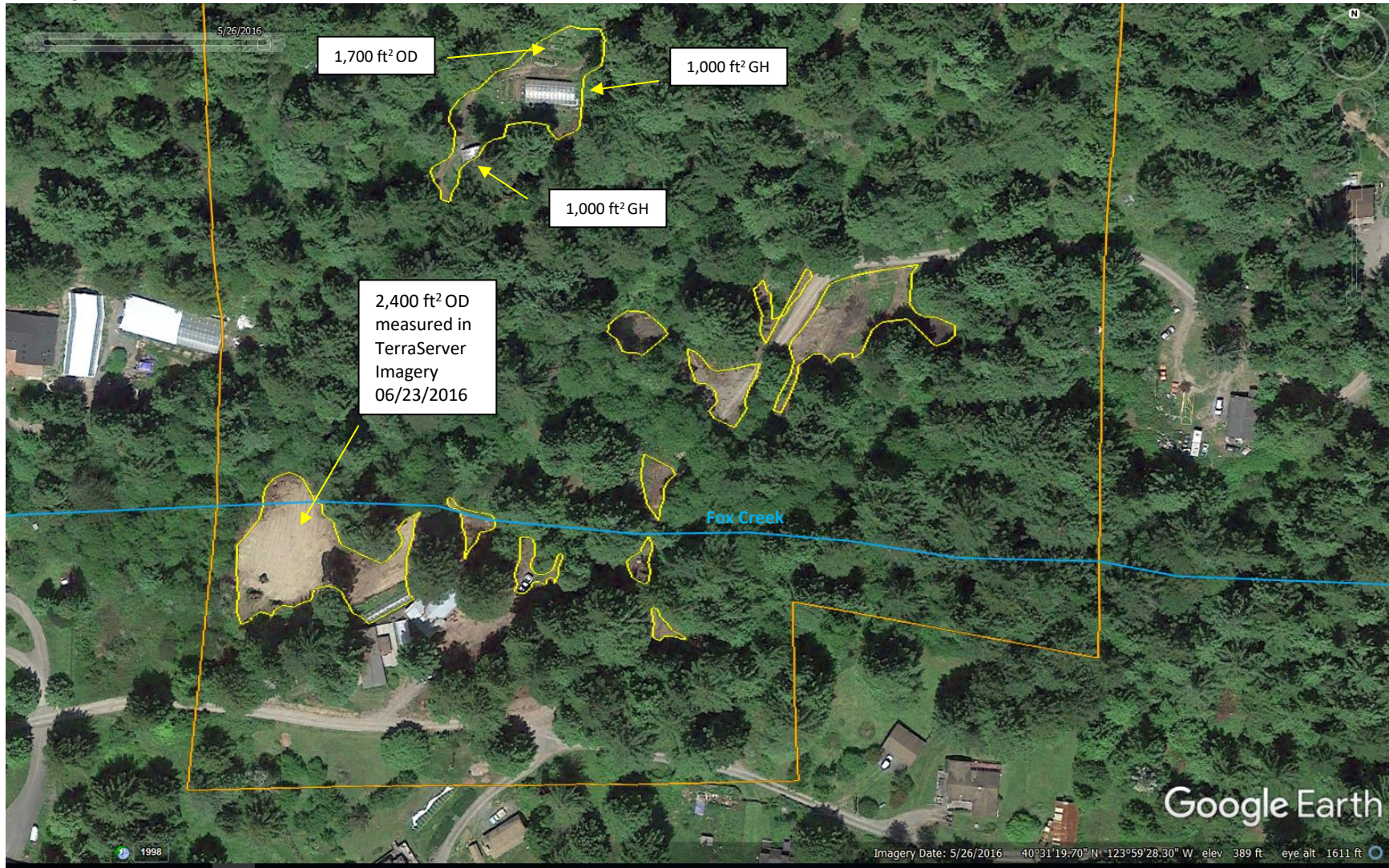


Figure 2: Evidence of expanded cannabis cultivation, timber conversion and grading after Jan 1, 2016 in violation of County Code. Expanded cultivation totals approximately 6,100 ft<sup>2</sup> Development occurred within a streamside management area. Image date: 05/26/2016



**ATTACHMENT A-2**

**March 18, 2019 Unresolved Violation Letter**

March 18, 2019

Fox Creek Gardens  
Neville Lee Steen-Clark  
PO Box 315  
Carlotta, CA 95528

**RE: Permit Application No. 12209, Key APN 206-151-067**

Dear Mr. Steen-Clark,

Your immediate action is needed to resolve the following issues:

The commercial cannabis violations detailed in the letter dated October 31, 2018 remain unresolved. While the Department received submittal materials with the stated intent to participate in the Retirement, Remediation, and Relocation (RRR) program, we are unable to process your application. In order to be eligible for the RRR program, you must resolve the violation by providing substantial evidence of existing cultivation in a historic cultivation report. As previously discussed, we recommend the report be prepared by a qualified third-party professional. The application will not be processed further until the violation is resolved. Alternatively, you may elect to withdraw the application and fully remediate all areas of previous cannabis cultivation on the parcel to avoid the penalty. **Please advise the Department of your decision no later than April 2, 2019.**

Please also be aware that commercial cannabis cultivation in 2019 requires a local permit and a state license to be deemed legal. **Since no permit has been issued, commercial cannabis cultivation is not authorized on this parcel.** If you have questions about this letter, please contact me at 707-268-3739 or [bbatten1@co.humboldt.ca.us](mailto:bbatten1@co.humboldt.ca.us).

Sincerely,



Blake Batten  
Planner, Cannabis Services Division  
Planning and Building Department

**ATTACHMENT A-3**

**April 23, 2019 Final Unresolved Violation Letter**



April 23, 2019

## NOTICE

Fox Creek Gardens  
Neville Lee Steen-Clark  
PO Box 315  
Carlotta, CA 95528

**RE: Permit Application No. 12209, Key APN 206-151-067**

Dear Mr. Steen-Clark,

Your immediate action is needed to address the following issues:

The commercial cannabis violations detailed in the letter dated October 31, 2018 remain unresolved. While the Department received submittal materials with the stated intent to participate in the Retirement, Remediation, and Relocation (RRR) program, we are unable to process your application. In order to be eligible for the RRR program, you must resolve the violation by providing substantial evidence of existing cultivation in a historic cultivation report. As previously discussed, we recommend the report be prepared by a qualified third-party professional. The application will not be processed further until the violation is resolved. Alternatively, you may elect to withdraw the application and fully remediate all areas of previous cannabis cultivation on the parcel to avoid the penalty.

**Please advise the Department of your decision no later than May 7, 2019. If no substantial response is received, the application will be subject to cancelation and the project referred to code enforcement.**

Please also be aware that commercial cannabis cultivation in 2019 requires a local permit and a state license to be deemed legal. **Since no permit has been issued, commercial cannabis cultivation is not authorized on this parcel.** If you have questions about this letter, please contact me at 707-268-3739 or [bbatten1@co.humboldt.ca.us](mailto:bbatten1@co.humboldt.ca.us).

Sincerely,



Blake Batten  
Planner, Cannabis Services Division  
Planning and Building Department

**ATTACHMENT B-1**

**November 1, 2018 Violation Letter**

November 1, 2018

Cannatopia  
Tim Clark  
PO Box 147  
Alderpoint, CA 95511

RE: Permit Application No. 11854, 11857, 11870, 11872  
Key APN 216-205-006, 216-202-014, 216-201-003, 216-201-005

Dear Mr. Clark,

As you may be aware, cannabis cultivation requires a local permit and a state license to be deemed legal. Applicants with cultivation existing<sup>1</sup> prior to January 1, 2016 are eligible for an Interim Permit, which offers a temporary pathway to legal commercial cannabis cultivation. However, problems have been identified on these parcels that prevent the issuance of an Interim Permit. The County is committed to working with all cannabis applicants to remedy violations and continue toward compliance with all local and state regulations. Your immediate action is needed to resolve the issues.

Staff review of aerial imagery shows what appears to be a violation of County Code. Specifically, the outdoor cultivation area expanded by 20,740 square feet on APN 216-205-006 and 5,020 square feet on APN 216-202-014 (see attached imagery). Planning Department policy is to levy a fee of twice the Measure S excise tax for the expanded area. The penalty fee for the expansion of 25,760 square feet of outdoor cultivation is therefore \$51,520. The area of expansion must be removed. Additionally, it appears there was a timber conversion and grading for the purpose of cannabis cultivation without the proper permits. A Registered Professional Forester will need to assess the conversion and recommend remedial actions.

#### ACTION NEEDED

The following options are available to you, and your decision must be communicated to this Department in writing within 30 days:

1. Resolve the violation by paying the penalty fee and removing the expanded cultivation area. Restoration of the expansion area will be a condition of provisional permit issuance;  
OR

<sup>1</sup> Existing cultivation is defined as the greatest total verifiable cultivation area in a single year existing on the subject parcel prior to January 1, 2016. County Code section 55.4.8.2.2 states that no expansion of cultivation area may be permitted. The new ordinance provides an option for existing cultivators to add cultivation area, but that expansion may not occur until a permit has been issued.

2. Withdraw the application, remove all cannabis related fixtures and equipment from the parcel, and remediate, restore, and restock any disturbed area to their natural condition; OR
3. Respond to this letter with clear and substantial evidence to establish why the cultivation area did not expand.

Responses must be received within 30 days of the date of this letter. If no response is received within 30 days of the date of this letter, the application will be prepared for hearing with the evidence presently in the file. Staff will recommend denial and refer the project for enforcement actions.

If you have questions about this letter, please contact Stevie Luther at 707-268-3737 or sluther@co.humboldt.ca.us.

Sincerely,

Bob Russell  
Deputy Director

ENC: Aerial Imagery

**Exhibit A:**

Figure 1: Evidence of existing outdoor cultivation. Outdoor cultivation totals approximately 66,840 square feet on APN 216-205-006 and 216-202-014.

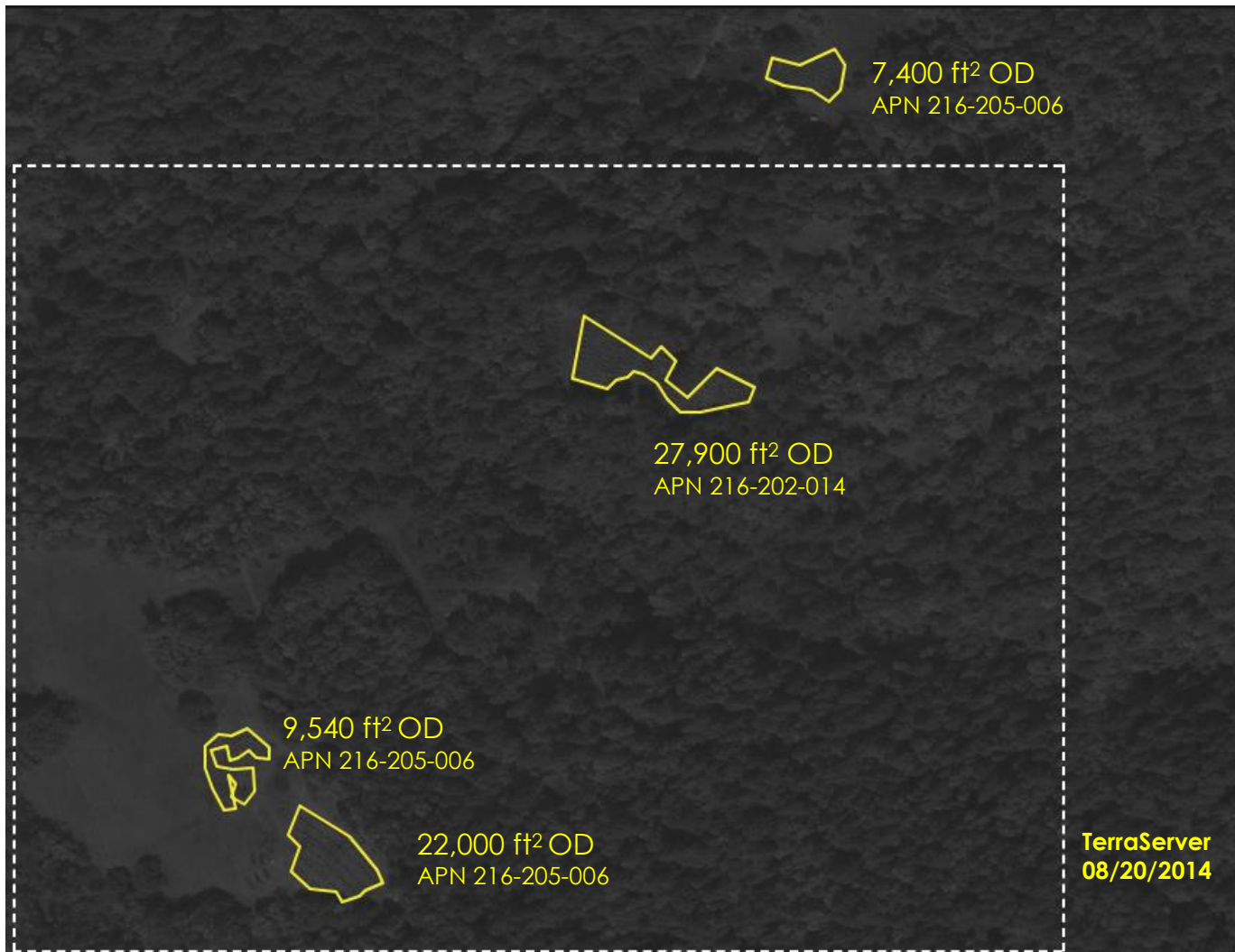


Figure 2: Evidence of expanded cannabis cultivation after Jan 1, 2016 in violation of County Code. Polygon overlay from existing 2014 cultivation. Cultivation totals approximately 92,600 square feet on APN 216-205-006 and 216-202-014.

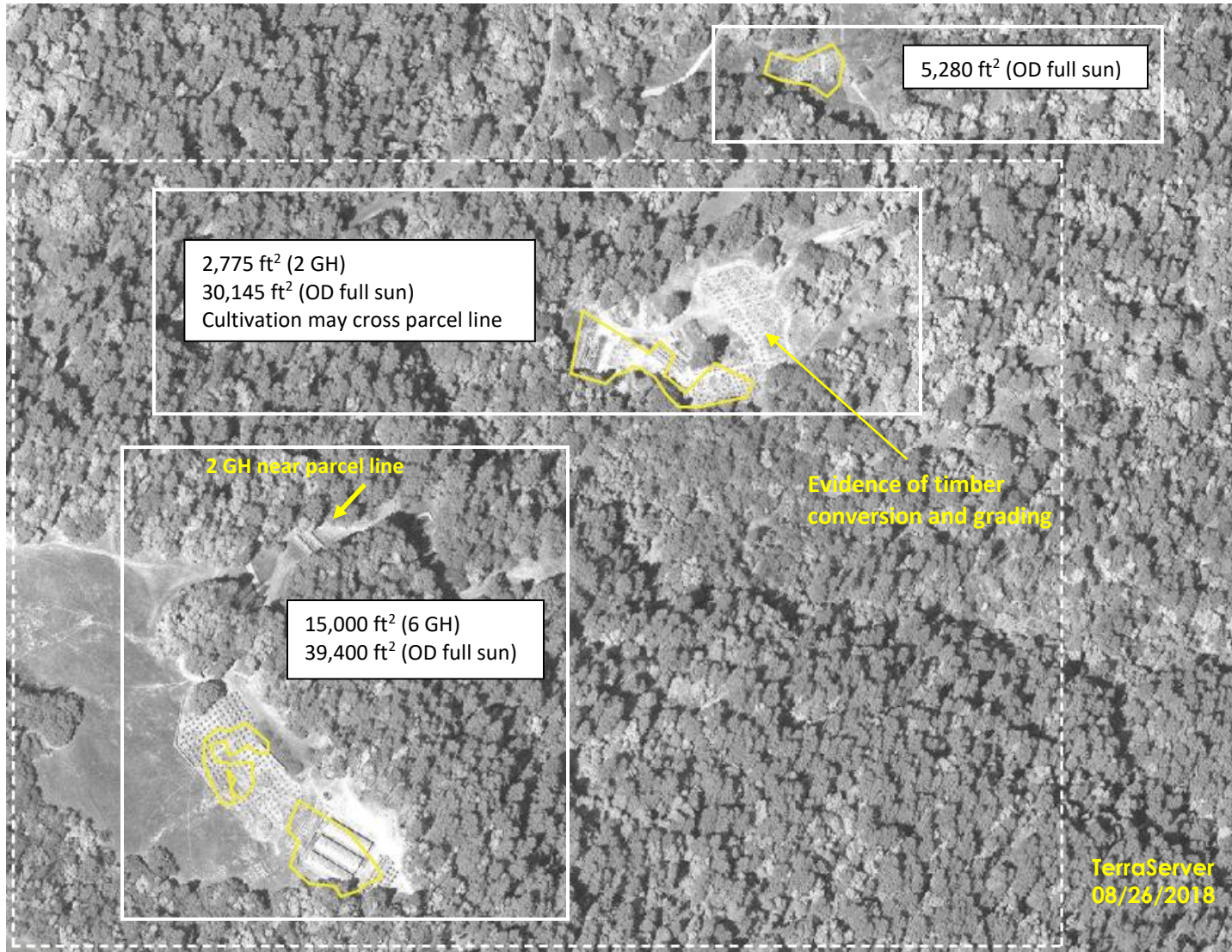
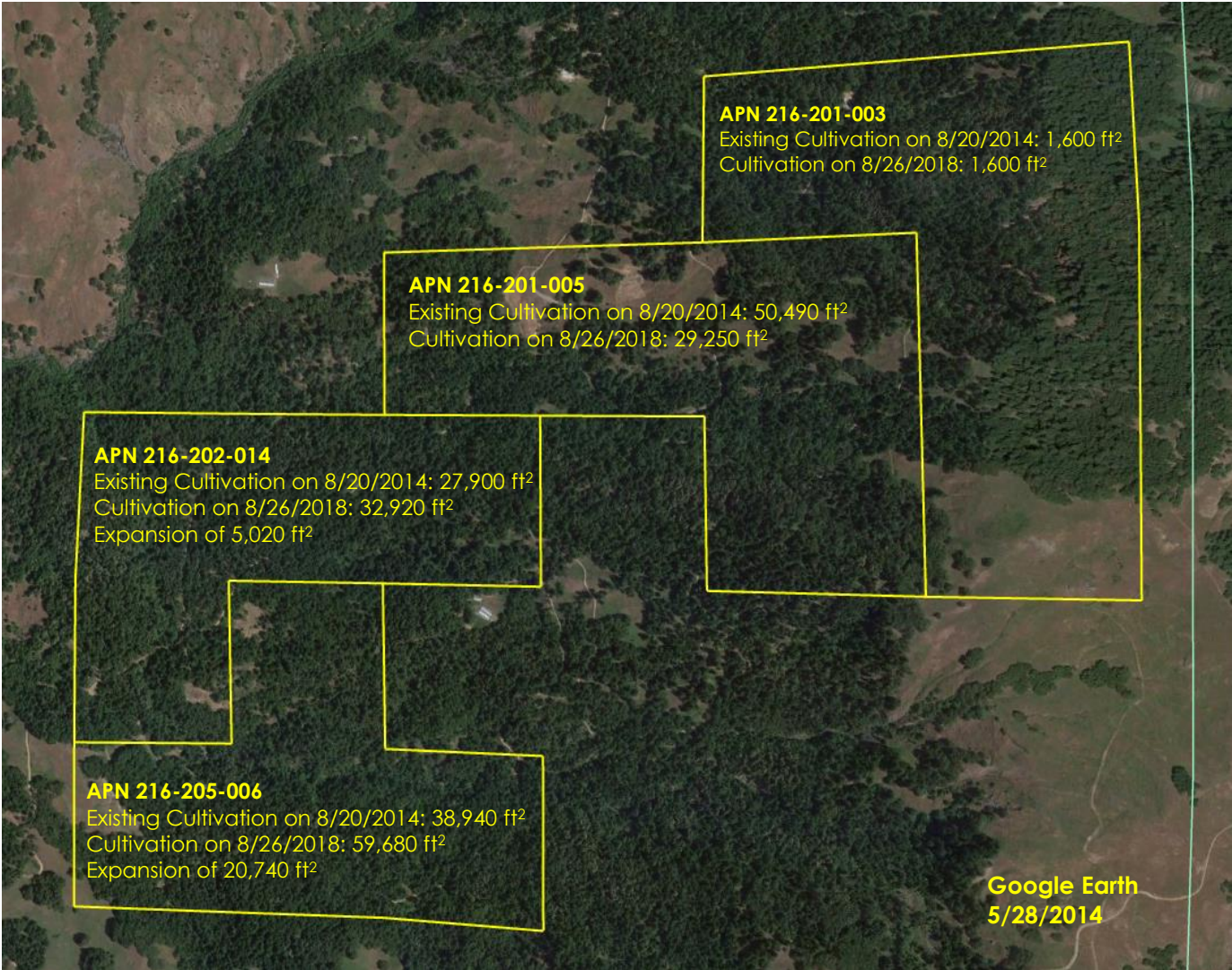


Figure 3: Overview of existing outdoor cultivation and expansion on project parcels.



**ATTACHMENT B-2**

**March 18, 2019 Unresolved Violation Letter**



March 18, 2019

Cannatopia  
Tim Clark  
PO Box 147  
Alderpoint, CA 95511

**RE: Permit Application No. 11854, 11857 / Key APN 216-205-006, 216-202-014**

Dear Mr. Clark,

Your immediate action is needed to resolve the following issues:

The commercial cannabis violations detailed in the letter dated November 1, 2018 remain unresolved. While the Department received materials with the stated intent to participate in the Retirement, Remediation, and Relocation (RRR) program, we are unable to process your application. In order to be eligible for the RRR program, the penalty fee of \$51,520 must be paid in full. The applications will not be processed further until the violations are resolved. Alternatively, you may elect to withdraw the applications and fully remediate all areas of previous cannabis cultivation on the parcels to avoid the penalty. **Please advise the Department of your decision no later than April 2, 2019.**

Please also be aware that commercial cannabis cultivation in 2019 requires a local permit and a state license to be deemed legal. **Since no permit has been issued, commercial cannabis cultivation is not authorized on these parcels.** If you have questions about this letter, please contact me at 707-268-3739 or bbatten1@co.humboldt.ca.us.

Sincerely,



Blake Batten  
Planner, Cannabis Services Division  
Planning and Building Department

## ATTACHMENT C

### REQUIRED FINDINGS FOR PERMIT APPROVAL AND STAFF ANALYSIS

**Required Findings:** To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

The County Zoning Ordinance, Sections 312-1.1.2 (Legal Lot Requirement) and 312-17.1 of the Humboldt County Code (Required Findings for All Discretionary Permits) specify the findings that are required to grant a Conditional Use Permit:

1. The proposed development is in conformance with the County General Plan, Open Space Plan and Open Space Action Program;
2. The proposed development is consistent with the purposes of the existing zone in which the site is located;
3. The proposed development conforms with all applicable standards and requirements of these regulations;
4. The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity;
5. The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation) unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized; and
6. In addition, CEQA states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The proposed project either:
  - a. Is categorically or statutorily exempt; or
  - b. Has no substantial evidence that the proposed project will have a significant effect on the environment and a negative declaration has been prepared; or
  - c. Has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

**Evidence Supporting the Required Findings:** To approve this proposed project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

**1. The proposed development must be consistent with the General Plan; 2. Zoning Compliance; 4. Public Health, Safety and Welfare; and 5. Residential Density:**

All of the subject applications have not provided a substantial response to requests for information and/or direction to resolve outstanding violations of county code, and therefore there is no documentation of evidence supporting making these findings.

**3. Conforms with applicable standards and requirements of these regulations:**

In all of the cases presented in this report the applicants have violated County ordinance requirements and therefore the required findings for approval cannot be made. Specifically, all of these applications are not in compliance with Section 314-55.4.8.2.2 which states that existing cultivation may be permitted only when possible to bring them into compliance with all applicable development standards and to eliminate existing violations. This section also states that no expansion of the existing cultivation area shall be permitted.

Additionally, all of these cases are not consistent with section 314-55.4.8.1, which states that all commercial cannabis cultivation, processing, manufacture, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws. By expanding without approval they have violated the Humboldt County Code, and these applications have also violated provisions of state law as described in the executive summary.

Due to the above the finding that these applications conform to the applicable standards and requirements of the Humboldt County regulations can not be made and the applications should therefore be denied.

**6. Environmental Impact:**

The recommended action is statutorily exempt from State environmental review per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines.