

<b>TRINITY COUNTY PLANNING COMMISSION STAFF REPORT</b> <b>Initial Commercial Cannabis Variance</b>
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**DATE PUBLISHED:** June 5<sup>th</sup>, 2020

**PLANNER:** Bella Hedtke, Associate Planner

**APPLICANT AND PROPERTY OWNER:** Colby Ford

**CONSULTANT/AGENT:** The Flowra Platform

**REQUEST:** A request for a variance from the required 350' Cannabis cultivation setback from three (3) neighboring residential dwellings (TCC 17.43.050.A.8).

**LOCATION:** 240 Oliva Dr., Hayfork (APN: 014-290-01-00)

**APPROX. ACREAGE:** 2.93

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

**ZONING DISTRICT:** Rural Residential 10-acre min (RR10) | **OVERLAY ZONE:** Critical Water Resource (CWR)

**STAFF RECOMMENDATION:** Approve with Conditions

**ADJACENT LAND USE AND ZONING INFORMATION:**

Direction	Land Use	Zoning	General Plan Designation
North	Residential	RR10	RR-L
South	Residential	RR10	RR-L
East	Vacant	RR10	RR-L
West	Residential	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 – Letter from Neighbor on APN 014-290-02-00
- 6 – Letter from Neighbor on APN 014-290-07-00
- 7 – Letter from Neighbor on APN 014-300-22-00

**PROJECT BACKGROUND:** The applicant has a processing Small Mixed-Light Commercial Cannabis Cultivation License (CCL 624) in the Trinity County's Commercial Cannabis Program.

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
014-290-02-00	230'	Supportive Comment
014-290-07-00	310'	Supportive Comment
014-300-22-00	190'	Supportive Comment

**PUBLIC COMMENTS:** As of the date of this staff report, staff has received three public comments: 1) from the neighbor located on APN 014-290-02-00, 2) from the neighbor located on 014-290-07-00 and 3) from the neighbor located on 014-300-22-00 (Attachments 5, 6 and 7).

**AGENCY COMMENTS:** No agencies provided comments on this project.

**FINDINGS:** The following findings shall apply to the C. Ford. Commercial Cannabis Setback variance (CCV-20-09) for APN 014-290-01-00:

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. As previously stated, public comments in support of this variance request were received by the owners of the three parcels that have residences located less than 350' from the cultivation site. Therefore, it can be assumed that these neighbors would not consider approval of this variance request to be injurious to them.

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-20-09 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8. from 350 feet to 230 feet from the residence located on APN 014-290-02-00, from 350 feet to 310 feet from the residence located on APN 014-290-07-00 and from 350 feet to 190 feet from the residence located on APN 014-300-22-00, 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 C. Ford. Commercial Cannabis Setback variance (CCV-20-09) for APN 014-290-01-00:

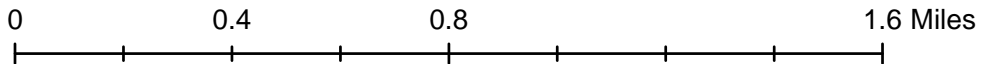
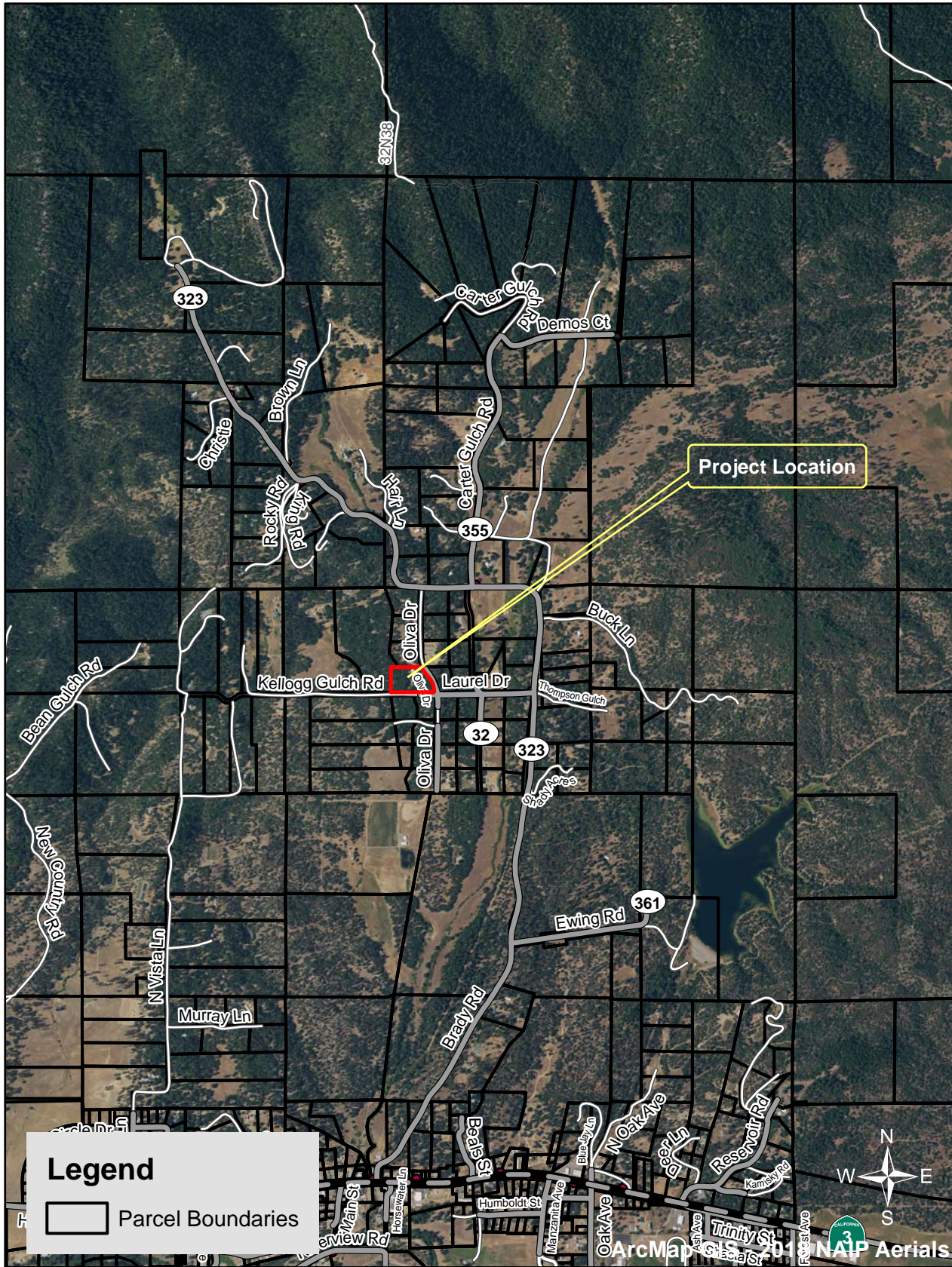
1. The variance is approved for a period of one year and shall expire on the same date as the Commercial Cannabis License that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director's Use Permit application process.
  - a. Application 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**

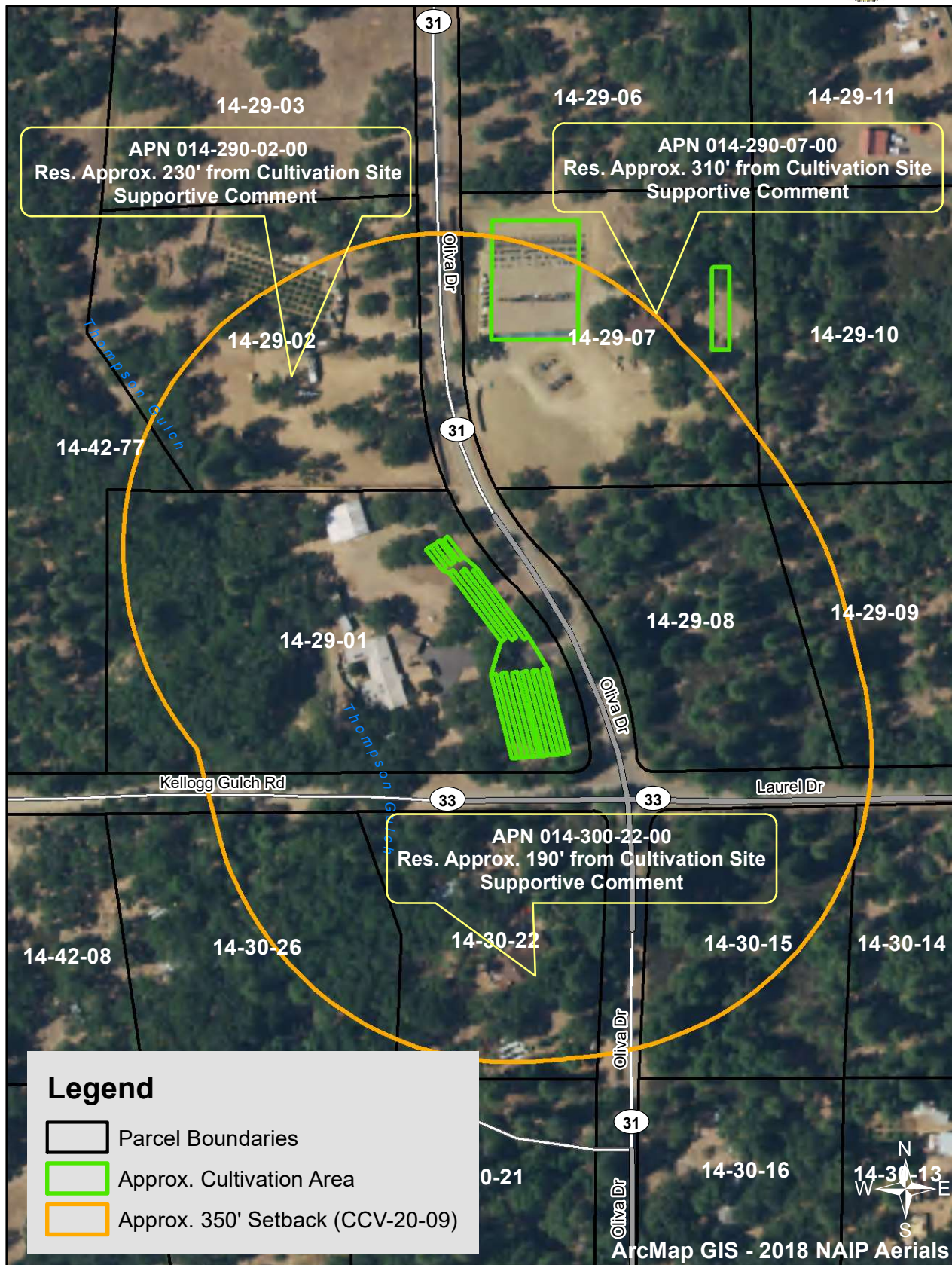
# ATTACHMENT 1

APN 014-290-01-00  
CCV-20-09 C. Ford  
Project Location Map





**ATTACHMENT 3**  
**APN 014-290-01-00**  
**CCV-20-09 | C. Ford**  
**350' Setback with Comment Status Map**



0 175 350 700 Feet

**ATTACHMENT 4  
Site Visit Photos**



**Current Site Conditions**

**View of Residence Located on  
APN 014-290-02-00**



**View of Residence Located on  
APN 014-299-07-00**

**View of Residence Located on  
APN 014-300-22-00**





**ATTACHMENT 5**  
**Letter from Neighbor on APN 014-290-02-00**

To Whom It May Concern,

Colby Ford is applying for a cannabis cultivation variance at 240 Oliva Dr, APN 014-290-01-00, within the established 350 foot setback from a neighbor's permitted dwelling. I am an effected neighbor as my dwelling is within the 350 foot setback of Colby Ford's cultivation site. This letter is in support of approval of Colby Ford's variance for their cannabis cultivation existing within the established setback. Please use this letter as our official support of approval, and please reach out if you have any questions.

Name

Yingkong Thao

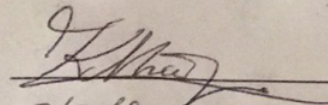
Address

170 Oliva dr. Hayfork CA. 96041

Phone Number

920-629-8984

Signature



Date

5/30/2020

**ATTACHMENT 6**  
**Letter from Neighbor on APN 014-290-07-00**

To Whom It May Concern,

Colby Ford is applying for a cannabis cultivation variance at 240 Oliva Dr, APN 014-290-01-00, within the established 350 foot setback from a neighbor's permitted dwelling. I am an effected neighbor as my dwelling is within the 350 foot setback of Colby Ford's cultivation site. This letter is in support of approval of Colby Ford's variance for their cannabis cultivation existing within the established setback. Please use this letter as our official support of approval, and please reach out if you have any questions.

Name

Mohibullah Nabizada

Address

181 Oliva Dr, Hayfork, CA 96041

Phone Number

(925) 719-6492

Signature

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Mohil Naz

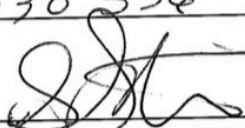
Date

9/25/2019

**ATTACHMENT 7**  
**Letter from Neighbor on APN 014-300-22-00**

To Whom It May Concern,

Colby Ford is applying for a cannabis cultivation variance at 240 Oliva Dr, APN 014-290-01-00, within the established 350 foot setback from a neighbor's permitted dwelling. I am an effected neighbor as my dwelling is within the 350 foot setback of Colby Ford's cultivation site. This letter is in support of approval of Colby Ford's variance for their cannabis cultivation existing within the established setback. Please use this letter as our official support of approval, and please reach out if you have any questions.

Name	<u>Scott Stine</u>
Address	<u>261 Laurel Dr</u>
Phone Number	<u>530 536 6374</u>
Signature	<u></u>
Date	<u>9/19/19</u>

I am OK with this variance as long as light pollution does not affect my property.

