

Attachment 6

Applicant's Good Cause Request



REMY | MOOSE | MANLEY
LLP

Whitman F. Manley
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November 29, 2021

Jason M. Dooley
Deputy County Counsel
Office of the Napa County Counsel
1195 Third Street, Suite 301
Napa, CA 94559

Re: Walt Ranch – Appeal of Director Morrison’s approval; Mitigation Measure 6-1

Dear Mr. Dooley:

We request that the Board of Supervisors consider the attached materials in considering the appeal filed by the Center for Biological Diversity at the hearing on December 14, 2021. This letter sets forth the applicant’s showing of good cause to consider these materials. The attached materials consist of seven maps of the Walt Ranch property, and proposed revisions to Mitigation Measure 6-1.

With respect to the seven attached maps, all are based on existing surveys and GIS mapping of the property. The surveys and GIS mapping are the same as those that the County relied upon in preparing the Final EIR. This information is also the same as that which Director Morrison relied upon in approving our May 5, 2021, proposal to modify Mitigation Measure 6-1. The maps portray this information in ways that we believe will be useful to the Board, but they are not based on new or different survey data or GIS mapping.

In particular, the maps show how the 124 acres of conserved woodland habitat to be conserved under Mitigation Measure 5-1 relate spatially to woodland habitat elsewhere on the property that will be conserved under other mitigation measures. The appellant has criticized our proposal because, in its view, the woodland habitat conservation lacks contiguity. The maps show how the 124 acres of conserved woodland habitat relate to habitat that will be conserved based on other requirements in the Biological Resource Management Plan.

The maps differ from those the County has previously considered in one respect. The applicant proposed to conserve 110 acres of woodland habitat within the “Proposed Contiguous Easement Area,” and 14 acres elsewhere on the property. The applicant proposes to modify the location where these 14 acres of woodland habitat will be conserved. In our May 5, 2021, proposal, we identified 35 acres of woodland habitat, and proposed to conserve 14 acres within this larger, 35-

acre area. The applicant now proposes to conserve 14 acres of woodland habitat in a specific area. The specific area where the 14 acres is located is shown on “Map 4,” and is shaded orange. This shaded area is west of the Proposed Contiguous Easement Area. There are two reasons why the applicant proposes this shift.

First, the Appellant has stated that the easements are too scattered and should be more contiguous. The new location is directly adjacent to the Proposed Contiguous Easement Area, and therefore results in a larger swath of land to be protected. This is particularly true when shown in the context of the easements that will be provided for other purposes, as shown on Maps 5, 6 and 7.

Second, the Appellant has stated that the location of the easements is too imprecise. Formerly, the applicant identified 35 acres, and stated that the 14 acres of woodland habitat would be preserved within these areas. The applicant has now identified the specific 14-acre area where the woodland habitat easement would be established.

The 14 acres, as shown on Map 4, are all located in areas that, absent the woodland conservation easement, could be converted to other uses. Specifically:

- They are mapped woodland habitat.
- They are located in areas where the slope does not exceed 30%.
- They are not subject to preservation in a conservation easement for some other purpose.
- They are not within an area that will be converted to vineyard under the project.
- They are not located in the Milliken Creek watershed.

Thus, but for the conservation easement, these 14 acres could be converted to other uses. With the exception of the 14 acres shown on Map 4, all of the information in these figures is based on GIS mapping and surveys that were available and part of the record when Director Morrison made his decision. The maps are provided in order to place in context how the 124 acres of woodland habitat conservation relates to the rest of the property and the other easements that are already required.

Good cause exists to consider Map 4 because this map reflects the applicant’s revised proposal. As explained above, the applicant’s proposal has been revised to respond to comments raised by Appellant. The applicant believes the revised location of the 14 acres is preferable to those shown in the May 5, 2021, proposal for the reasons explained above.

With respect to proposed revisions to Mitigation Measure 6-1, the revisions reflect the following, proposed changes:

- The revised text makes clear that the amount of woodland habitat to be conserved outside of the Proposed Contiguous Easement Area is 14 acres. The text had formerly referred to 35 acres. That was a typographical error.

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- The revised text extends the monitoring period for the tree planting program from five to seven years. This revision strengthens the proposal.,
- The revised text specifies the number of trees to be planted in light of the filing of an administrative appeal. This revision is consistent with the applicant's proposal and Director Morrison's decision.
- The revised text requires that the BRMP be modified to include the tree planting program. This revision strengthens the proposal.

We believe that good cause exists to consider these revisions to Mitigation Measure 6-1.

Thank you for your attention.

Very truly yours,



Whitman F. Manley

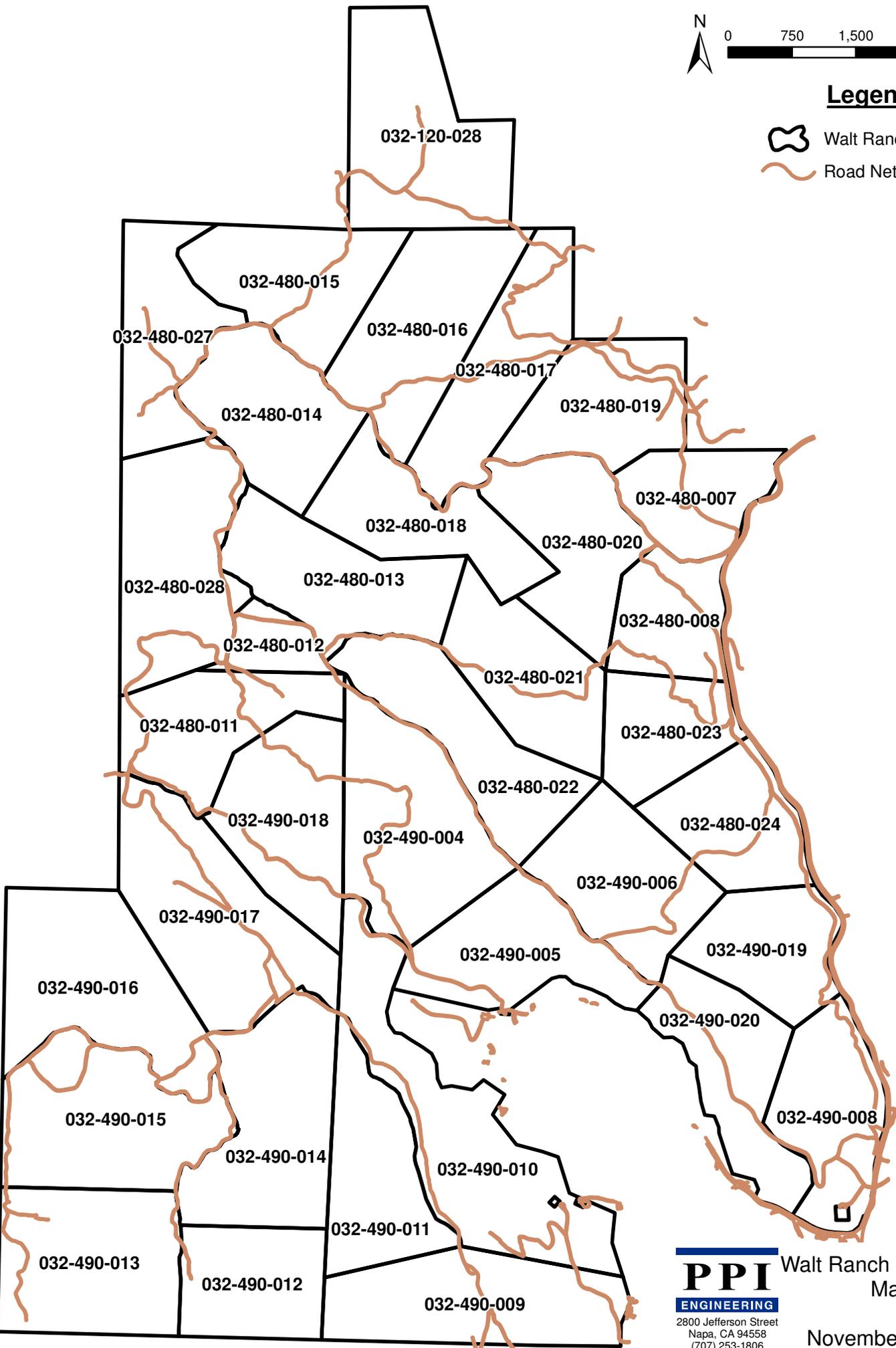
cc: (with attachments): Ross Middlemiss
Aruna Prabhala

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Legend

-  Walt Ranch Parcels
-  Road Network

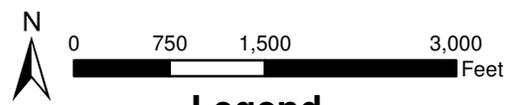


PPI Walt Ranch - 2,300 acres
ENGINEERING Map 1

2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

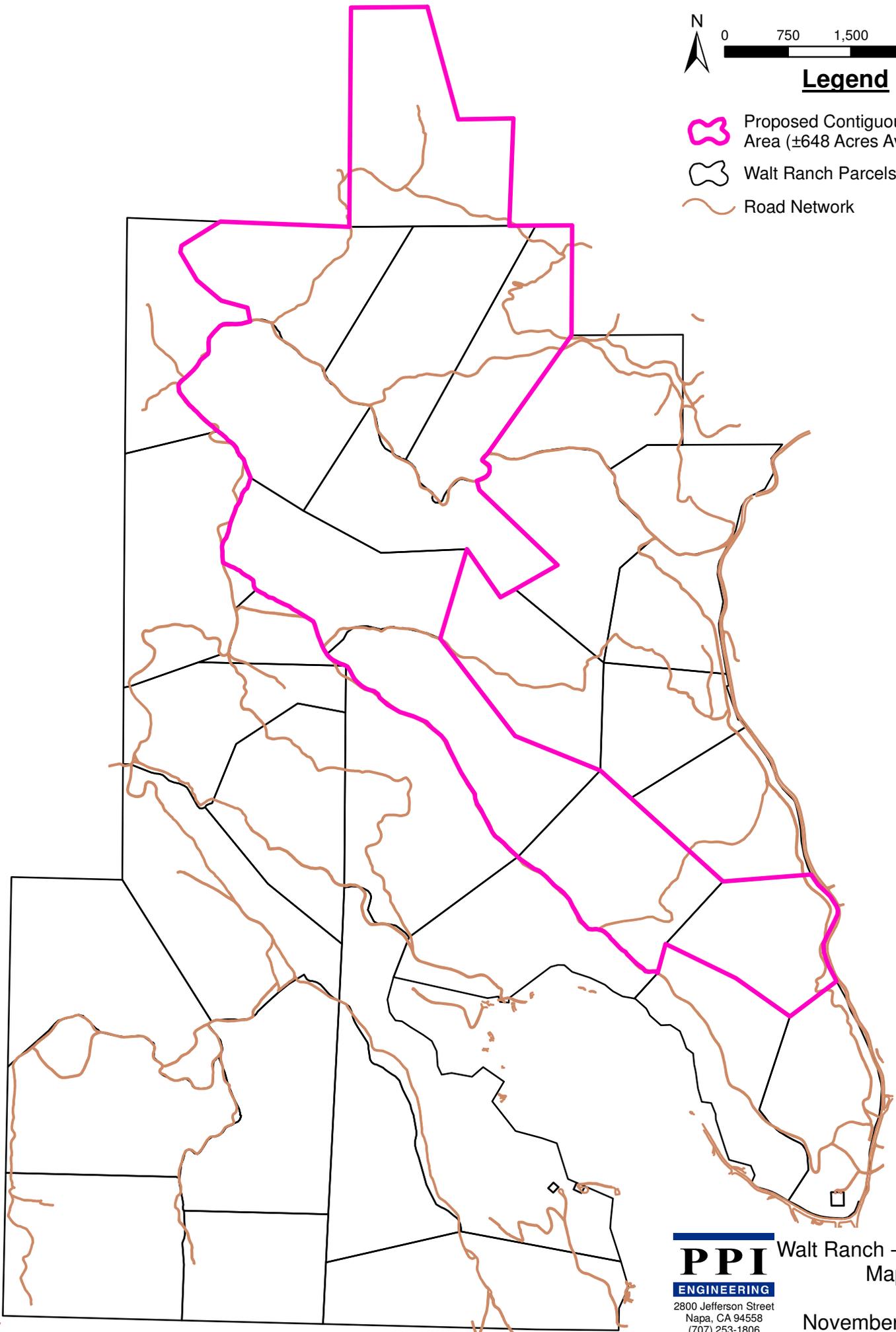
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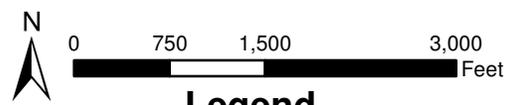


Legend

-  Proposed Contiguous Easement Area (±648 Acres Available)
-  Walt Ranch Parcels
-  Road Network

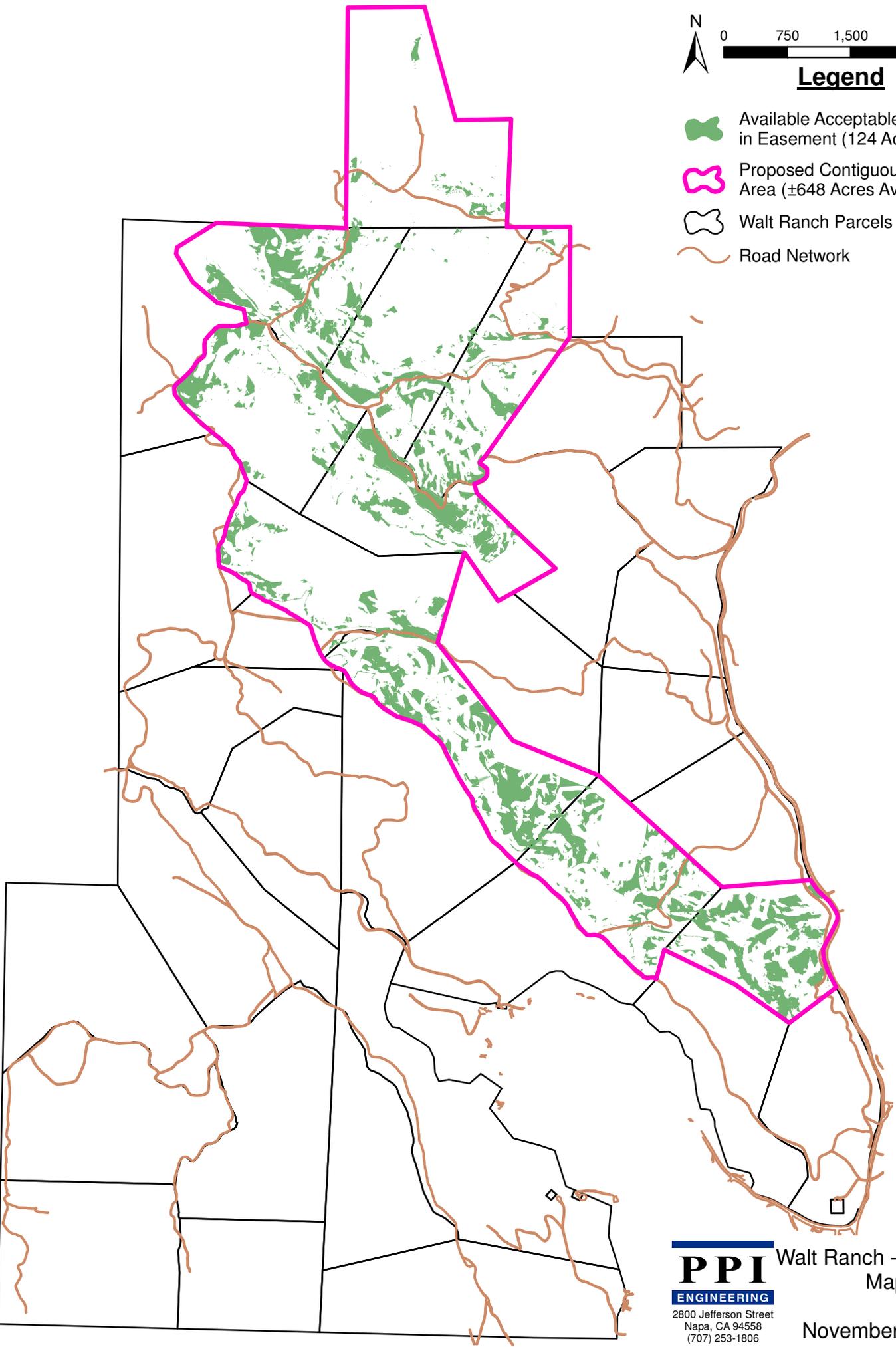


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Legend

-  Available Acceptable Woodland in Easement (124 Acres)
-  Proposed Contiguous Easement Area (\pm 648 Acres Available)
-  Walt Ranch Parcels
-  Road Network

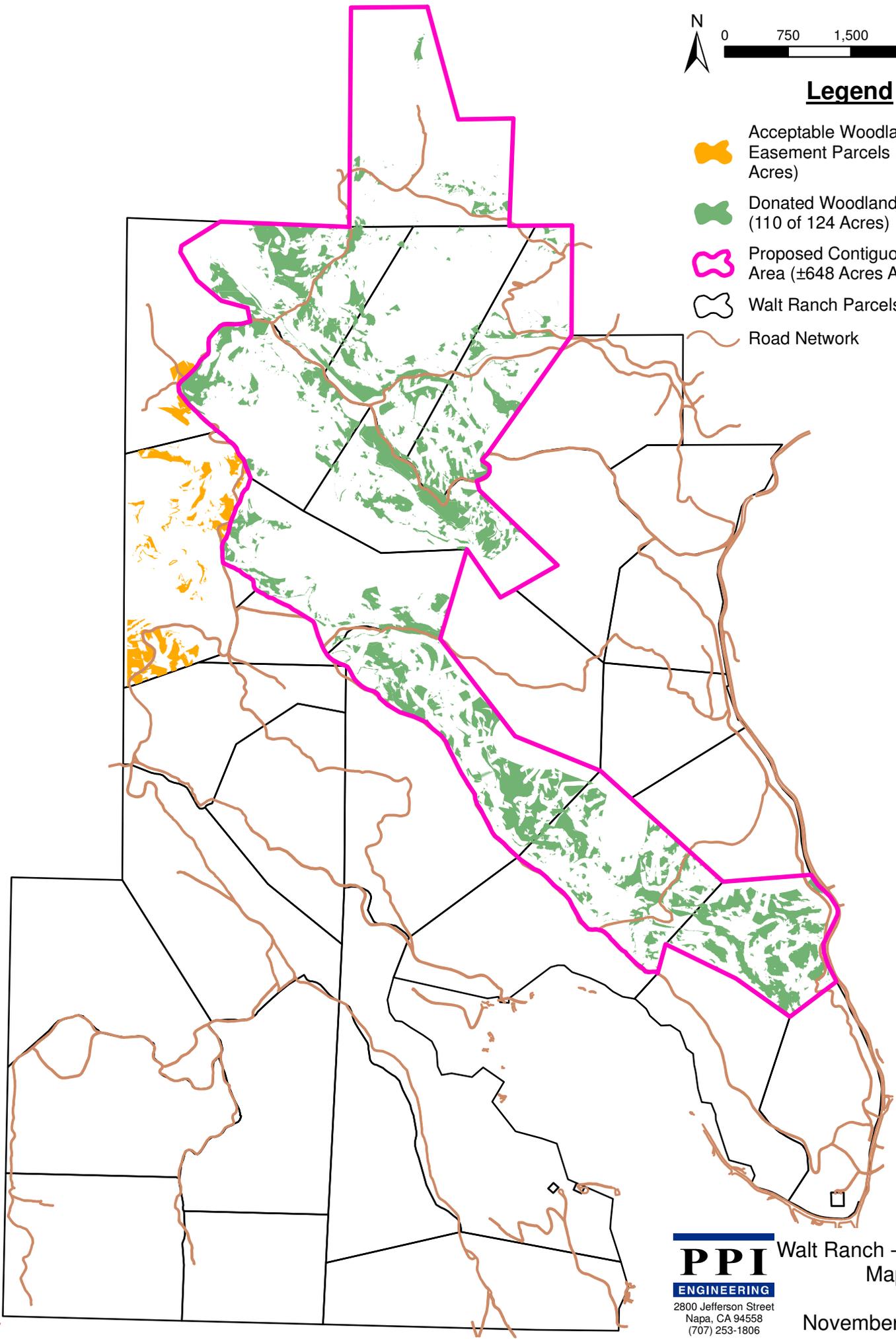


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Legend

-  Acceptable Woodland Outside Easement Parcels (At Least 14 Acres)
-  Donated Woodland in Easement (110 of 124 Acres)
-  Proposed Contiguous Easement Area (±648 Acres Available)
-  Walt Ranch Parcels
-  Road Network



PPI Walt Ranch - 2,300 acres
ENGINEERING Map 4

2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

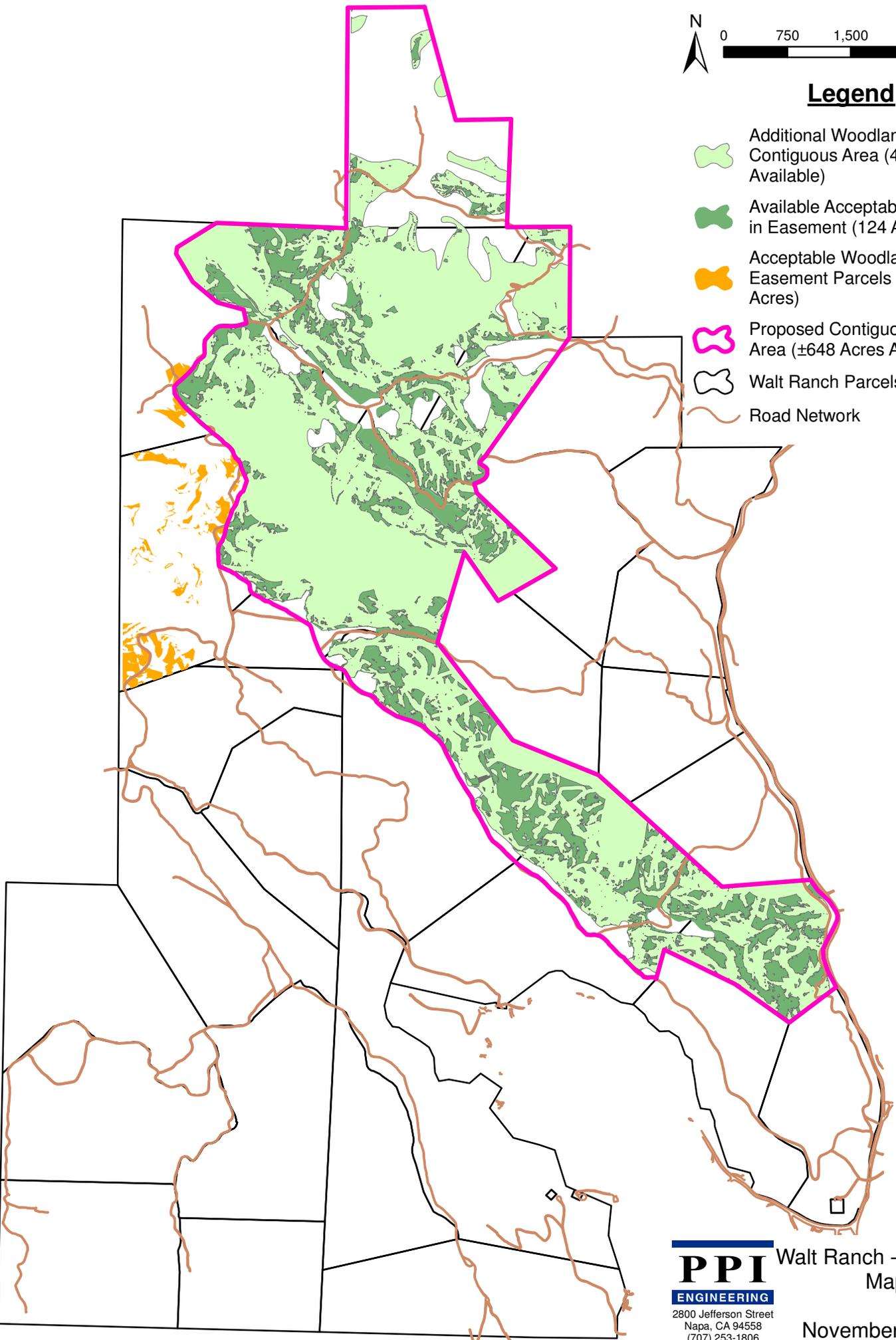
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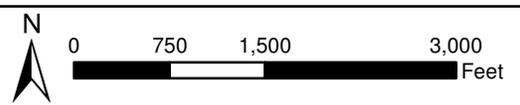


Legend

-  Additional Woodland Inside Contiguous Area (412 Acres Available)
-  Available Acceptable Woodland in Easement (124 Acres)
-  Acceptable Woodland Outside Easement Parcels (At Least 14 Acres)
-  Proposed Contiguous Easement Area (±648 Acres Available)
-  Walt Ranch Parcels
-  Road Network

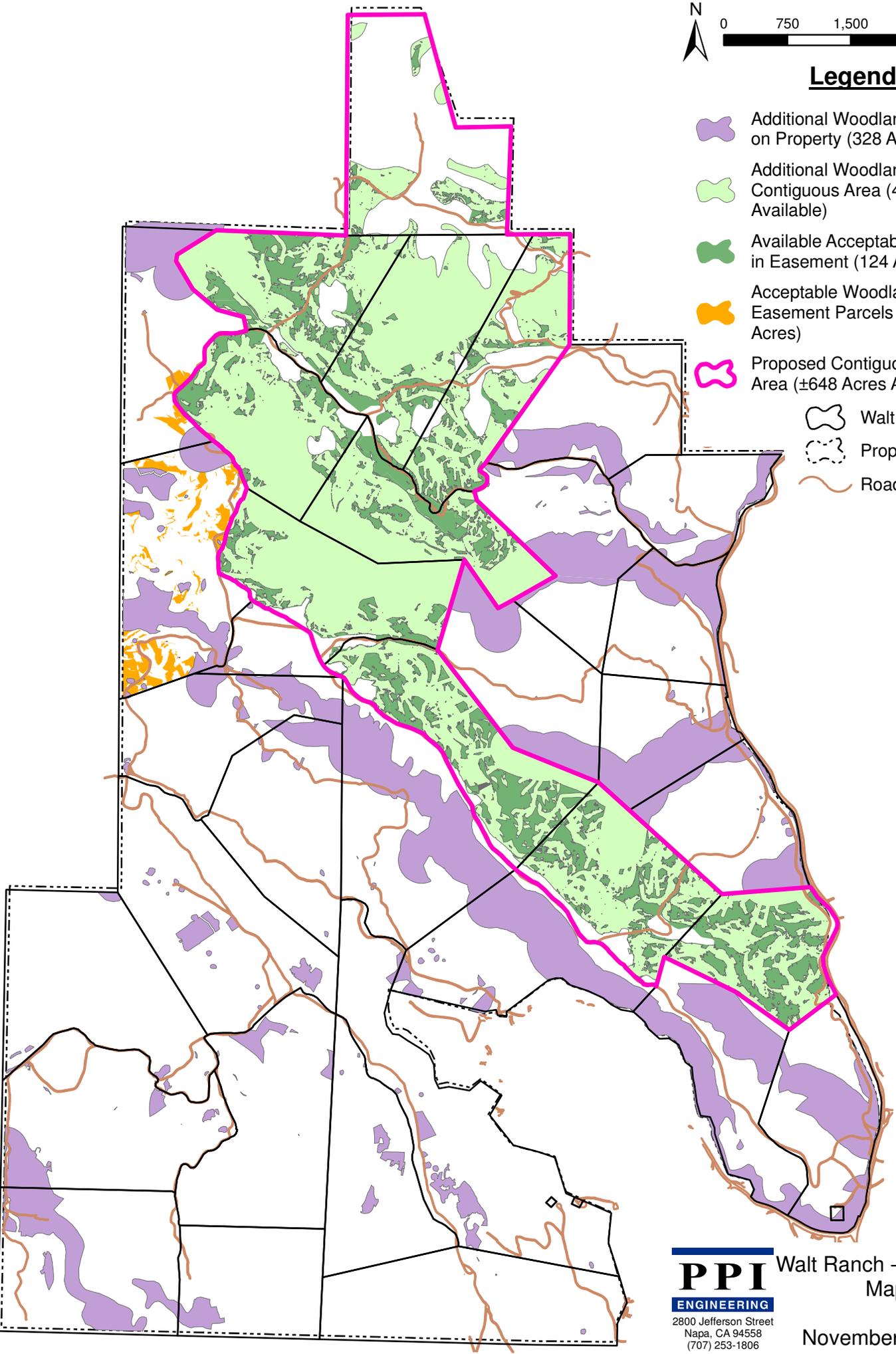


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Legend

-  Additional Woodland Conserved on Property (328 Acres)
-  Additional Woodland Inside Contiguous Area (412 Acres Available)
-  Available Acceptable Woodland in Easement (124 Acres)
-  Acceptable Woodland Outside Easement Parcels (At Least 14 Acres)
-  Proposed Contiguous Easement Area (±648 Acres Available)
-  Walt Ranch Parcels
-  Property Boundary
-  Road Network

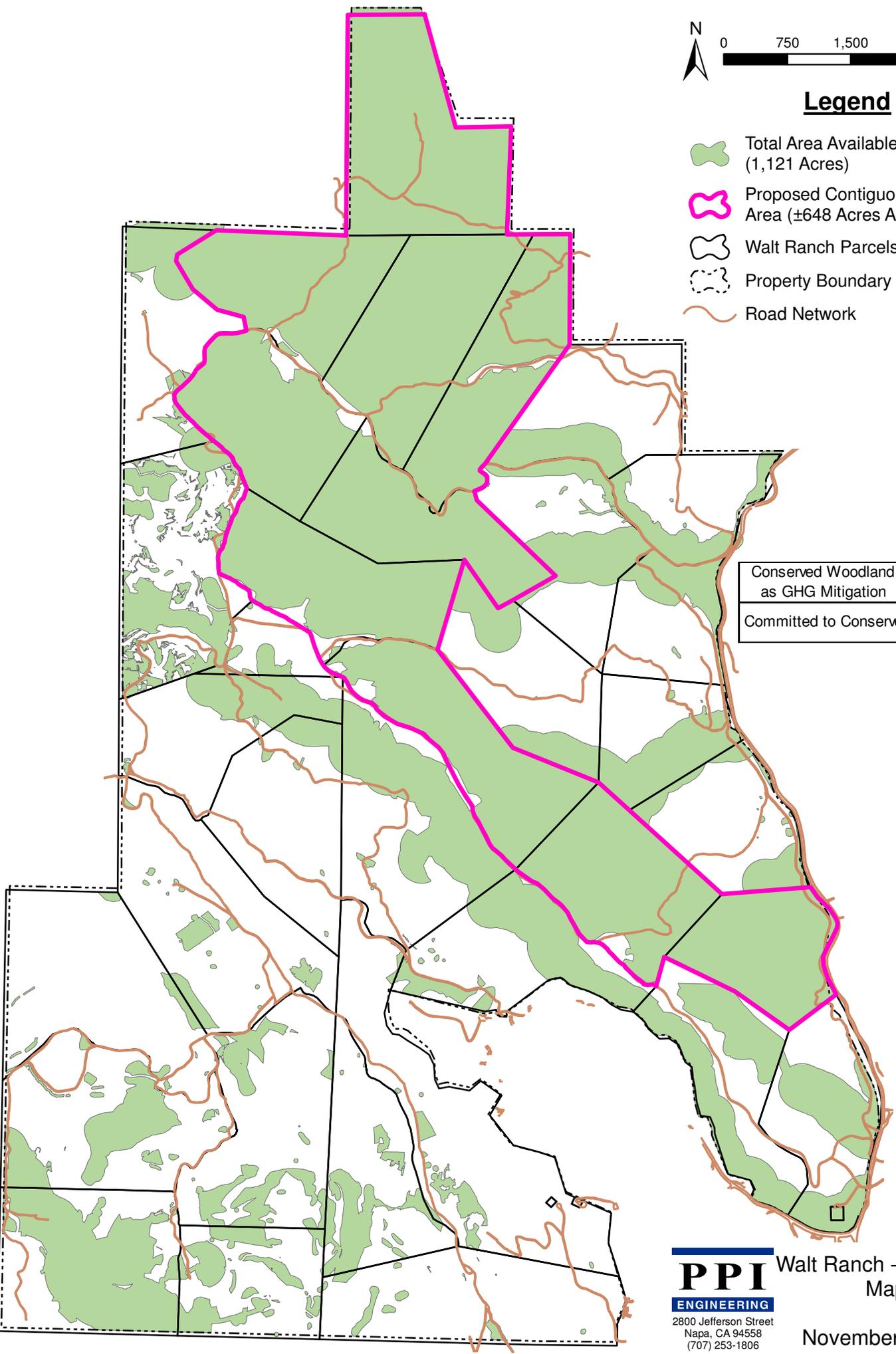


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Legend

-  Total Area Available in Easement (1,121 Acres)
-  Proposed Contiguous Easement Area (±648 Acres Available)
-  Walt Ranch Parcels
-  Property Boundary
-  Road Network



Conserved Woodland as GHG Mitigation	124 acres
Committed to Conserve	1,000 acres

ATTACHMENT C – REVISED MITIGATION MEASURE 6-1

Mitigation Measure 6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 124 acres of woodland habitat. The land to be protected under this measure shall consist of not less than 110 acres of suitable woodland habitat located within the parcels shown in Figure 1, attached to the Applicant's May 5, 2021, letter to the County, and not less than ~~35~~ 14 acres of suitable woodland habitat ~~located elsewhere on the Property~~ located in the area shown in Map 4 of the Applicant's November 22, 2021, submittal. To be suitable, the area within the easement shall be mapped woodland habitat, less than 30% slope, ~~and~~ outside of Milliken Creek watershed, and not subject to a conservation easement under Mitigation Measure 4.2-16. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

In addition, the Applicant shall plant not less than 16,790 oak trees within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. ~~The Applicant shall further plant an additional 16,790 trees elsewhere on the Property, for a total of 33,580 oak trees.~~

~~The measures set forth above shall apply in the event the County adopts this measure, and no administrative appeal of the Director's decision is filed, and no opposition or challenge to this decision is filed with the Court. In the event of such an appeal, opposition, or challenge, the measures set forth above shall still be carried out, subject to the following revision: The number of oak tree seedlings to be planted shall be not less than 16,790 trees, planted within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. No additional tree planting shall be required pursuant to this Measure.~~

The tree planting program shall be carried out as described in the Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report (Ascent Environmental, April 2021).

The trees shall be monitored and replanted as necessary to show a survival rate of not less than 80% after ~~five~~ seven years. Thereafter, the Applicant shall not undertake any actions to degrade the condition of the trees or to diminish their habitat.

The Biological Resource Management Plan shall be revised to incorporate the conservation easement and tree planting program required by this mitigation measure.