

<p>TRINITY COUNTY PLANNING COMMISSION STAFF REPORT Initial Commercial Cannabis Variance</p>
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PLANNER: Bella Hedtke

APPLICANT: Pheng Yang

PROPERTY OWNER: Yang Yengmuakone

CONSULTANT: The Flowra Platform

REQUEST: Initial Commercial Cannabis Cultivation Variance from the required 350' cultivation setback from a neighboring residential dwelling. (Trinity County Code 17.43.050.A.8)

LOCATION: 1720 Brady Rd., Hayfork, CA 96041 (APN: 011-410-19-00)

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

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

RECOMMENDATION: Approve with Conditions

ADJACENT LAND USE AND ZONING INFORMATION:

Direction	Land Use	Zoning	General Plan Designation
North	Res., Cannabis	RR10	RR-L
South	Res., Undeveloped	RR10	RR-L
East	Res., Cannabis	RR10	RR-L
West	Res., Cannabis	RR10	RR-L

ATTACHMENTS:

- 1 – Project Location Map
- 2 – Detailed Site Map (Provided by Previous Consultant - LGM)
- 3 – 350' Setback with Comment Status Map
- 4 – Site Visit Photos

PROJECT DESCRIPTION: The applicant has a pending Small Mixed-Light Commercial Cannabis Cultivation license application in Trinity County’s Commercial Cannabis Program. As part of this process the applicant has applied for a variance for Trinity County Code 17.43.050.A.8. to reduce the required 350’ residential setback to allow their cultivation site to be located less than 350’ from two (2) neighboring residences.

APN	DISTANCE FROM CULTIVATON SITE	COMMENT STATUS
011-410-17-00	190’	No Comment
011-410-18-00	330’	No Comment

AGENCY COMMENTS: Project referrals were sent to the following agencies.

REFERRAL AGENCIES	COMMENT STATUS
County Assessor’s Office	No Comment
County Building Department	No Comment
County Environmental Health	No Comment
County Transportation Department	No Response
Code Compliance	Comment

Code Compliance Inspector: “Variance cannot be avoided by relocating cultivation area.”

ENVIRONMENTAL EVALUATION: Categorical Exemption (15301 Existing Facilities)

FINDINGS: The following findings shall apply to the P. Yang Commercial Cannabis Setback Variance (CCV-2019-038):

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 Small Mixed-Light Commercial Cannabis Cultivation operation, up to 10,000 sq. ft of canopy.

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 from the 350 ft setback requirement provision 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 ft setback requirement provision in Trinity County Code 17.43.050.A.8. is to mitigate odor to nearby neighbors. It should be acknowledged that odor being injurious to adjacent properties is subjective. No comments were received for this project, although, the commercial Cannabis variance process is annual and will allow any future neighbors the opportunity to express their concerns about odor.

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.

The general purpose of the Zoning Code is to promote and protect the public health by providing a definite plan of development, protecting the character and the social and economic stability of land uses, and assuring orderly and beneficial development. 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. The one exception is the request for a reduction in the residential setback requirement in Section 17.43.050.A.8 of the Trinity County Code. Section 17.43.050.A.8 allows for specific variances from this standard, consistent with the requirements for variances in State law and the County Zoning Code. The subject parcel contains special circumstances which justifies the granting of a variance from the residential setback requirement and would be appropriate for any property owner facing similar circumstances. Given the topography, irregular shape, and size of the project parcel (APN: 011-410-19-00) the applicant would not otherwise be able to utilize the full 10,000 sq. ft. canopy size of a Small Mixed-Light Commercial Cannabis Cultivation license as other program applicants in the nearby region. 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 Application CCV-2019-033 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8. from 350 feet to 190' from the residence located on APN 011-410-17-00 and 330' from the residence located on APN 011-410-18-00, subject to the findings of fact and conditions as stated in this staff report.

CONDITIONS OF APPROVAL

P. YANG COMMERCIAL CANNABIS SETBACK VARIANCE (CCV-2019-038)

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. The renewal 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.

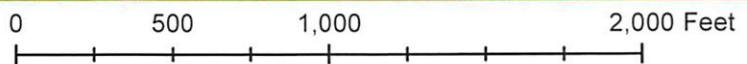
3. Structures on the property shall be in compliance with the California Building Code and Trinity County Code.
4. The applicant has the sole responsibility for renewing this variance before the expiration date listed above. The County will not provide a notice prior to the expiration date.

ATTACHMENT 1

CCV-19-38
APN 011-410-19-00
Project Location

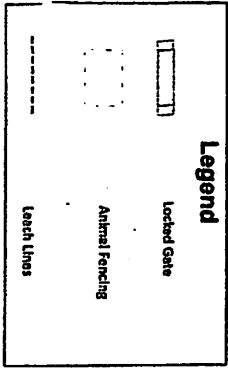


ArcMap GIS - 2018 NAIP AERIALS

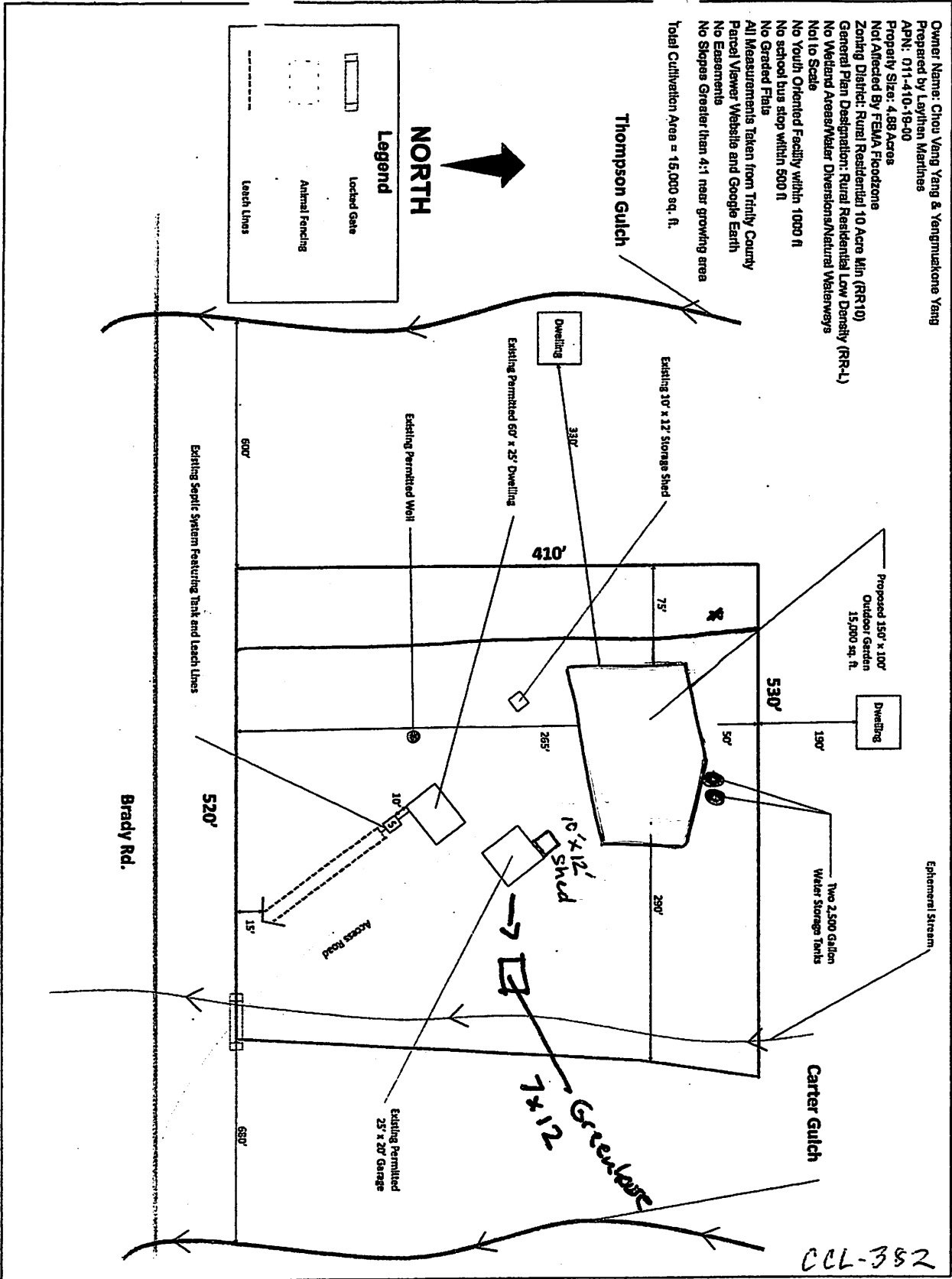


ATTACHMENT 2

Owner Name: Chou Yang Yang & Yengmuakone Yang
 Prepared by: Leythien Martin
 APN: 011-410-18-00
 Property Size: 4.88 Acres
 Not Affected By FEMA Floodzone
 Zoning District: Rural Residential 10 Acre Min (RR10)
 General Plan Designation: Rural Residential Low Density (RR-L)
 No Wetland Areas/Water Diversion/Natural Waterways
 Not to Scale
 No Youth Oriented Facility within 1000 ft
 No school bus stop within 500 ft
 No Graded Flats
 All Measurements Taken from Trinity County Parcel Viewer Website and Google Earth
 No Easements
 No Slopes Greater than 4:1 near growing area
 Total Cultivation Area = 15,000 sq. ft.



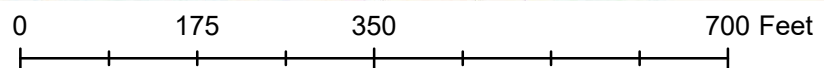
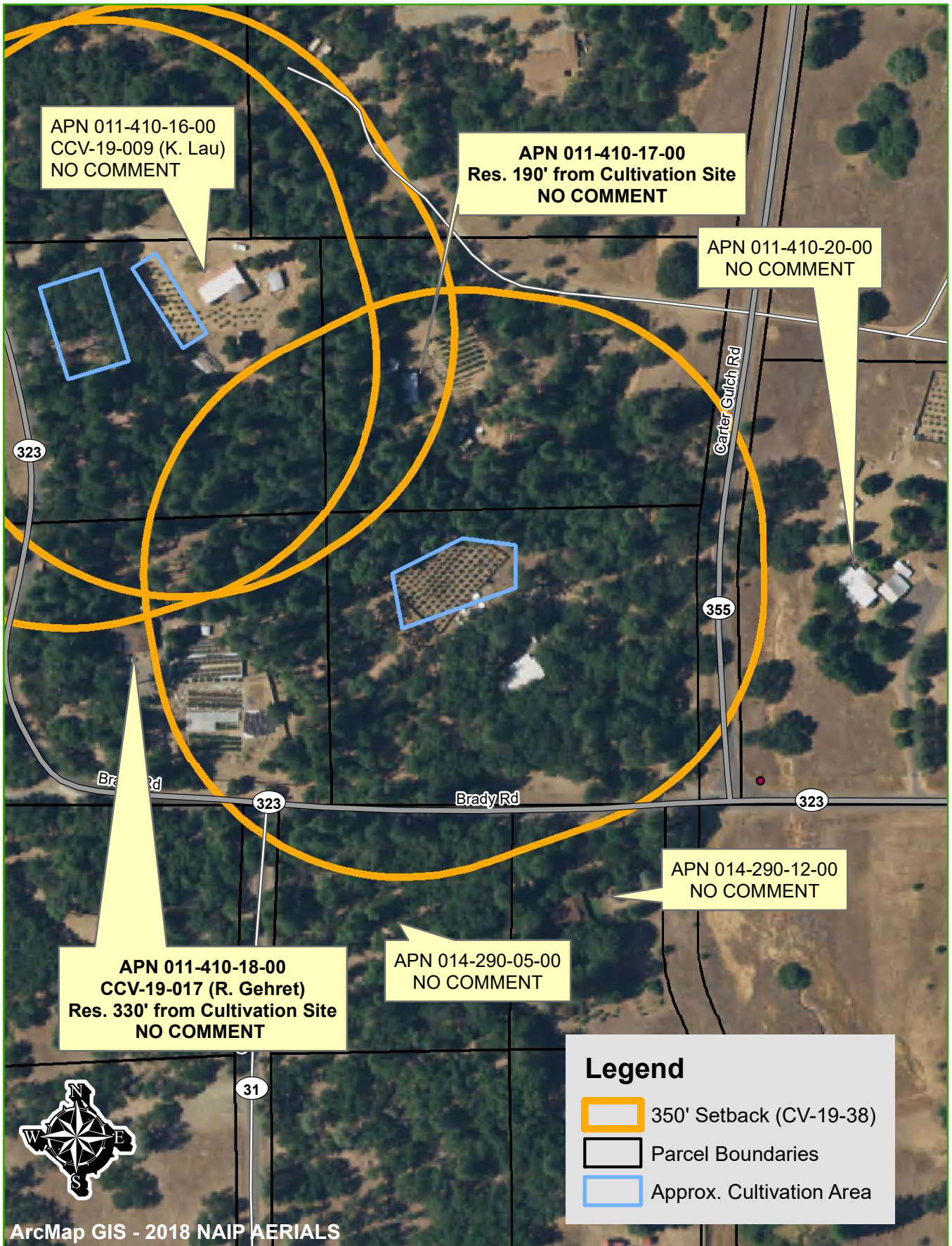
NORTH →



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CCL-352

<p> LGM INVESTING, LLC. (707) 298-8185 7261 Highway 3 Hayfork, CA 96041 + Pheng edits </p>	Pheng Yang Commercial Cannabis Application 1720 Brady Rd. Hayfork, CA 96041	DRAWN: RJJ	PROJECT #: 725
	Site Map	DATE: 7/17/17	FIGURE: Figure 1



ATTACHMENT 4 - SITE PHOTOS



View of neighboring residence from subject property.



Current site conditions viewed from the direction of the neighboring property.