

<p>TRINITY COUNTY PLANNING COMMISSION STAFF REPORT</p>

APPLICANT: Chong Lor

REPORT BY: Scott Watkins MBA MPP

OWNER:

APN: 016-200-09

(6.70 acres)

Opt-Out: None

PROJECT DESCRIPTION:

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

LOCATION: 71 N Salt Creek Road, Hayfork CA (Figure 1)

PROJECT INFORMATION:

- A) Planning Area: Hayfork
- B) Existing General Plan Designation: Agricultural (A)
- C) Existing Zoning: Agriculture 10-acre min (A10)
- D) Existing Land Use: Residential and Commercial Cannabis cultivation
- E) Adjacent Land Use Information:

	<u>Land Use</u>	<u>Zoning</u>	<u>General Plan Des.</u>
North:	Residential	Agricultural 10 (A10)	Agriculture (A)
South:	Vacant	Agricultural 10 (A10)	Agriculture (A)
East:	Residential	Agricultural 10 (A10)	Agriculture (A)
West:	Vacant	Agricultural Forest 40 (AF40)	Resource (RE)

PROJECT EVALUATION:

Staff review

The applicant is in the process of applying for a commercial Cannabis cultivation license under the county licensing program. The parcel is located on N Salt Creek Road, a public 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. Figure 4 shows the field conditions of the cultivation site taken during staff's site visit.

The subject property, 71 N Salt Creek Road., is 6.7 acres and confined by wooded slopes to the west of the proposed cultivation area and Salt Creek to the east. As such, the applicant has proposed siting the cultivation area in the middle of the property towards the western property line.

Staff has received a less than 3-acre conversion exemption application to remove a reported 1.7 acres of existing timber on the west side of the property to increase the sun exposure for the existing cultivation area.

Based on a satellite review, the site appears to be confined by both the neighbor's residential homes to the north and south. Any alternative cultivation area to the current site would require a variance from the 350 ft. residential setback.

Code Compliance review

Code Compliance Staff reviewed this project and provided the following comments: "If cultivation area remains in the existing cleared area there is no way to avoid the need for a variance, regardless if the cultivation area is reconfigured or downsized. Adjoining property owners should be notified of the proposed 1.7-acre timber conversion area."

Neighbor Feedback:

- Neighbor feedback within 350 ft. **in favor** of granting this variance: 0
- Neighbor feedback within 350 ft. **concerned** with granting this variance: 0

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

STAFF RECOMMENDATION:

Staff recommends the following:

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

- from 350 feet to 240 feet from the residence on APN 016-200-08,
- from 350 feet to 270 feet from the residence on APN 016-200-10,

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 the circumstances would be the same for any other property owner facing similar circumstances.
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.

VARIANCE OVERVIEW:

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,

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.

ENVIRONMENTAL EVALUATION:

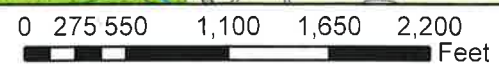
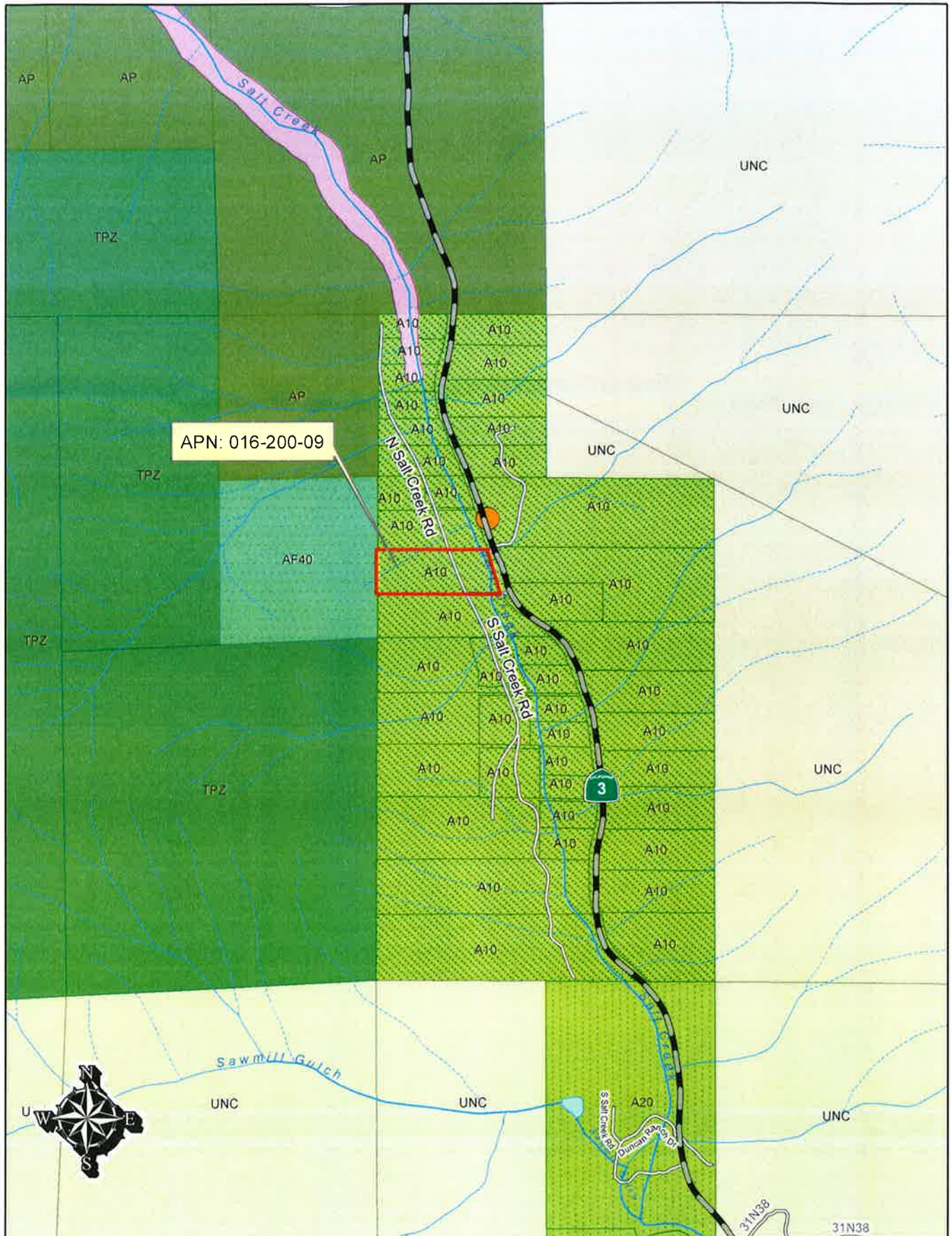
This variance request is exempt from CEQA review under Section 15305(a) [minor alteration of land use limitations].

**CONDITIONS OF APPROVAL
CHONG LOR CANNABIS SETBACK VARIANCE (CCV-18-042)**

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.

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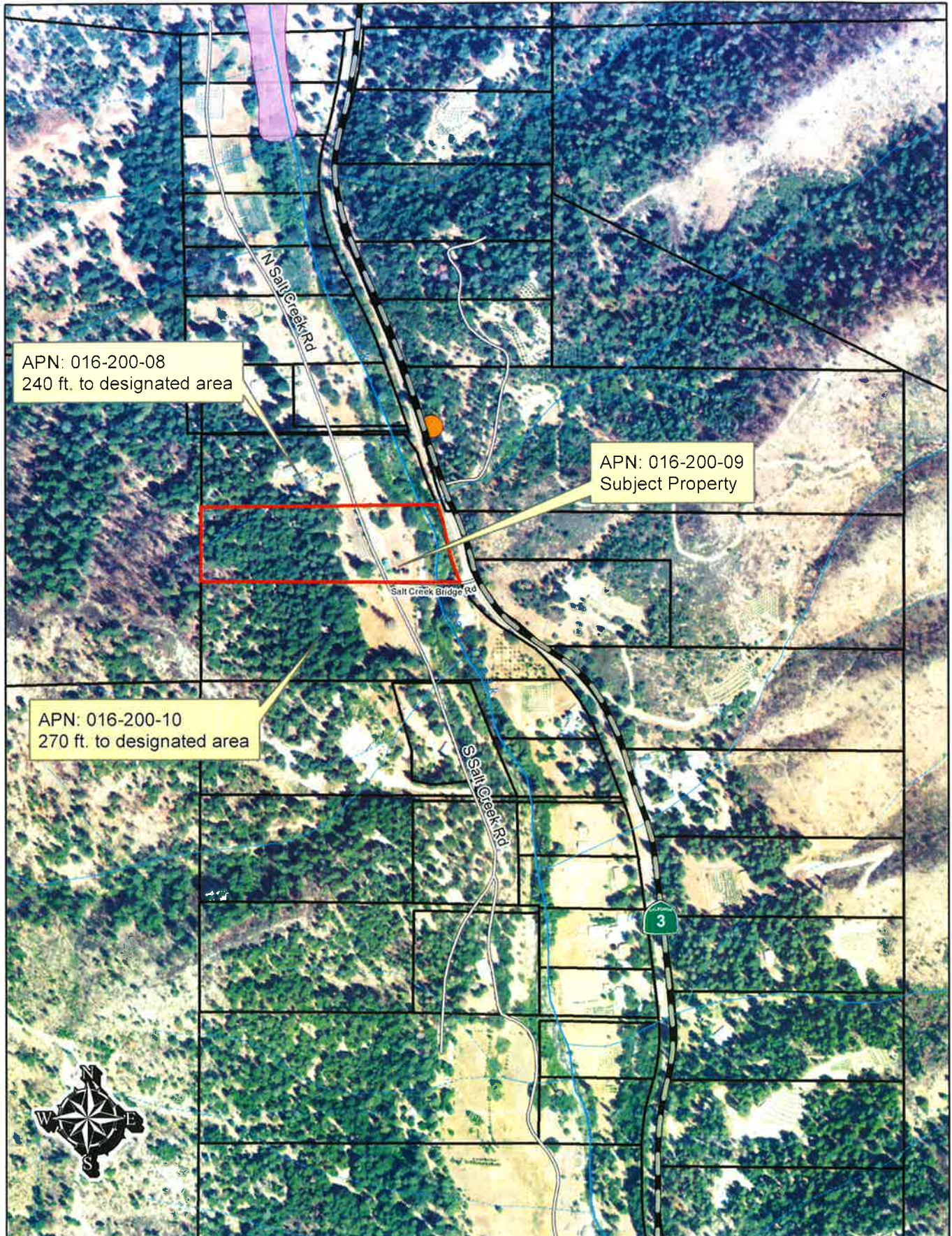
Figure 1 - Project Location and Zoning



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Figure 2 - Site Map and Impacted Neighbors



APN: 016-200-08
240 ft. to designated area

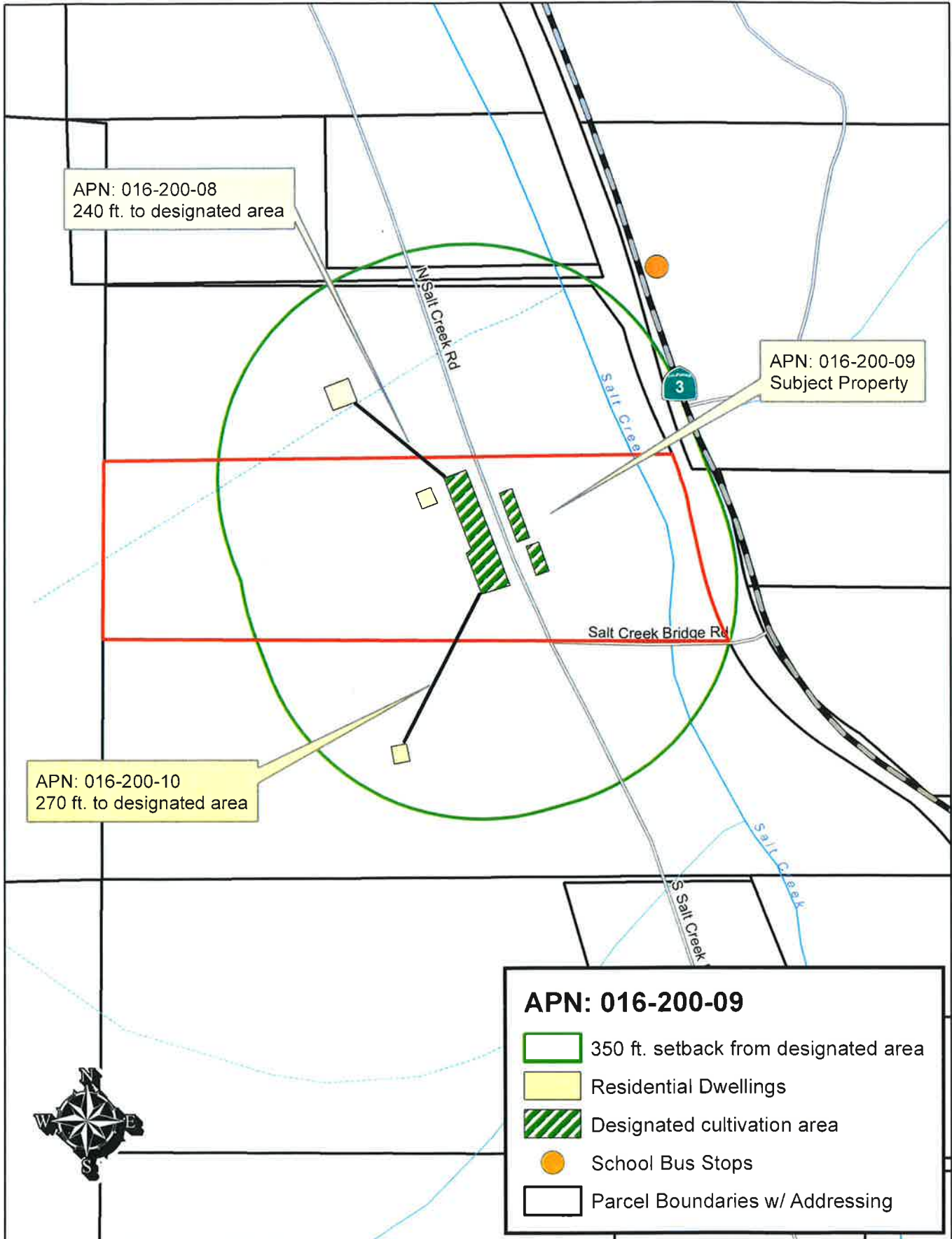
APN: 016-200-09
Subject Property

APN: 016-200-10
270 ft. to designated area

0 130 260 520 780 1,040 Feet

CCV-18-042 Chong Lor

Figure 3 - Buffer Map and Impacted Neighbors



0 55 110 220 330 440 Feet



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Figure 4 – Site Pictures



Picture 1: facing west toward the front of the subject property



Picture 2: facing south west toward the impacted neighbor APN: 016-200-10, a vacant and legally permitted residential dwelling



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Figure 4 – Site Pictures



Picture 3: facing south west toward the impacted neighbor APN: 016-200-10, a vacant and legally permitted residential dwelling



Picture 2: facing north west toward the impacted neighbor APN: 016-200-08, a legally permitted residential dwelling



CCV-18-042 Chong Lor
Figure 4 – Site Pictures



Picture 5: facing west toward a storage shed and the proposed 1.7 acre tree removal



Picture 2: facing east toward Salt Creek and Highway 3

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**MOUNTAIN VALLEY UNIFIED SCHOOL DISTRICT
BOARD OF TRUSTEES**

RESOLUTION # 2017/18 -38

**RESOLUTION FOR BUS STOP VARIANCES
PURSUANT TO Trinity County Cannabis Cultivation Ordinance 315-830**

WHEREAS, The Trinity County Cannabis Cultivation Ordinance 315-830 excludes approval of the cultivation of Cannabis in any amount or quantity within five hundred (500) feet of an authorized school bus stop; and

WHEREAS, The Planning Commission and Board of Supervisors believes that the amount and nature of interest in setbacks from bus stops for activities associated with commercial Cannabis has generated conflicting perspectives; and

WHEREAS, that variances are allowed upon review of the Planning Commission; and

WHEREAS, the Mountain Valley Unified School District Board of Trustees wants to encourage the Planning Commission and Trinity County Board of Supervisors to approve commercial Cannabis licenses;

NOW, THEREFORE, BE IT RESOLVED that the Mountain Valley Unified School District Board of Trustees hereby finds, determines and orders as follows:

1. This Board finds the above recitals to be true.
2. This Board finds that support for variances for commercial Cannabis Cultivation within five hundred (500) feet of an authorized school bus stop is required by the Planning Commission to approve certain Cannabis license types (Cannabis Cultivation Ordinance 315-830).
3. This Board wants to be explicit in excluding Cannabis Distribution (315-828) and Cannabis Manufacturing (315-823) from this Resolution as these will be considered on a case by case basis.
4. This Board requests the District Superintendent or his or her designee to give the Planning Commission approval of variances within five hundred (500) feet of an authorized school bus stop in the Mountain Valley Unified School District.

PASSED AND ADOPTED by the Mountain Valley Unified School District Board of Trustees on this 13th day of June, 2018, by the following unanimous vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

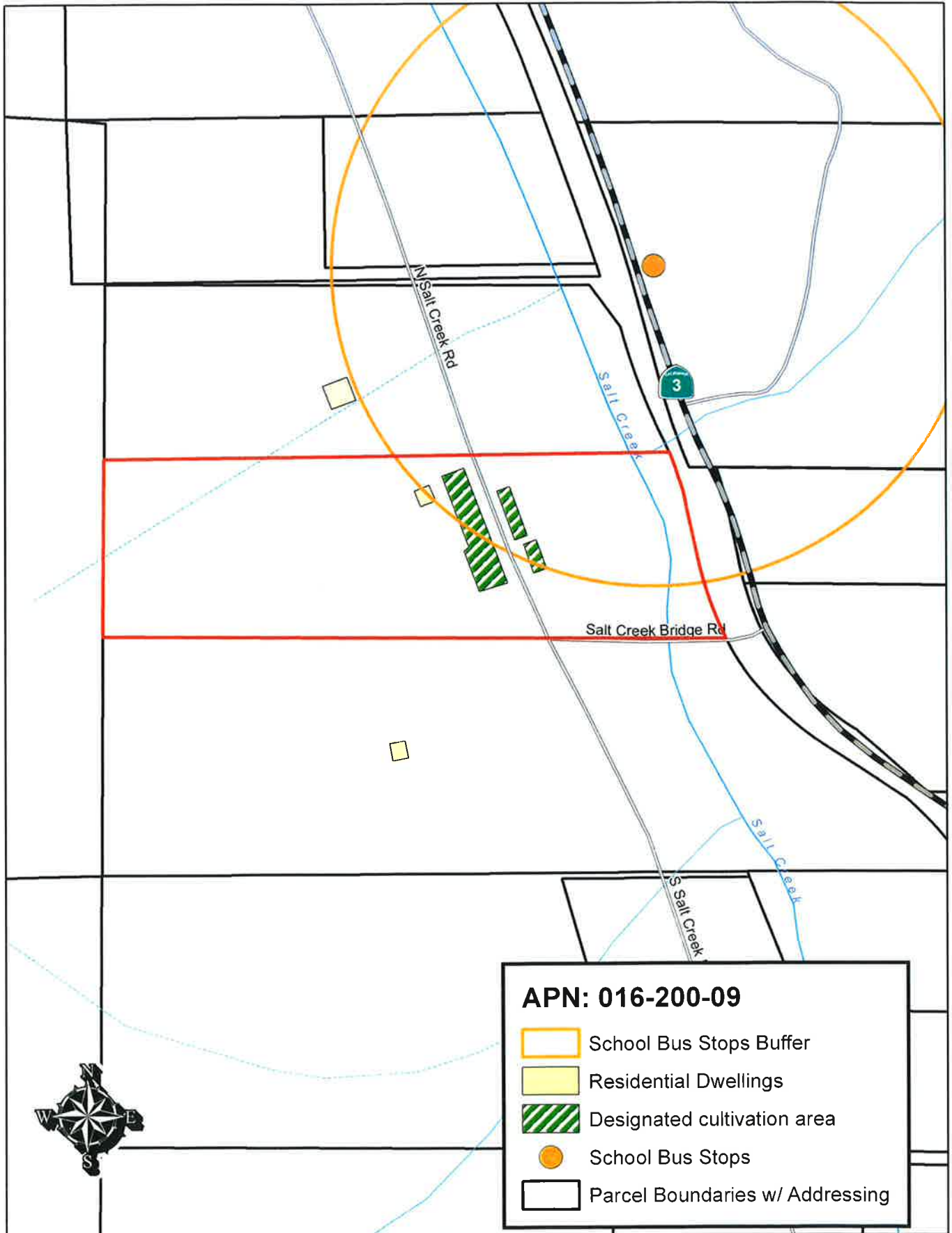
By: _____
Angela Riggs,
President of the Board of Trustees

ATTESTED TO:

By: _____
Cindy Winter,
Clerk of the Board of Trustees

CCV-18-042 Chong Lor

Figure 5 - School Bus Stop Buffer



APN: 016-200-09

- School Bus Stops Buffer
- Residential Dwellings
- Designated cultivation area
- School Bus Stops
- Parcel Boundaries w/ Addressing

0 55 110 220 330 440 Feet

Lor APN 016-200-09-00 Conversion Area

