

**TRINITY COUNTY PLANNING COMMISSION
STAFF REPORT**

APPLICANT: Jennifer Hill

REPORT BY: Scott Watkins

OWNER: Tamara Spivey

APN: 017-450-21 (7.42 acres)

Opt-Out: None

PROJECT DESCRIPTION:

Variance from required 350 foot cannabis cultivation setback from two (2) neighboring residences.

LOCATION: 1011 Nelson Road, Hayfork, CA (Figure 1)

PROJECT INFORMATION:

- A) Planning Area: Hayfork
- B) Existing General Plan Designation: Agriculture
- C) Existing Zoning: Agriculture 20 acre minimum (A20)
- D) Existing Land Use: Commercial cannabis cultivation
- E) Adjacent Land Use Information:

	<u>Land Use</u>	<u>Zoning</u>	<u>General Plan Des.</u>
North:	Residential	Agriculture	Agriculture 20 acre
South:	Vacant	Unclassified	Resource
East:	Residential	Agriculture	Agriculture 20 acre
West:	Residential	Agriculture	Agriculture 20 acre

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 in the process of obtaining a Commercial Cannabis License under the county licensing program. The parcel is located on Nelson Road, a privately-maintained road, which intersects CA-3 by way of Summit Creek Road. The site plan prepared by staff (Figure 2) provides aerial views of the project. Figure 3 illustrates on-site development and its relationship to the nearby impacted residence.

The subject property, 1011 Nelson Road, Hayfork, is 7.42 acres and confined by a Class III watercourse that runs from the south-east of the property to the north-west into Carr Creek. The presence of this watercourse, along with the steep sided ravine that has naturally formed around the watercourse, create topographical constraints which prevent relocation of the designated cultivation area outside of the 350 ft. residential setbacks.

Relocating the designated cultivation area towards the north side of the property, closer to Nelson Road is also not feasible due to steep slopes between the flat area where the designated cultivation area is currently located and an area that is outside of the 350 ft. residential setbacks.

Furthermore, the subject property's designated cultivation area is well screened from the impacted adjacent property and public right-of-way with mature trees, as seen in the site pictures in Figure 4.

Jeff Dickey, Code Compliance Specialist, has reviewed this project and provided the following comments: "Having visited the site it was observed that there is very limited area to cultivate and relocating to meet setback requirements is not consistent with this site."

The adjacent impacted property owner of APN 017-450-20 has provided a letter of support in granting the variance.

The adjacent impacted property owner of APN 017-390-23 has provided a letter of support in granting the variance.

The adjacent property owner of APN 017-450-22 has provided a letter of support in granting the variance.

As of this writing, no other comments have been received.

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:

Approve of the variance to allow reduction of the Cannabis cultivation setbacks;

- from 350 feet to 170 feet from the residence on APN 017-450-20,
- from 350 feet to 300 feet from the residence on APN 017-390-23,

subject to the following conditions of approval and based on the following findings of fact:

Findings of Fact for the Variance

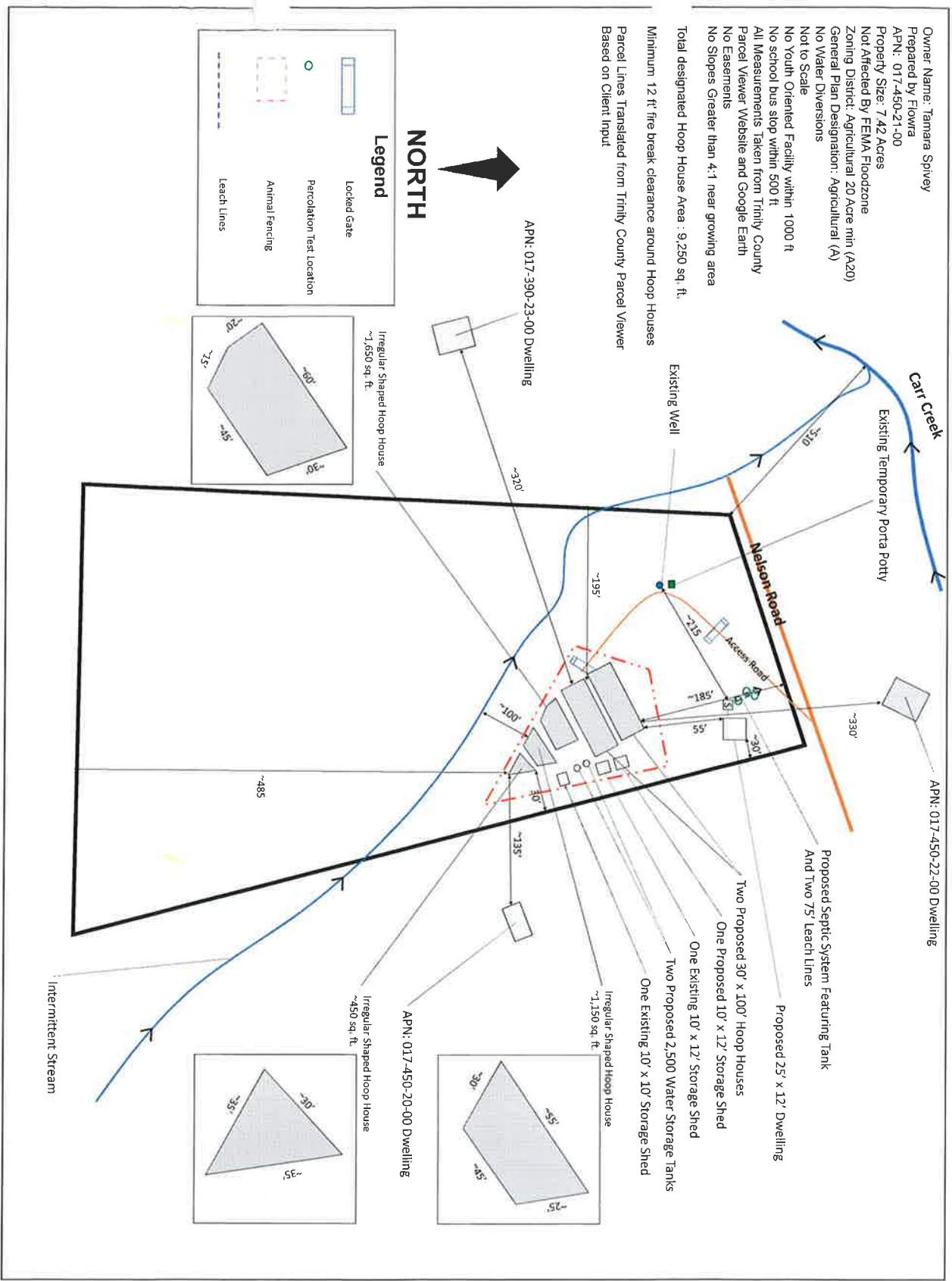
1. There are special circumstances applicable to the property that, with strict application of the zoning ordinance, deprives it of privileges available to other properties with similar zoning in the vicinity that plan to establish Type II, Cannabis cultivation, up to 10,000 square feet of canopy.
2. 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
JENNIFER HILL CANNABIS SETBACK VARIANCE (CCV-18-018)**

1. The variance is approved for a period of one year from **April 1, 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.

Owner Name: Tamara Spivey
 Prepared by: Flowra
 APN: 017-450-21-00
 Property Size: 7.42 Acres
 Not Affected By FEMA Floodzone
 Zoning District: Agricultural 20 Acre min (A20)
 General Plan Designation: Agricultural (A)
 No Water Diversions
 Not to Scale
 No Youth Oriented Facility within 1000 ft
 No school bus stop within 500 ft
 All Measurements Taken from Trinity County Parcel Viewer Website and Google Earth
 No Easements
 No Slopes Greater than 4:1 near growing area

Total designated Hoop House Area : 9,250 sq. ft.
 Minimum 12 ft fire break clearance around Hoop Houses
 Parcel Lines Translated from Trinity County Parcel Viewer Based on Client Input



	Jennifer Hill Commercial Cannabis Application 1011 Nelson Road Hayfork, CA 96041	DRAWN: MJ	PROJECT #: 662
	Site Map	DATE: 4/22/18	FIGURE: Figure 1

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Jennifer Hill
variance

APR 17 017-450-20

February 28, 2018

To Whom It May Concern

I, Xiao Vang live at 961 Nelson Rd. Hayfork, CA 96041. I understand that my neighbor, Jennifer Hill is pursuing a commercial cannabis cultivation operation at 1011 Nelson Rd. Hayfork, CA 96041 and I consent to this pursuit.

Thank you,

Xiao Vang Printed Name

Xiao Vang Signature

RECEIVED
APR 16 2018
TRINITY COUNTY
BUILDING DEPARTMENT

February 28, 2018

To Whom It May Concern

Apn#: 017-390-23

I, Ia Vu live at 1120 Nelson Rd. Hayfork, CA 96041. I understand that my neighbor, Jennifer Hill is pursuing a commercial cannabis cultivation operation at 1011 Nelson Rd. Hayfork, CA 96041 and I consent to this pursuit.

Thank you,

Ia Vu Printed Name

Ia Vu Signature

RECEIVED
APR 16 2018
TRINITY COUNTY
BUILDING DEPARTMENT

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February 28, 2018

Appl# 017-450-22

To Whom It May Concern

I, SANDRA BECHTOLD live at 990 Nelson Rd. Hayfork, CA 96041. I understand that my neighbor, Jennifer Hill is pursuing a commercial cannabis cultivation operation at 1011 Nelson Rd. Hayfork, CA 96041 and I consent to this pursuit.

Thank you,

SANDRA BECHTOLD Printed Name

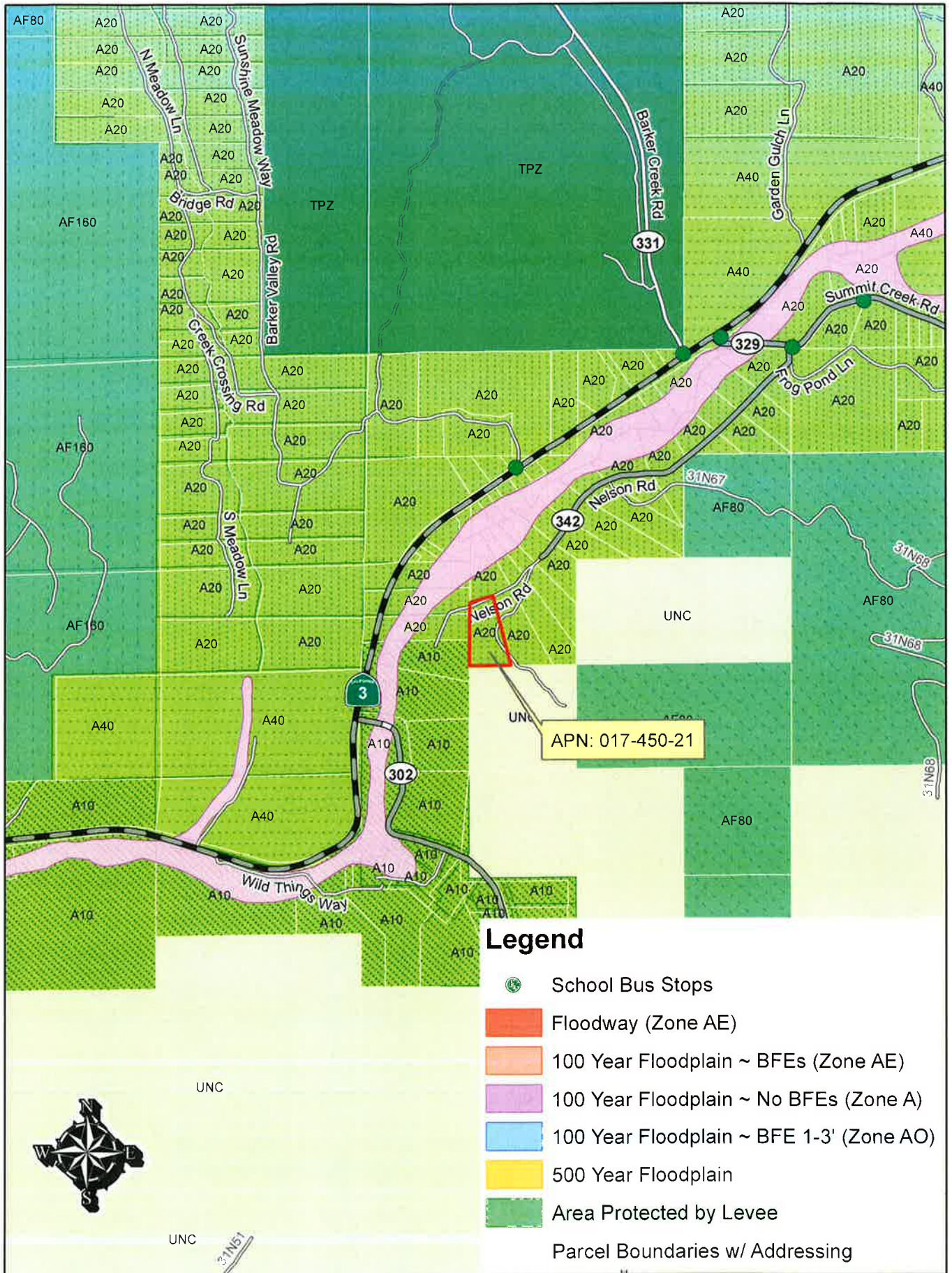
Sandra Bechtold Signature

RECEIVED
APR 16 2018
TRINITY COUNTY
BUILDING DEPARTMENT

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CCV-18-018 Jennifer Hill

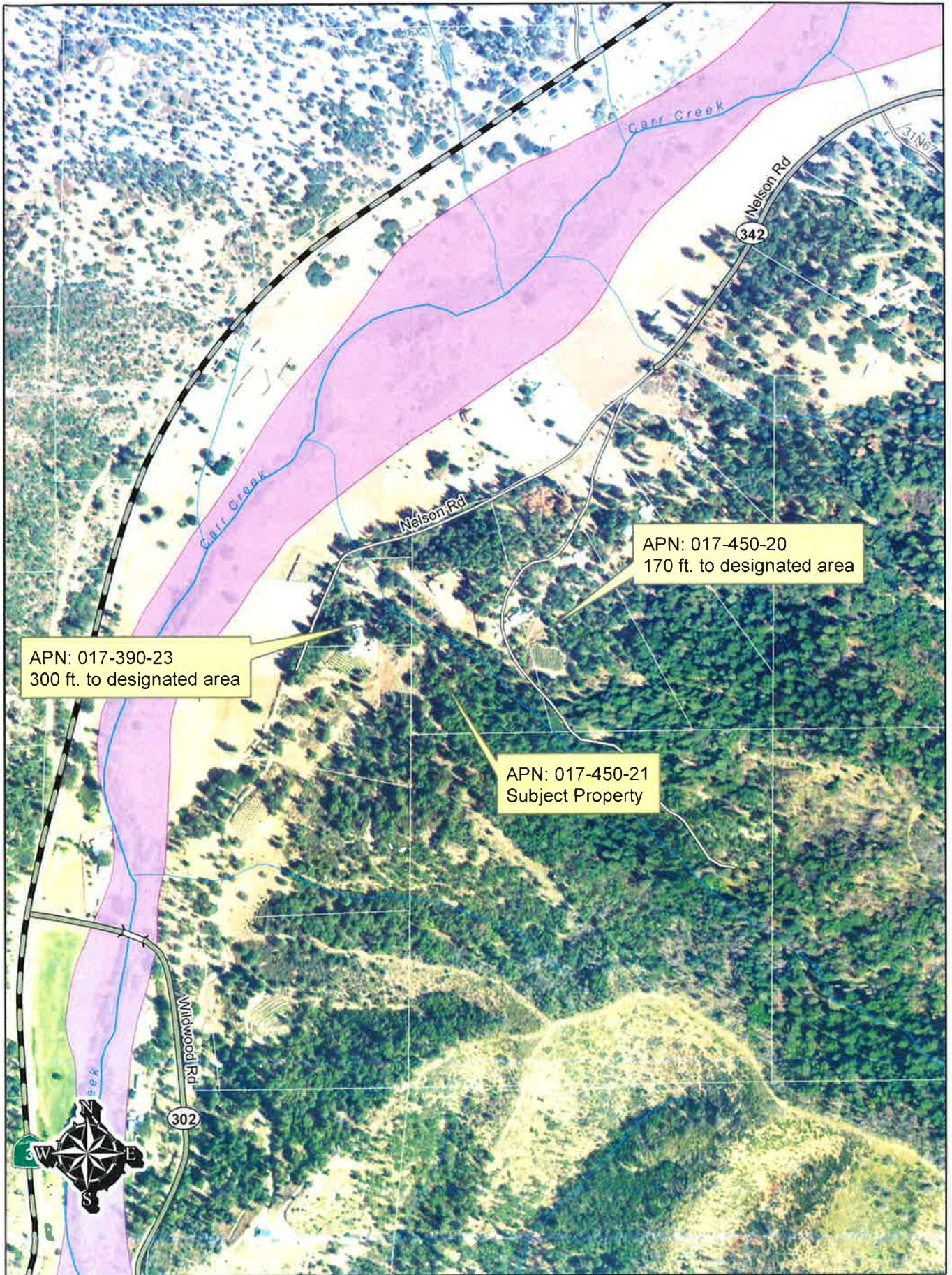
Figure 1 - Project Location and Zoning



- Legend**
-  School Bus Stops
 -  Floodway (Zone AE)
 -  100 Year Floodplain ~ BFEs (Zone AE)
 -  100 Year Floodplain ~ No BFEs (Zone A)
 -  100 Year Floodplain ~ BFE 1-3' (Zone AO)
 -  500 Year Floodplain
 -  Area Protected by Levee
 -  Parcel Boundaries w/ Addressing

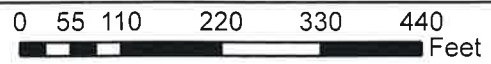
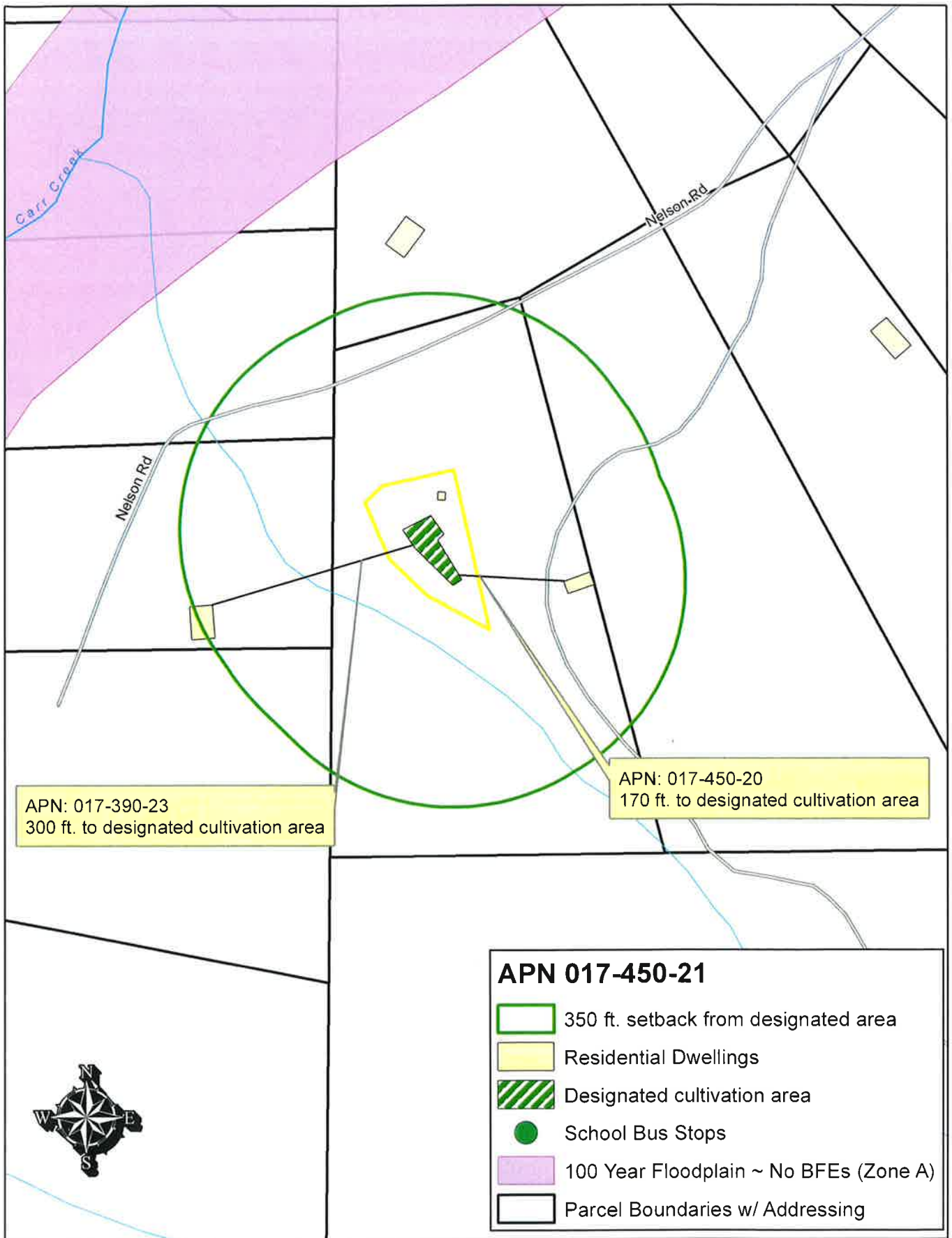
Feet
0 412.5 825 1,650 2,475 3,300

CCV-18-018 Jennifer Hill
Figure 2 - Site Map and Affected Neighbors



0 120240 480 720 960 Feet

CCV-18-018 Jennifer Hill
Figure 3 - Buffer Map and Affected Dwelling

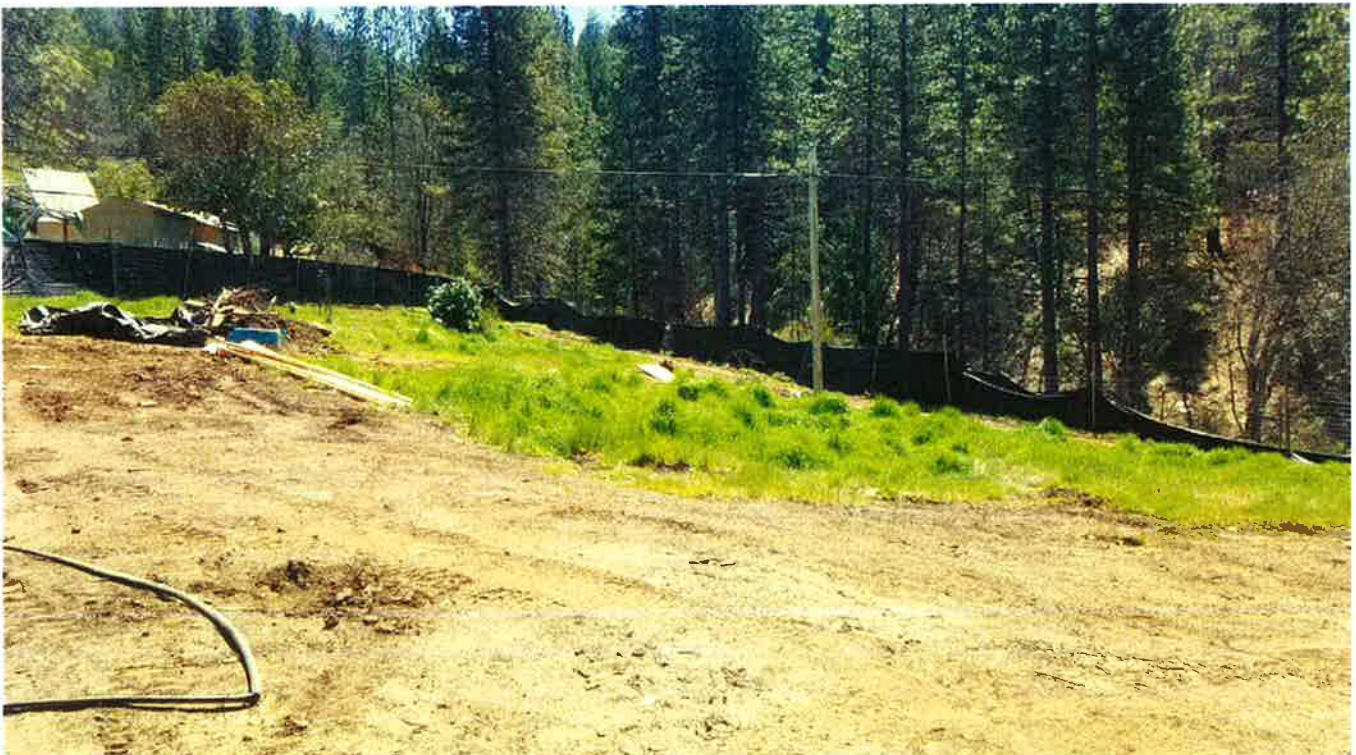




CCV-18-018 Jennifer Hill
Figure 4 – Site Pictures



Picture 1: facing south towards access road to designated cultivation area



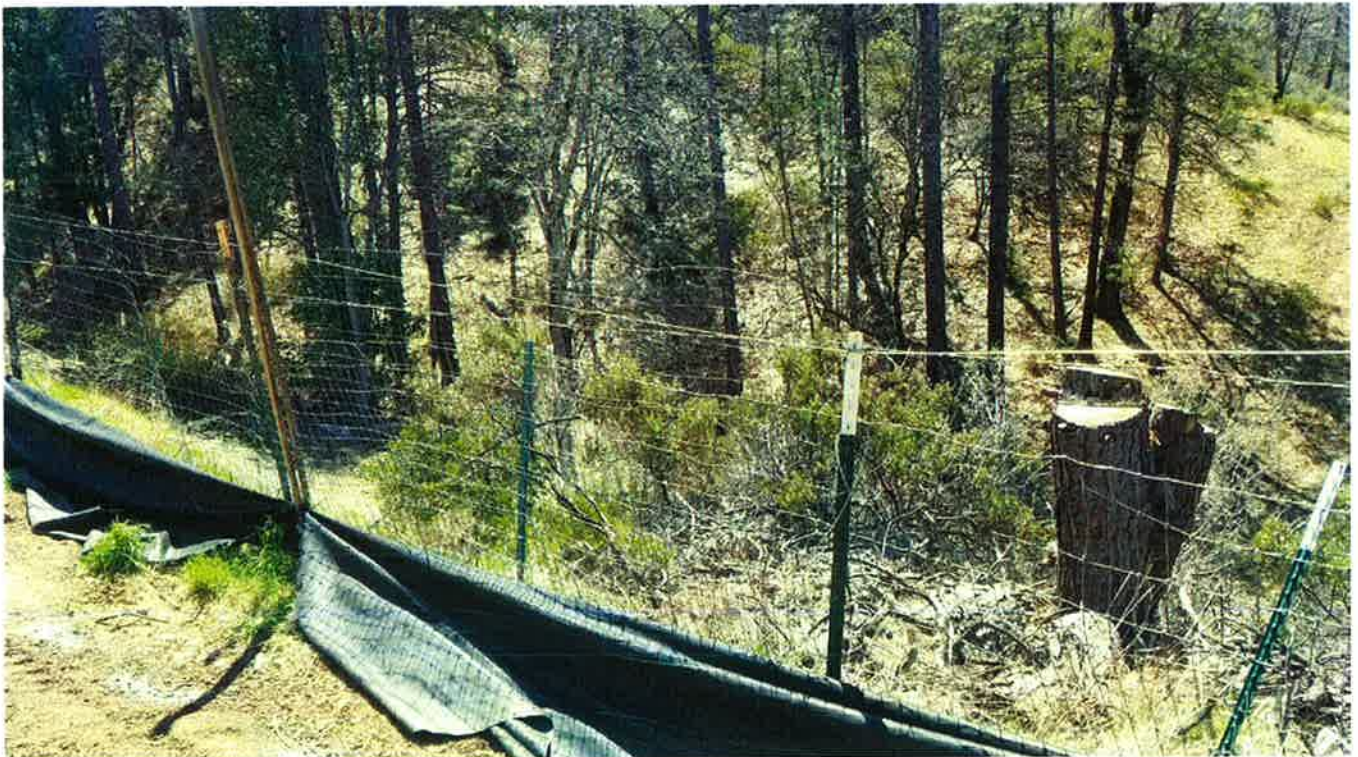
Picture 2: facing south towards designated cultivation area



CCV-18-018 Jennifer Hill Figure 4 – Site Pictures



Picture 3: facing east towards designated cultivation area



Picture 4: facing west towards Class III watercourse that runs from the south-east of the property to the north-west into Carr Creek