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| TRINITY COUNTY PLANNING COMMISSION STAFF REPORT Initial Commercial Cannabis Variance |
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DATE PUBLISHED: June 5th, 2020

PLANNER: Bella Hedtke, Associate Planner

APPLICANT AND PROPERTY OWNER: Tree Based Holdings, LLC.

CONSULTANT/AGENT: Deborah Risling

REQUEST: A request for a variance from the required 350' Cannabis cultivation setback from two (2) neighboring residential dwellings (TCC 17.43.050.A.8).

LOCATION: 151 Rose Ln., Hayfork (APN: 017-430-33-00)

APPROX. ACREAGE: 5.00

GENERAL PLAN DESIGNATION: Rural Residential-Low Density (RR-L)

ZONING DISTRICT: Rural Residential 10-acre minimum (RR10)

STAFF RECOMMENDATION: Approve with Conditions

ADJACENT LAND USE AND ZONING INFORMATION:

| Direction | Land Use | Zoning | General Plan Designation |
|-----------|---------------------------------------|--------|--------------------------|
| North | Residential/Proposed Cultivation Site | RR10 | RR-L |
| South | Residential | RR10 | RR-L |
| East | Vacant | RR10 | RR-L |
| West | Residential/Vacant | RR10 | RR-L |

ATTACHMENTS:

- 1 – Project Location Map
- 2 – Site Map (Provided by Consultant)
- 3 – 350' Setback with Comment Status Map
- 4 – Site Visit Photos
- 5 – Supportive Comment from Neighbor on APN 017-430-46-00

PROJECT BACKGROUND: The applicant has a processing Transfer Small Mixed-Light Commercial Cannabis Cultivation License (CCL 482) in the Trinity County's Commercial Cannabis Program. This site was first issued a Commercial Cannabis License in June 2018. Upon further research, staff determined that an approved variance is necessary in order for the applicant to proceed with County licensing this year.

The applicant is requesting a variance to reduce the required 350' residential setback for the following residences:

| APN | APPROX. DISTANCE FROM CULTIVATION SITE | COMMENT STATUS |
|---------------|--|--------------------|
| 017-430-15-00 | 300' | No Comment |
| 017-430-45-00 | 110' | Supportive Comment |

AGENCY COMMENTS: No agencies provided comments on this project.

PUBLIC COMMENTS: As of the writing of this staff report, one public comment was received from the property owner of APN 017-430-45-00 (Attachment 5).

FINDINGS: The following findings shall apply to the Tree Based Holdings, LLC. Commercial Cannabis Setback variance (CCV-20-02) for APN 017-430-33-00:

1. **No Special Privilege.** A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.

There are special circumstances (topography, irregular shape of parcels, and size of parcels) applicable to the project parcels that, with strict application of the Trinity County Zoning Code, deprives the property owner of privileges available to other property owners with similar zoning in the vicinity that plan to establish or have established a commercial Cannabis cultivation operation within the Trinity County Commercial Cannabis licensing program.

2. **Use Variance Prohibited.** The consideration of "use variance" is specifically prohibited. These are variances, which request approval to locate a use in a zone from which it is prohibited by ordinance.

This variance is to reduce the 350' setback requirement in Trinity County Code 17.43.050.A.8, not to allow a specific use in the Rural Residential zoning district that is not currently allowed by ordinance.

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

The purpose of the 350' setback requirement in Trinity County Code 17.43.050.A.8. is to mitigate odor and other commercial Cannabis cultivation related activities to nearby neighbors, with emphasis given to neighbors that are less than 350' from the proposed cultivation site. A comment in support of approving this variance request was received by the neighbor located on APN 017-430-45-00. A comment was not received by the neighbor located on APN 017-430-15-00. In the absence of a comment from this neighbor, staff assumes that approval of this variance request would not be a disservice to this neighbor. Nonetheless, the commercial

Cannabis variance process is annual and will allow neighbors a future opportunity to express any possible concerns at the time of renewal.

4. **Not Adverse to General or Specific Plan.** A variance must be in harmony with the general purpose and intent of the Zoning Ordinance and cannot adversely affect the general plan or specific plans of the county.

While the applicant's parcel is unable to meet the 350' residential setback requirement, as per Trinity County Code Section 17.43.050.A.8., the proposed project is substantially in compliance with the Zoning Code provisions for Commercial Cannabis Cultivation, which the County has found are necessary to reduce the potential impacts associated with unregulated Cannabis cultivation. Trinity County Code Section 17.43.050.A.8. allows for variance requests to reduce the residential setback that are consistent with the requirements for variances in State law and the County Zoning Code. The subject parcel contains special circumstances, such as narrow lot shape and unusual topography, which justifies the granting of a variance from the residential setback requirement and would be appropriate for any property owner facing similar circumstances. As such, the proposed variance is consistent with the general purpose and intent of the Zoning Code and would not adversely affect the general plan or specific plans of the County.

5. **RD-1 Overlay Zone.** Prior to approval of a variance for property within the RD-1 overlay zone, permission must be granted or deemed not necessary by the Secretary of Agriculture.

This site is not within an RD-1 Overlay Zone.

STAFF RECOMMENDATION: Given the site conditions and above discussion, staff recommends the Planning Commission make the following motion:

To approve Commercial Cannabis Variance CCV-20-02 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8. from 350 feet to 300 feet from the residence located on APN 017-430-15-00 and from 350 feet to 110 feet from the residence located on APN 017-430-45-00, subject to the findings of fact and conditions as stated in this staff report.

CONDITIONS OF APPROVAL: Upon approval by the Planning Commission, the following Conditions of Approval shall apply to the Tree Based Holdings, LLC. Commercial Cannabis Setback Variance (CCV-20-02) for APN 017-430-33-00:

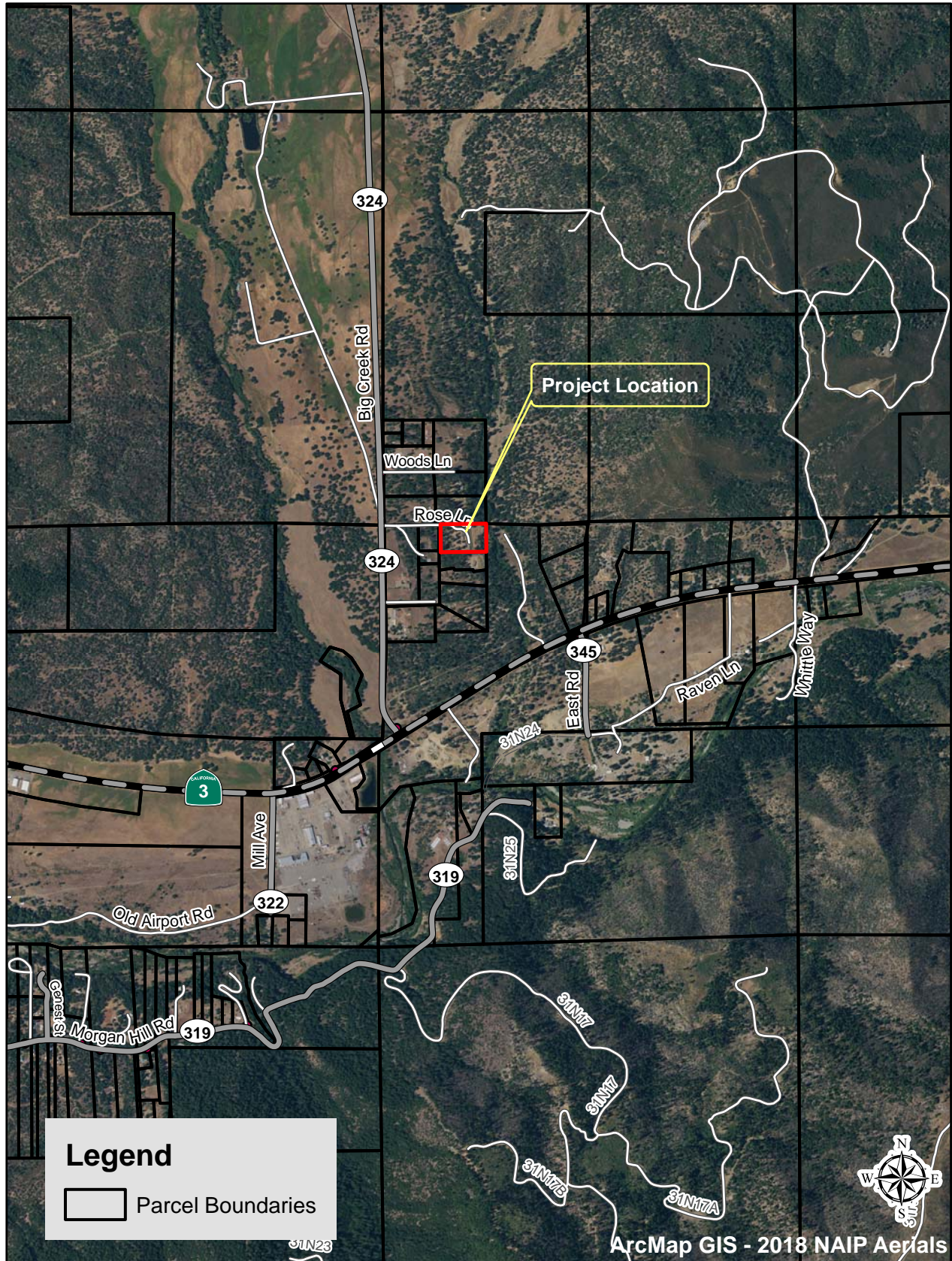
1. The variance is approved for a period of one year and shall expire on the same date as the Commercial Cannabis License that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director's Use Permit application process.
 - a. Application for renewal shall be submitted by the applicant or designated agent/consultant prior to expiration of the variance and preferably no later than 60 days in advance.
 - b. The renewal shall not require a formal public hearing, unless specified by the Planning Director or referred to the Planning Commission; however, written notice shall be provided by the County to surrounding property owners at least ten (10) days prior to the Planning Director's decision to approve or deny the annual renewal.

- c. Shall be subject to a filing fee as specified by resolution of the Board of Supervisors.
 - d. The Planning Director, at their discretion, may approve, deny or refer the annual renewal request to the Planning Commission. The director shall not add or modify conditions of approval applied by the Planning Commission. If submitted to the Planning Commission by the Planning Director for action, no additional fees will be required.
 - e. Action to renew the variance by the Planning Director may be appealed to the Planning Commission in accordance with Section 34 of the Zoning Ordinance.
2. The variance shall be subject to the securing of all necessary permits, licenses, and approvals for the proposed Commercial Cannabis Cultivation operation from all County and State agencies having jurisdiction over any aspect of the operation.
 3. Structures on the property shall be in compliance with the California Building Code and Trinity County Code.
 4. The applicant has the sole responsibility for renewing this variance before the expiration date listed above. The County will not provide a notice prior to the expiration date.
 5. No building permit or other county permit involving a variance shall be issued until the ten-day appeal period has expired. No building permit or other county permit involving a variance shall be issued while a variance hearing or appeal therefrom is pending.

END OF CONDITIONS

ATTACHMENT 1

APN 017-430-33-00
CCV-20-02 Tree Based Holdings LLC.
Project Location Map



0 0.2 0.4 0.8 Miles

ATTACHMENT 2

Entrance to Premises

30'x20' Cannabis Waste Compost Area. Fenced and Gated

168'

20'x22' Drying and Curing Area

10' x 12' Storage Non-Cannabis

180'

2 - 8' x 40' Drying/Curing Containers

Harvest Storage Area after Drying and Curing activities have concluded.

8'x6' Administrative Hold Area

280'

30' x 96' Proposed Greenhouse

30' x 96' Proposed Greenhouse

20'x20' Immature Plants Mother and Cloning Room

20'x20' Manicure Area

Residence

12' x20' Immature Plant Area

380'

Cultivation Canopy Area

Mature Plant Area

4 Raised Beds

3 beds 8' x 284'

1 bed 8' x 276'

Total Cultivation Area 9,024 sq. ft.

4 Water Storage Tanks

7,500 gal.

348'

Tree Based Holdings LLC

APN: 017-430-330-00

151 Rose Lane

Hayfork, Ca. 96041

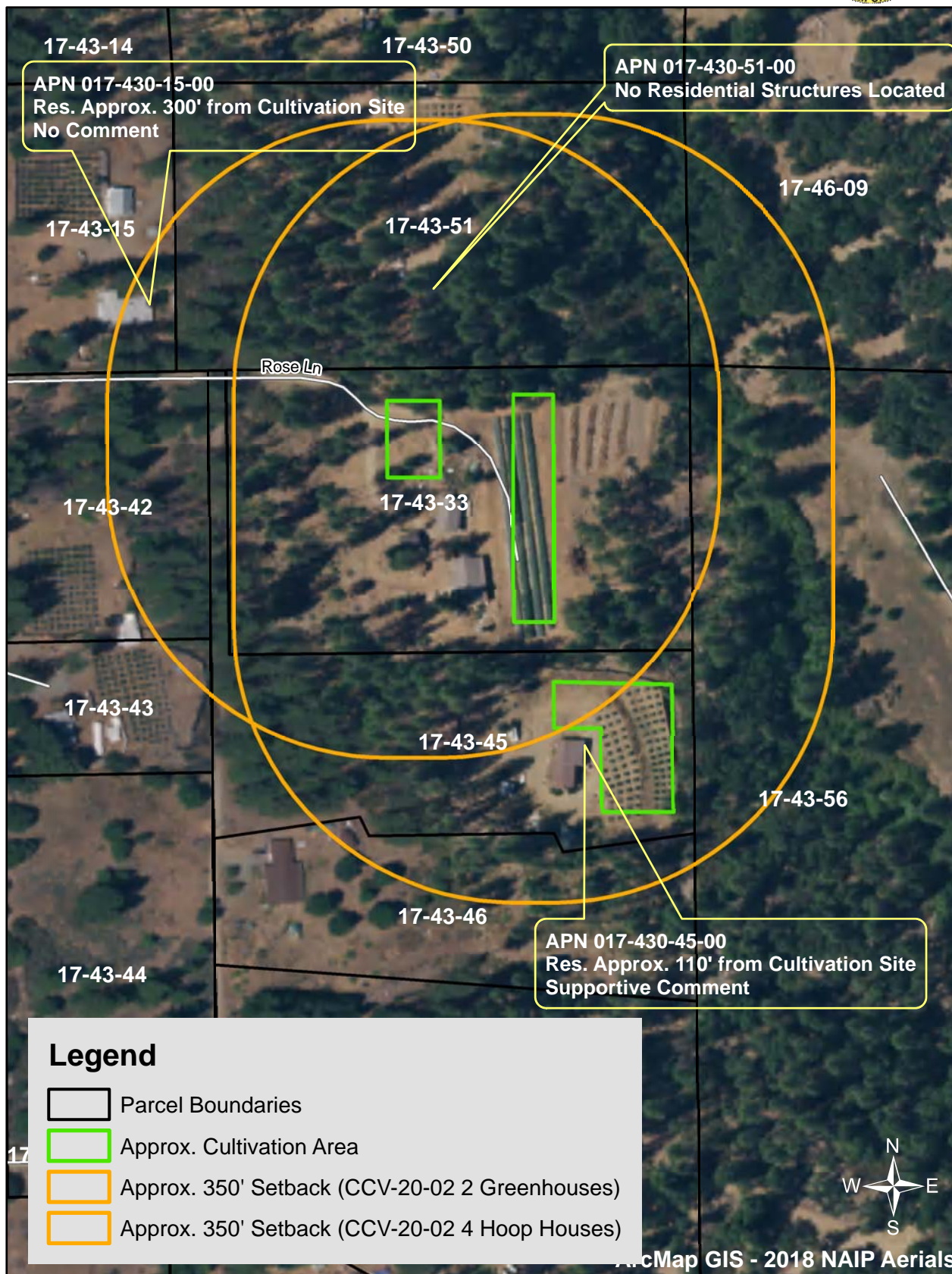
2020 Premises Diagram

Premises Boundary

6'x30' Pesticide/Fertilizer Storage Area. Fenced, Gated, Locked w/secondary containment system



APN 017-430-33-00
CCV-20-02 | Tree Based Holdings, LLC.
350' Setback with Comment Status Map



ATTACHMENT 4 Site Visit Photos



Current Site Conditions



View of Residence on APN 017-430-45-00

ATTACHMENT 5

5/27/20

Trinity County Planning Department / Cannabis Division
61 Airport Rd.
Weaverville, Ca. 96093

RE: Permission to Cultivate

I, Chad Thao, do hereby state I have no objections to my neighbors, Tree Based Holdings LLC, cultivating cannabis on APN: 017-430-33-00 and within the 350' setback area to my property APN: 017-430-45-00.

Chad Thao 5/28/2020

Chad Thao
Thao Industries
159 Rose Lane Hayfork, Ca. 96041
APN: 017-430-45-00
Trinity County License # CCL -20-559
State License # CCL20-0000096