

<p><b>TRINITY COUNTY PLANNING COMMISSION STAFF REPORT</b></p>
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**APPLICANT:** Matt Dodson

**REPORT BY:** Scott Watkins

**OWNER:** Matt Dodson

**APN:** 017-440-26

**PROJECT DESCRIPTION:**

Variance from required 350 foot cannabis cultivation setback from one neighboring residence.

**LOCATION:** 470 South Meadow Ln. Hayfork, CA (Figure 1)

**PROJECT INFORMATION:**

- A) Planning Area: Hayfork
- B) Existing General Plan Designation: Agriculture (A)
- C) Existing Zoning: Agriculture 20, 20 acre minimum (A-20)
- D) Existing Land Use: residence, commercial cannabis cultivation
- E) Adjacent Land Use Information:

	<b><u>Land Use</u></b>	<b><u>Zoning</u></b>	<b><u>General Plan Des.</u></b>
North:	Agriculture	A-20	Agriculture
South:	Agriculture	A-20	Agriculture
East:	Resource	AF-80	Agriculture Forrest
West:	Agriculture	A-20	Agriculture

**BACKGROUND INFORMATION:**

The ordinance for “Commercial Marijuana Cultivation Regulation” includes a provision reading in part: “Cultivation will not be allowed within 350 feet of a residential structure on any adjoining parcels. Applications for a variance from this provision will be considered by the Trinity County Planning Commission.” (Ord. 315-823)

The Cannabis Cultivation Ordinance defines the term “variance” as: “Variance” is defined as Trinity County Ordinance 315 section 31.” During its November 17, 2016 meeting the Commission spent time discussing both the state and county requirements for issuing a variance.

Each zoning classification and land use has an associated set of development standards, which are specified in the Trinity County Zoning Ordinance. Both State law and the zoning ordinance provide criteria to use in evaluating a variance application. Section 65906 of the California Government Code reads as follows:

"Variances from the terms of the zoning ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this section shall not apply to conditional use permits."

Section 31.A. of the zoning ordinance further elaborates on the State's Government Code standards by establishing the following criteria:

In considering a variance request, the following guidelines shall be observed:

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.
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.
3. Disservice not permitted. A variance must not be injurious to the public welfare, nor to adjacent properties.
4. Not adverse to a 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.

Annual Renewal:

As discussed during previous Commission meetings, variances from the cannabis cultivation setback (350 feet) are issued for a period of one year. (This should be tied to the license effective dates.) The renewal is predicted to be fairly simple and will be performed by the Planning Director or his/her designee. Some factors that would be included in the review would be any complaints received during the previous year, ensuring that the grower is in good standing with the County and State licensing requirements, and that there are no other changes to the property that could affect the continuation of the variance.

**PROJECT EVALUATION:**

The applicant is beginning the process of obtaining a Commercial Cannabis License under the county licensing program. The parcel is located on South Meadow Ln., which connects by Bridge Rd. to Barker Valley Rd., the main thoroughfare connecting to California Highway 3. South Meadow Ln is not a county-maintained road. The site map prepared by staff (Figure 2) identifies on-site development and its relationship to the residence (APN 017-440-25), which lies south of the subject parcel.

The subject property, 470 South Meadow Ln. Hayfork, is 6 acres but confined by steep slopes to the West and Barker Creek to the East. Based on a satellite review, the site could be relocated to an alternative location on the property to the East on an auxiliary cultivation site but after a site visit, staff determined this auxiliary site may not be suitable for the full Type II license. As such, the applicant has split his cultivation area

between two areas. The auxiliary site is up a steep slope on the West of the property and is located outside the 30 ft. property line buffer and partially within the same 350 ft. Residential dwelling setback of this variance. Additionally, the considerable grading in DG soils would be necessary to prepare this auxiliary site for cultivation. The applicant has avoided these additional environmental impacts by splitting the cultivation area. This is illustrated in the applicant's site map, drafted by Timberland Resource Consultants, attached to this staff report.

The current Cannabis Cultivation area is located within the Barker Creek 150' buffer. The applicant, with the approval of this variance, has stated that his current plan is to relocate the area outside of the water course buffer. The applicant is working with the county Commercial Cannabis License program to become compliant with both State Water Board and county standards.

Jeff Dickey, Code Compliance Specialist, has reviewed this project and provided the following comments: "Could not move cultivation area and meet setback requirements."

The property owner of APN 017-460-28, located 1 mile to the South of the applicant's property has submitted a letter supporting the project but expressing concern that future neighbors may be hindered by a regulatory framework whereby cannabis cultivation on one lot prompts the county authorities to hinder future development opportunities on adjacent lots.

The property owner of APN 017-440-25, the impacted property, has submitted a letter of support in the granting of this variance.

#### **ENVIRONMENTAL EVALUATION:**

This variance request is exempt from CEQA review under Section 15305(a) [minor alteration of land use limitations].

#### **STAFF RECOMMENDATION:**

Staff recommends the following:

Approval of the variance to allow reduction of the Cannabis cultivation setback from 350 feet to 160 feet from the residence on APN 017-440-25, subject to the following conditions of approval and based on the following findings of fact:

#### ***Findings of Fact for the Variance***

1. There are special circumstances applicable to the property that, with strict application of the zoning ordinance, deprives it of privileges available to other properties with similar zoning in the vicinity that plan to establish Type II, Cannabis cultivation, up to 10,000 square feet of canopy.

2. The variance is not a grant of special privilege to the applicant because relocation would result in unnecessary grading and environmental damage due to site topography.
3. The granting of the variance is in harmony with the general purpose and intent of the Zoning Ordinance provisions for commercial cannabis cultivation.
4. No opposition from surrounding property owners or review agencies was submitted that would adversely affect approval of the variance.

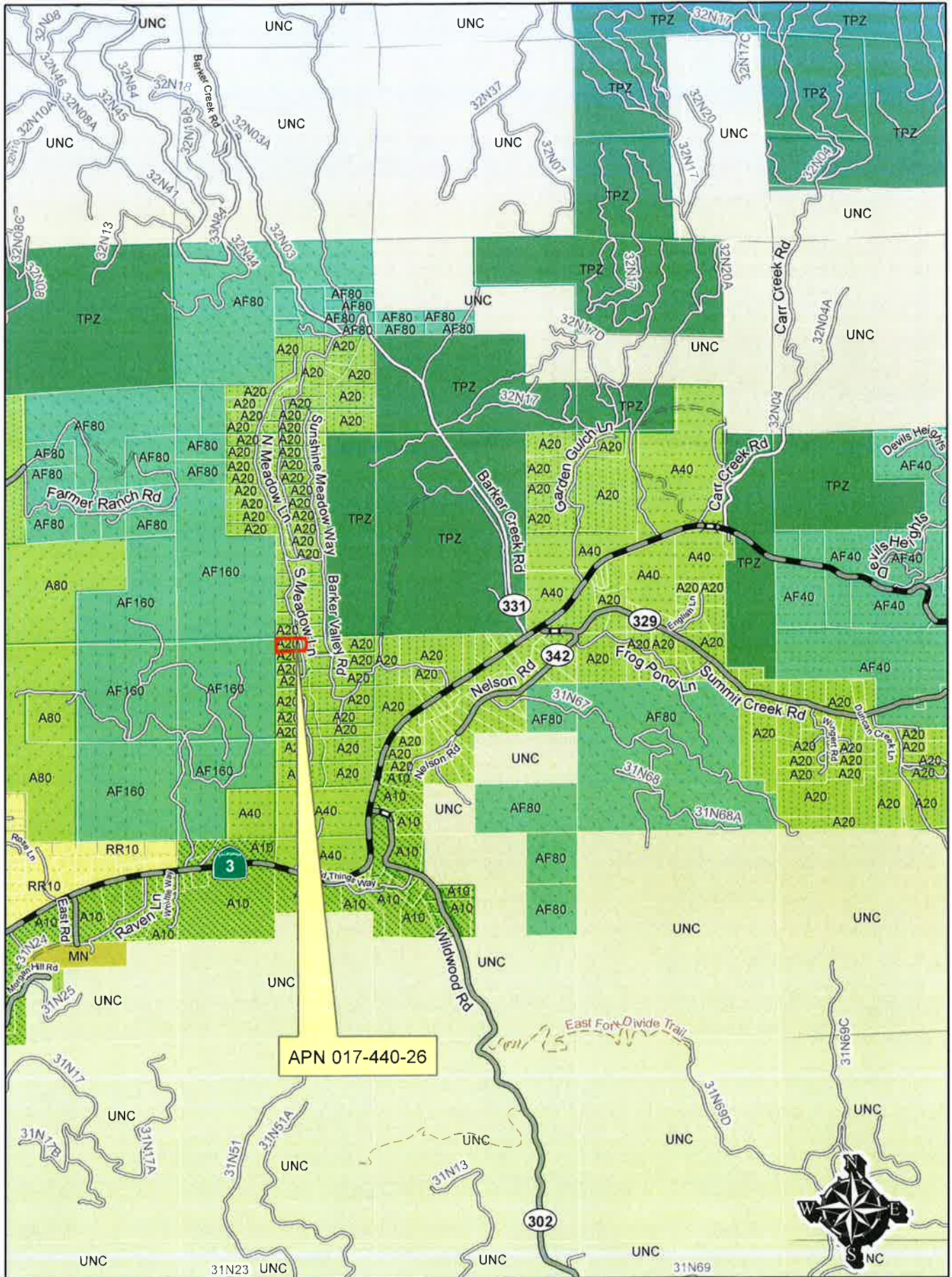
**CONDITIONS OF APPROVAL  
DODSON CANNABIS SETBACK VARIANCE (CCV-18-016)**

1. The variance is approved for a period of one year from **May 10, 2018** through **March 31, 2019**; provided, however, that the variance may be renewed annually.
  - a. Application for renewal shall be made by the applicant prior to expiration of the variance, preferably at least 30 days in advance;
  - b. 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; and
  - c. Shall be subject to a filing fee as specified by resolution of the Board of Supervisors.
  - d. The Planning Director, at his/her 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, including the required appeal fee.
2. The variance shall be subject to the securing of all necessary permits, licenses, and approvals for the proposed cannabis cultivation operation from all County and State agencies having jurisdiction over any aspect the operation.
3. Structures on the property shall be in compliance with the California Building Code and the Trinity County Code.

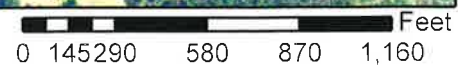
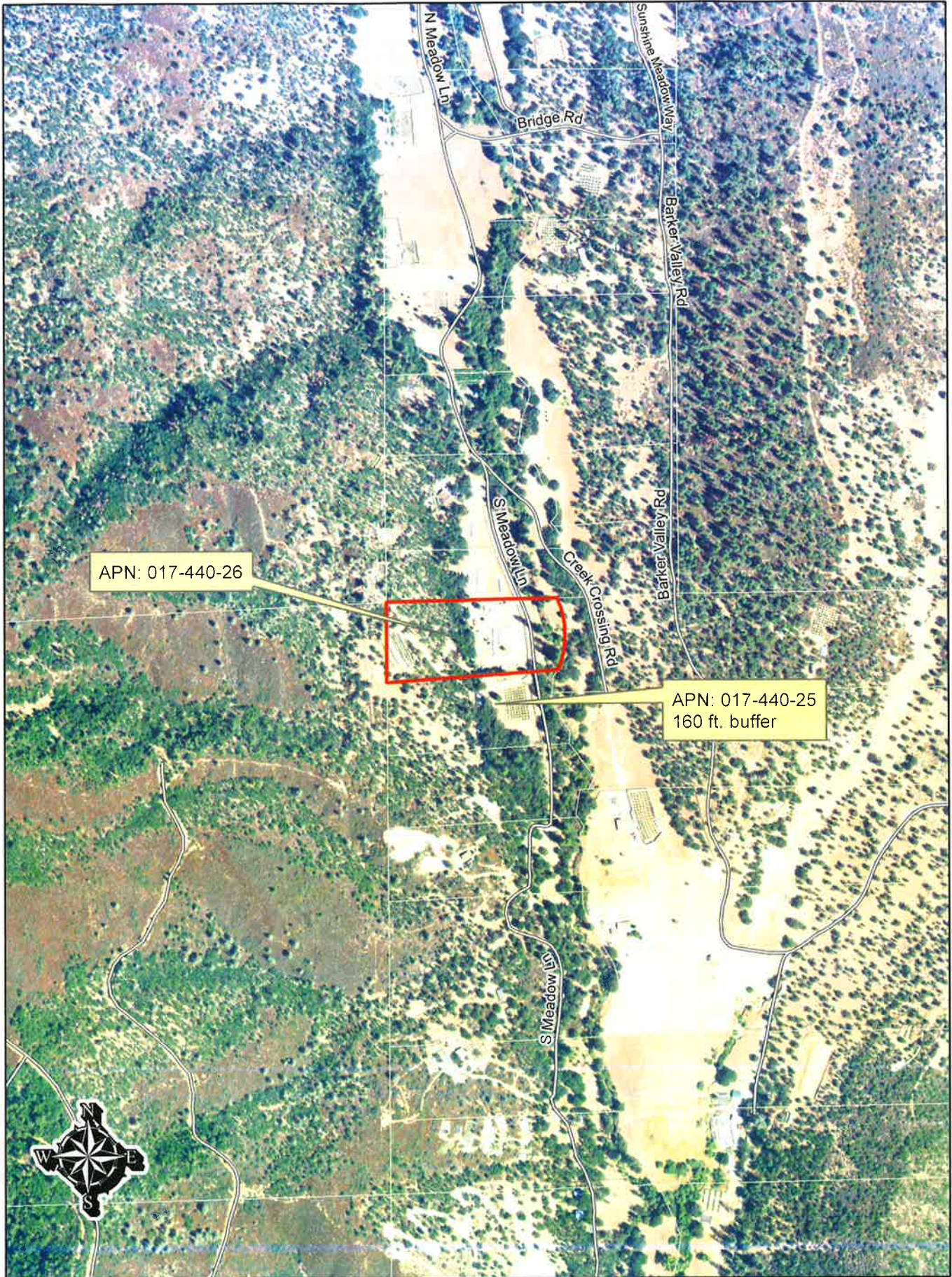
4. The variance shall become effective after all applicable appeal periods have been expired or appeal processes have been exhausted. The applicant has the sole responsibility for renewing this variance before the expiration date listed above. The County will not provide a notice prior to the expiration date.

# CCV-18-016 Dodson CCL Variance Request

## Figure 1 - Project Location and Zoning Map

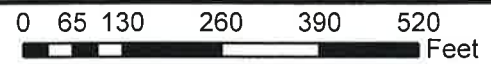
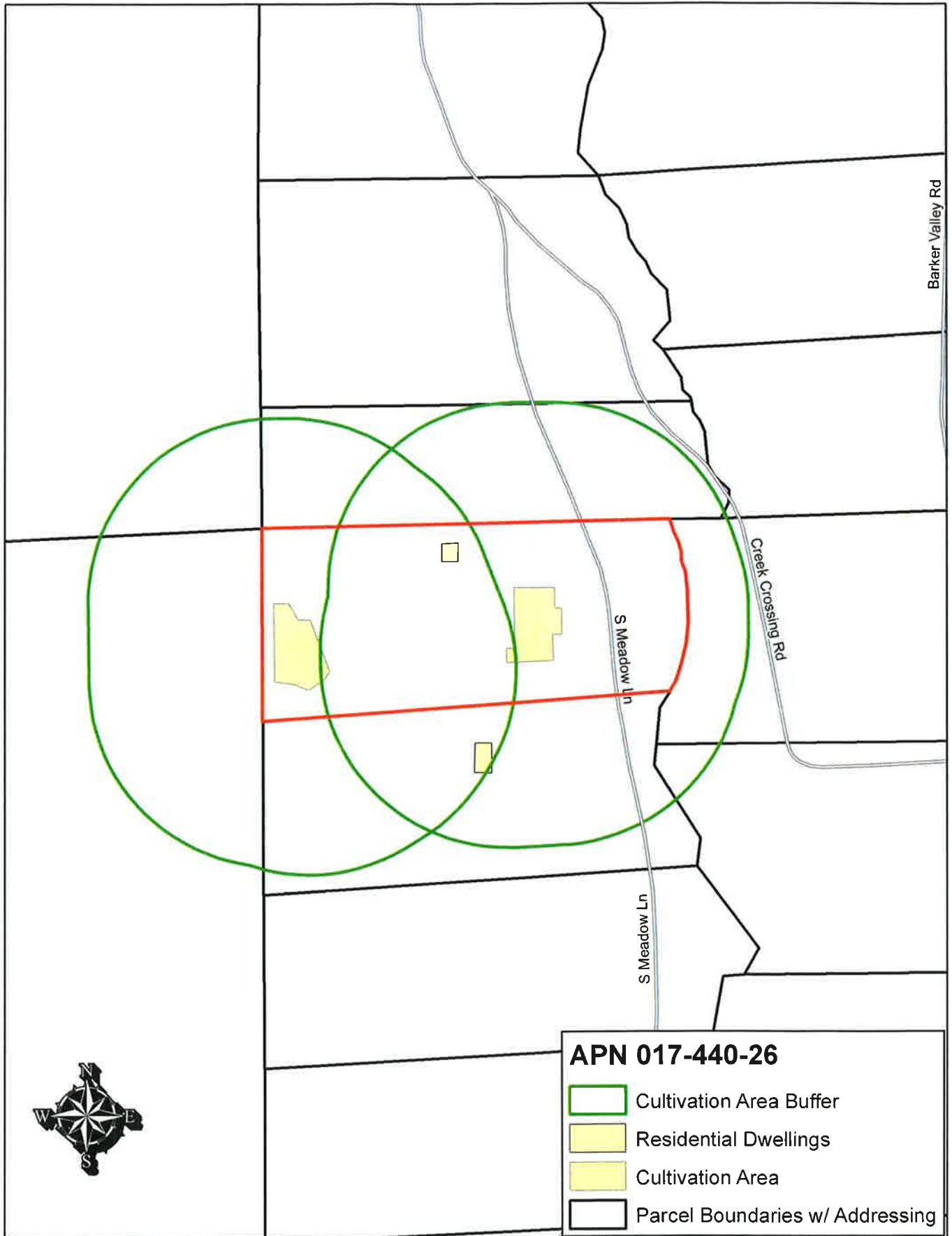


CCV-18-016 Matt Dodson  
Figure 2 - Site Map and Affected Neighbors





**CCV-18-016 Matt Dodson**  
**Figure 3 - Site Map and Affected Dwellings**





## **CCV-18-06 Dodson CCL Variance Request** **Figure 4 – Site Pictures**



Picture 1: facing North towards APN 015-420-21 across the area where two (2) new Hoop houses will be sited.



Picture 2: facing South towards water bladder sited within 150 ft. class I perineal watercourse buffer. Water bladder to be relocated per applicant site plan.

Planning Commission  
05/10/2018

Matthew Dodson  
470 South Meadow Lane, Hayfork  
APN 017-440-26

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**CCV-18-016 Dodson CCL Variance Request**  
**Figure 4 – Site Pictures**



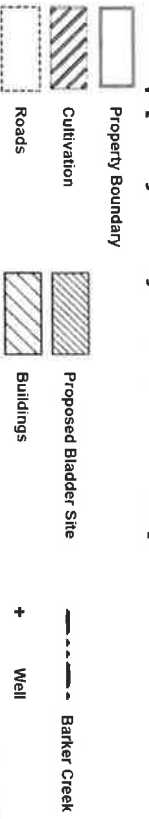
Picture 3: Interior picture of one of the two (2) newly constructed Greenhouses within the 350 ft. residential buffer. Both Greenhouses were permitted and built to code.



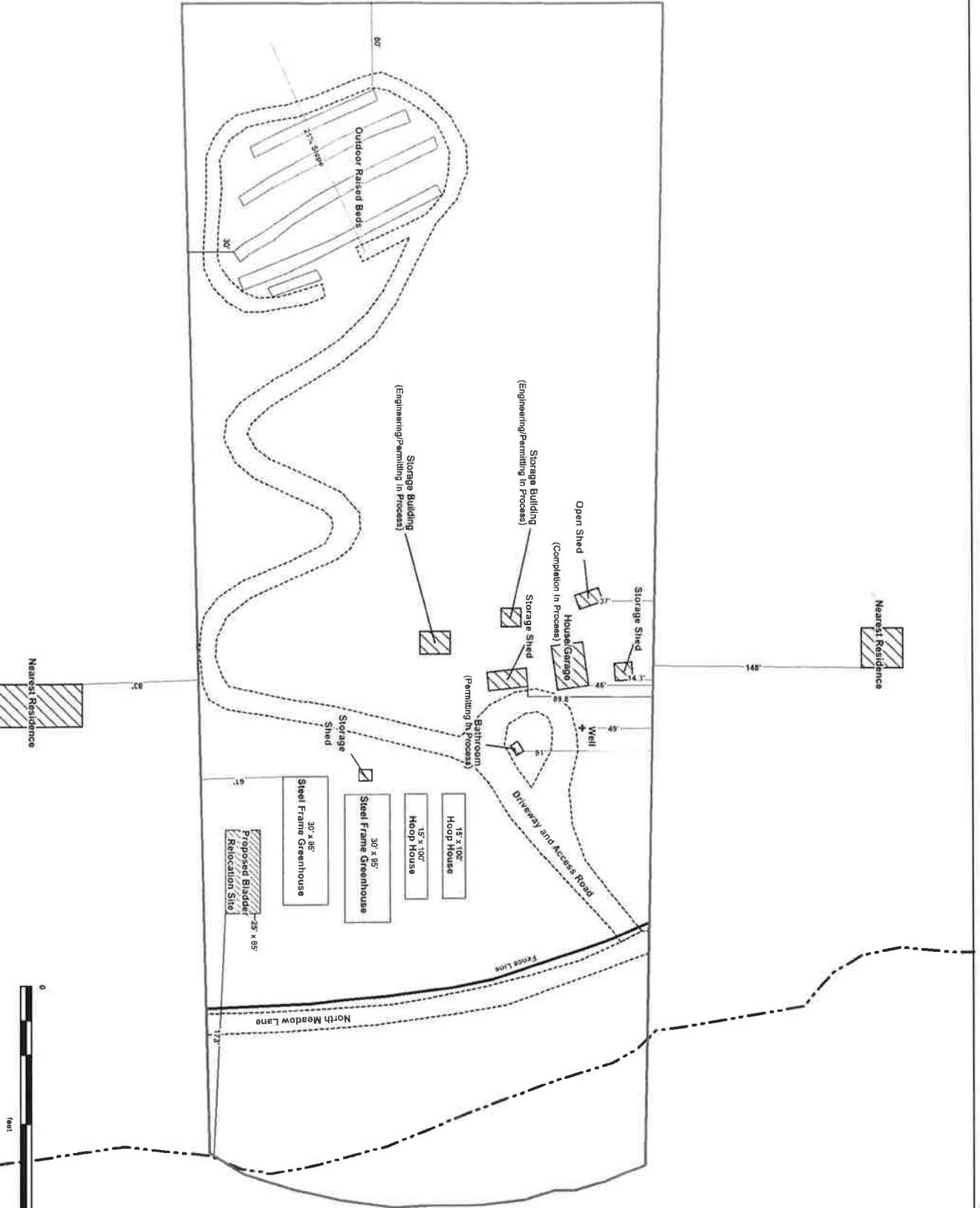
Picture 4: Exterior pictures of two (2) Greenhouses mechanical systems, including distance between existing fence separating cultivation area from APN 017-440-25

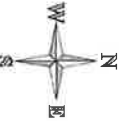
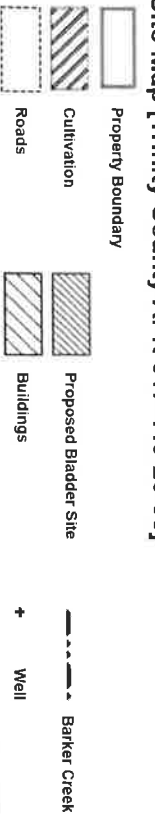
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Site Map [Trinity County APN 017-440-26-00]

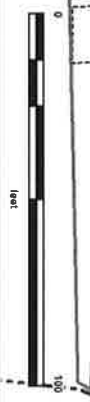
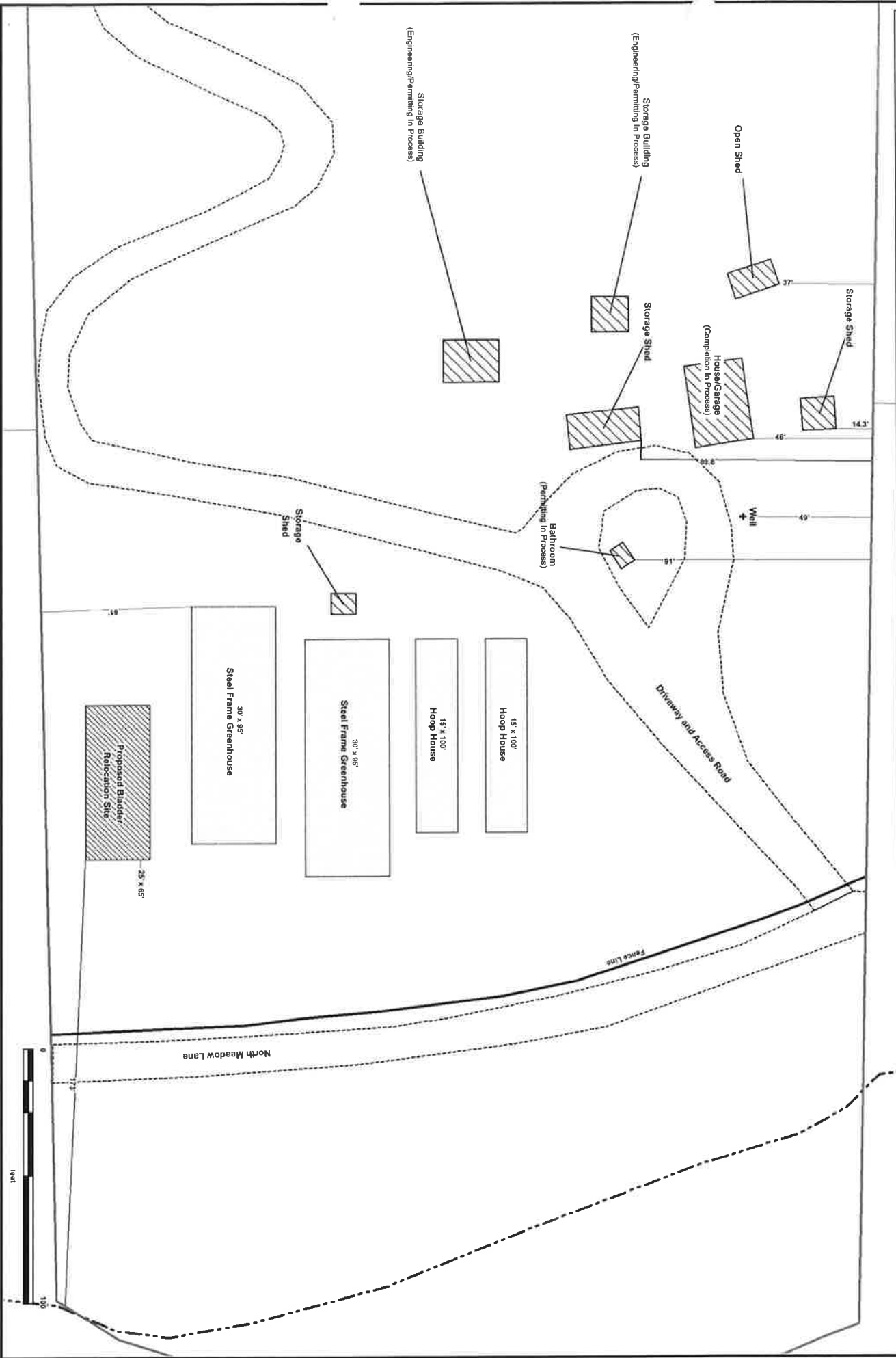


Scale 1" = 100'

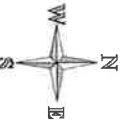
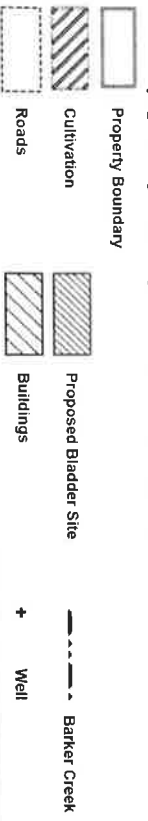




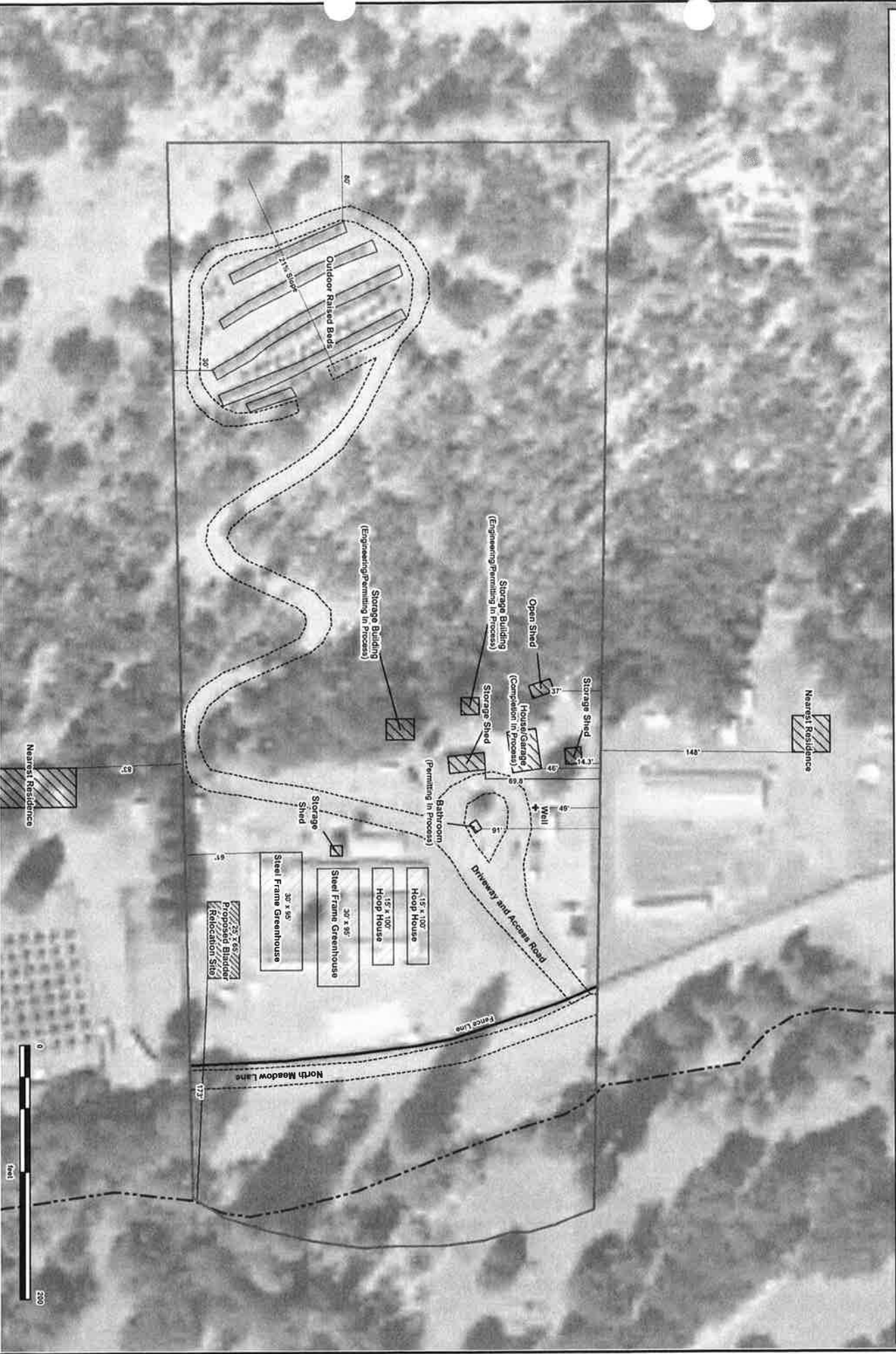
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Site Map [Trinity County APN 017-440-26-00]



Scale 1" = 100'



Dodson

Trinity County Planning Department,  
61 Airport Road,  
P.O. Box 2819  
Weaverville, CA 96093

Regarding the public hearing on May 10, 2018 at 7pm addressing variances for cannabis cultivation:

I was sent a notice for the public hearing as one of the property owners adjacent to one of the proposed variances.

I have no objection to the county granting the variance described in the notice, specifically regarding the property APN: 017-440-26 located at 470 South Meadow Lane, Hayfork -- so long as granting such variance does not force any adjacent owner of vacant land who may want to build a residence in the future to then obtain a variance himself/herself because some neighbor is already cultivating cannabis less than 350' from his/her proposed build site.

It is unlikely that I will be personally affected by these variances either way, because my lot is large enough that I could easily keep any development further than 350' from any lot line, however, as a matter of principle, I do not want to encourage a regulatory framework whereby cannabis cultivation on one lot prompts the county authorities to hinder future development opportunities on adjacent lots.

Save the above general reservation I'd be happy to see my neighbors use and enjoy their properties whichever way they want.

Best regards,

Athanasios Etmektzoglou,  
209 Mazey St, Milpitas, CA 95035

Owner of Trinity County parcel APN: 017-460-28

P.S. Please try to send these notices a little bit further in advance. I received the notice Friday 4/27 with a deadline for comments on 5/2. That is too little time, especially if using paper mail.

Attachments: 1. Copy of notice of hearing in PDF format  
2. Copy of this letter in PDF format

Trinity county officials:

I am writing in regards to the variance application for 470 South Meadow Lane, APN 017-440-26. I would like to provide my approval and support for my neighbor, Matthew Dodson's variance to allow permitting of his cultivation area in the existing greenhouses and the vicinity. I acknowledge that this garden space is within 350ft of my dwelling and give approval for its operation in that location. Our neighborhood has a history of supporting cannabis agriculture and Matthew is a responsible and upstanding neighbor.

X Tong Vang

3-18-18