

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

APPLICANT/PROPERTY OWNER: Scott Stine

CONSULTANT/AGENT: CIR, Michelle Gargano

REQUEST: A request for a variance from the required 350ft Cannabis cultivation setback from two (2) neighboring residential structures (TCC 17.43.050.A.8).

LOCATION: 261 Laurel Dr., Hayfork (APN: 014-300-22)

APPROX. ACREAGE: 1.84

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

ZONING DISTRICT: Rural Residential 10-Acre Min (RR10)

ZONING DISTRICT OVERLAY: 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/CWR	RR
South	Undeveloped	RR10/CWR	RR
East	Undeveloped	RR10/CWR	RR
West	Residential	RR10/CWR	RR

ATTACHMENTS:

- 1) Location Map
- 2) Site Plan
- 3) 350ft Setback Map
- 4) Site Visit Photos
- 5) Public Comment
- 6) Applicant's Response to Comment

VARIANCE REQUEST: The applicant is requesting a variance to reduce the required 350ft residential setback to 203ft from the residence on APN 014-290-01 and to 213ft from the residence on APN 014-300-16 (Attachment 3).

COMMERCIAL CANNABIS LICENSE (CCL): CCL647 (Small Mixed Light Cultivation) is a new application that was submitted in January 2020.

BACKGROUND: This variance request was first scheduled for the May 13th, 2021 Planning Commission meeting. Prior to the meeting, this variance was taken off the agenda because with a strict interpretation of the cannabis variance code section (17.43.050.A.8) this site would not require a variance because the residential structures that are located less than 350ft from the proposed cultivation site are not on adjoining parcels. At the May 13th Planning Commission meeting, staff was directed to start the amendment process to remove "adjoining". This future amendment would ultimately require the applicant to have an approved variance prior to license issuance. Therefore, the applicant requested staff to schedule this variance for hearing in anticipation of the code amendment.

PUBLIC COMMENT: As of June 4th, one comment was received from the neighbor located on APN 014-300-13 (Attachment 5). This neighbor's residence is more than 350ft from the proposed cultivation site. Staff helped to facilitate a dialog between the two neighbors. The applicant provided a response to the neighbor's comment (Attachment 6).

STAFF RECOMMENDATION: The Planning Commission has previously approved variances in which a neighbor with a residence more than 350ft from the proposed cultivation site submitted comments expressing concern. Therefore, staff recommends that the Planning Commission approve this variance through the motion written below.

RECOMMENDED MOTION: To approve Commercial Cannabis Variance CCV-20-34 to reduce the cultivation site setback in Trinity County Code Section 17.43.050.A.8. from 350 feet to 203ft from the residence on APN 014-290-01 and to 213ft from the residence on APN 014-300-16, subject to the findings of fact and conditions as stated in this staff report.

FINDINGS: The following findings shall apply to the S. Stine Commercial Cannabis Setback Variance (CCV-20-34) for APN 014-300-22:

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 350ft 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 350ft 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 have a legal residence less than 350ft from the proposed cultivation site on adjoining parcels. As previously mentioned, staff received a comment from a neighbor located more than 350ft from the proposed cultivation site. Given the location of the neighbor's residence, this particular cultivation site should not be directly injurious to the commenting neighbor.

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.

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.

CONDITIONS OF APPROVAL: Upon approval by the Planning Commission, the following Conditions of Approval shall apply to the S. Stine Commercial Cannabis Setback Variance (CCV-20-34) for APN 014-300-22:

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

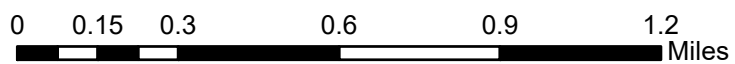
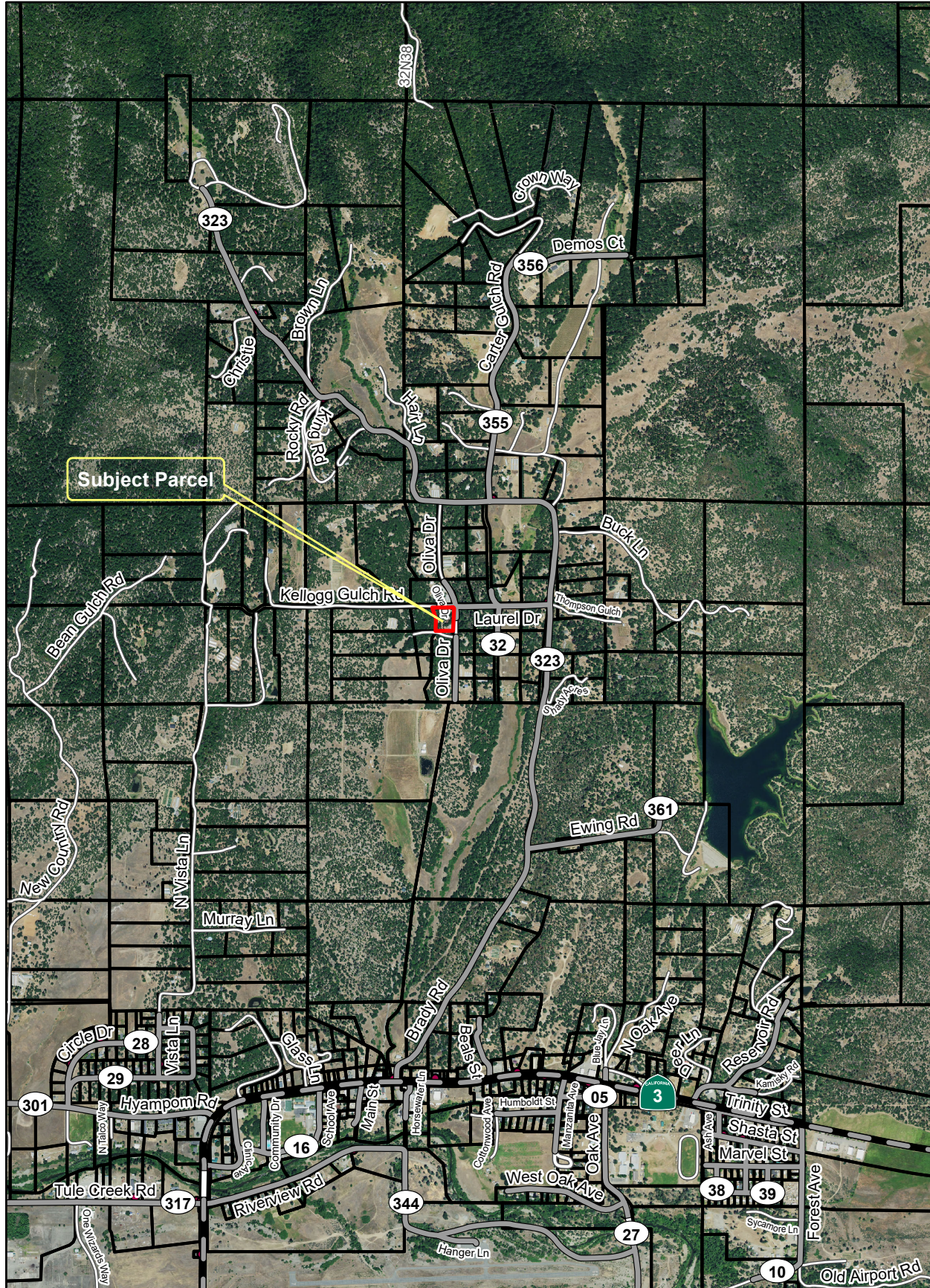
ten (10) days prior to the Planning Director's decision to approve or deny the annual renewal.

- 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 014-300-22
CCV-20-34 | S. Stine
Location Map



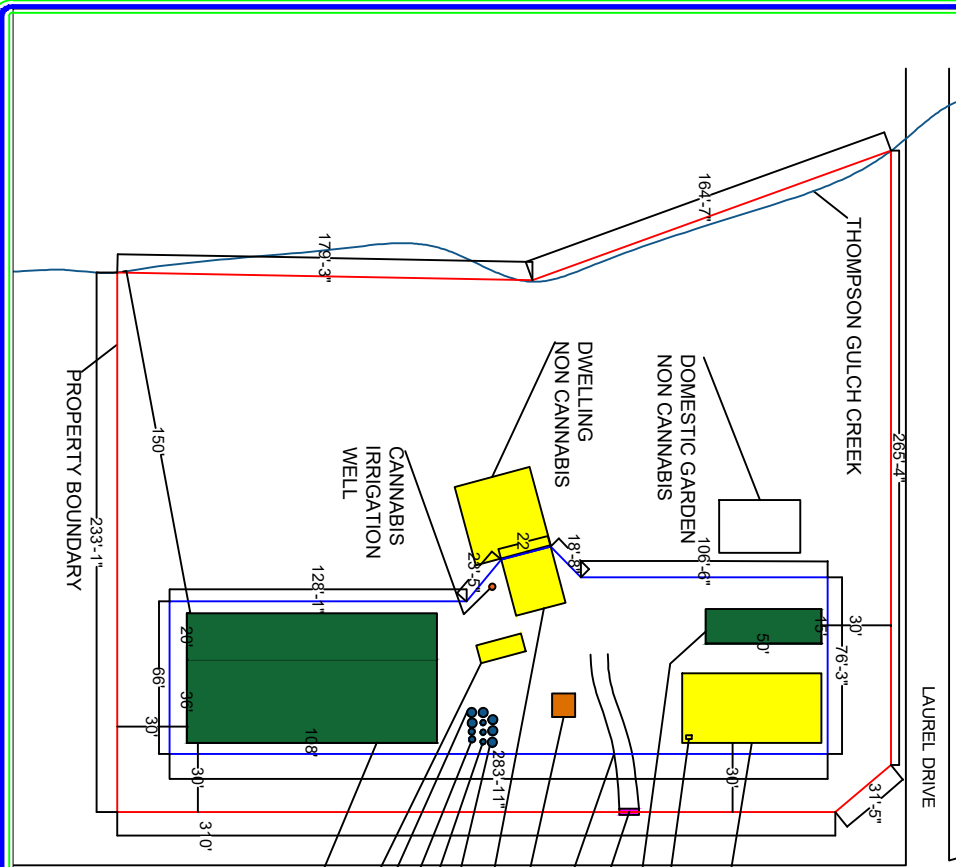


100'

LEGEND	
	CANOPY AREA
	COMPOST
	STRUCTURE
	WELL
	WATER TANK
	LOCKED GATE
	PREMISE BOUNDARY
	PROPERTY BOUNDARY

NOTES:

- Well Coordinates: 40°34'15.09"N 123°10'46.28"W
- Water Tank GPS: 40.570828, -123.179421
- Plants are watered via watering system
- Immature Plants are located in Greenhouses
- Admin Hold is located in a tote inside the processing and packaging location
- Cultivation Premise Area: 20,746 Sqft
- Canopy Area: 6,798 Sqft
- 1 (108x36) Greenhouse
- 1 (108x20) Greenhouse
- 1 (50'x15') Greenhouse



- PROPOSED PROCESSING/PACKAGING (60' x 30')
- PROPOSED ADMIN HOLD (31" x 21")
- PROPOSED GREENHOUSE
- LOCKED GATE
- ENTRANCE/EXIT TO PROPERTY
- ENTRANCE/EXIT TO PREMISE
- PROPOSED COMPOST (10' x 10')
- HARVEST STORAGE (22' x 25')
- 3 2500 GAL WATER TANKS
- 3 100 GAL WATER TANKS
- 2 500 GAL WATER TANKS
- 3 1000 GAL NUTRIENT WATER TANKS
- CHEMICAL/PESTICIDE STORAGE (20' x 8')
- PROPOSED GUTTER-CONNECTED GREENHOUSES



DRAWN BY: CDK

DATE:
04/28/2020

[CLIENT INFO:]
014-300-22-00
SCOTT STINE
261 LAUREL DRIVE
HAYFORK, CA, 96041

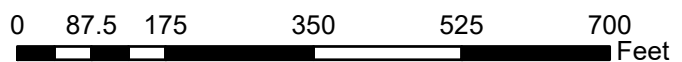
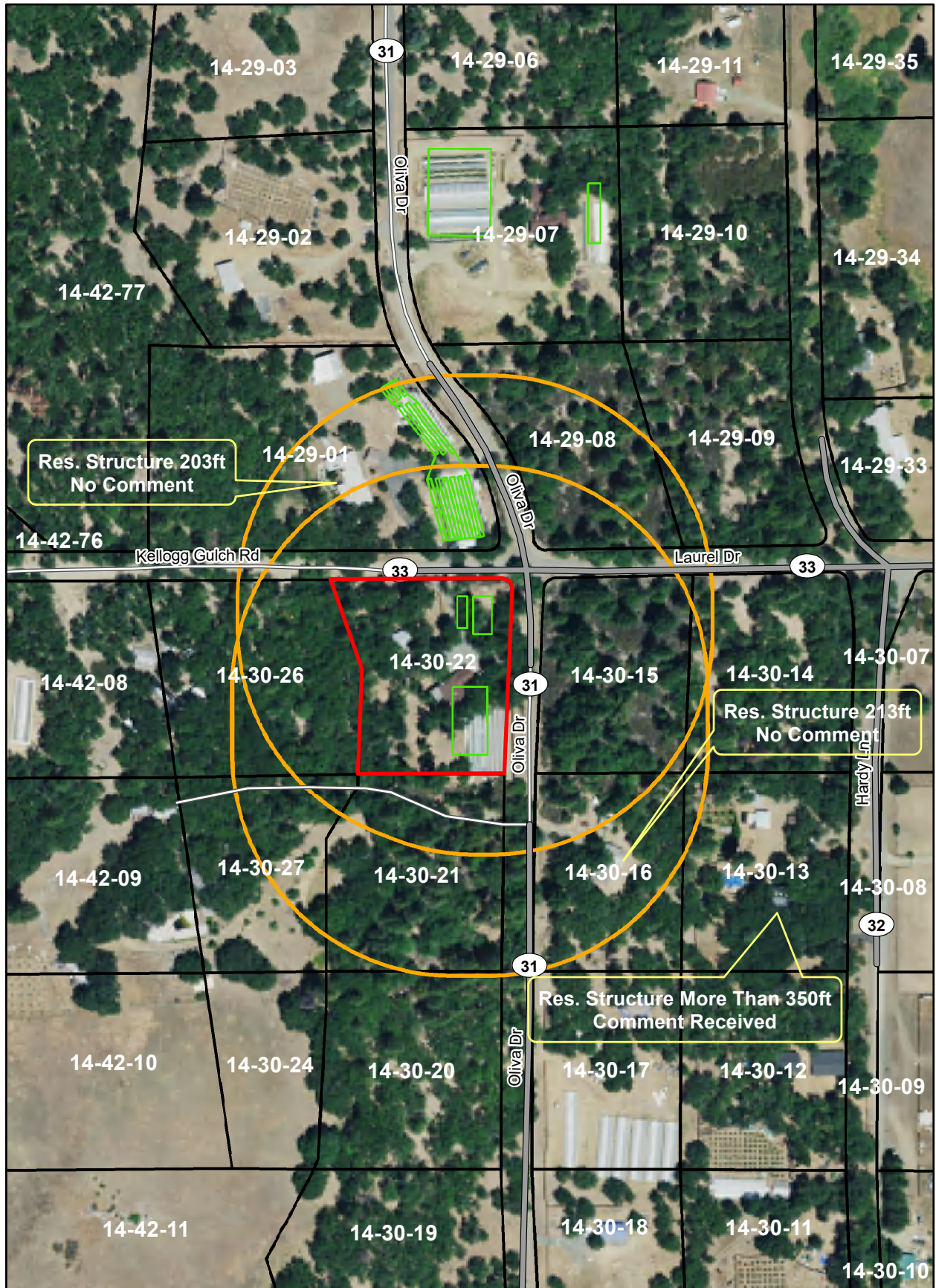
COMPLIANT INNOVATIVE RESOURCES
4229 SHASTA DAM BLVD.
SHASTA LAKE, CA, 96019

REVISIONS	BY

STINE



ATTACHMENT 3
APN 014-300-22
CCV-20-34 | S. Stine
350ft Setback Map



ATTACHMENT 4
Site Visit Photos



View of Residence on
APN 014-290-01 from
Subject Parcel

View of Residence on
APN 014-300-16 from
Subject Parcel



Example of Current Site Condition

ATTACHMENT 5

Bella Hedtke

From: KATHLEEN ANDERSON <[REDACTED]>
Sent: Tuesday, June 1, 2021 11:47 AM
To: Bella Hedtke
Subject: Re: Comment for CCV-20-34

Thank you for the reminder. We have concerns about the possible issuing of a variance and permit to our neighbor, Scott Stine, (parcel # 014-300-22), not because of his character; he seems a good neighbor. Our issues involve both water use and impact on the neighborhood and the environment in these small neighborhoods. We feel that the Planning Commission and Board of Supervisors have made some serious errors in judgement regarding allowing large grows in small neighborhoods. We are listed as Rural Residential 10, but in reality, almost all of the neighborhood is 2 acre lots. We are dependent upon wells for our water, wells which are now running dry due to both the drought and overuse by growers, both permitted and non permitted. There is barely enough water here for residential use, let alone large agriculture. We understand that growers must prove 3 gallons per minute in order to qualify for a permit. 3 gpm is not adequate. Most growers in this neighborhood have had water trucked in multiple times a week in the past (and there are four different trucks making the rounds) in order to keep their plants alive, and yet, we've been informed that this does not conform to the requirements for a licensed cannabis grow. We have dug a second well, since the first became inadequate for household use and a vegetable garden, and have been picking up water starting at least a month ago once a week to simply keep our fruit trees alive. Why, if trucking in water for grows is out of compliance, are we seeing these trucks constantly in and out of the neighborhood? This has been going on for years. We understand that code enforcement and cannabis compliance personnel are limited, and can do only so much. But this is an ongoing problem, and is literally destroying residential neighborhoods. Housing for families is disappearing through sales of properties to commercial growers, many of whom live elsewhere and house their help in an existing home. Properties without housing are operating as unlicensed grows, with workers camping out in trailers or tents. The water is literally being used up by having agriculture in areas that are inappropriate for such use. We feel that if a variance is needed for a grow, then it is in an inappropriate location. The fact that we have no legal standing to protest same if our house is not within 350' and adjacent to a grow is absurd. This is impacting entire neighborhoods, not just next door neighbors. We have no objection to small cottage grows; we have no objection to people growing their six plants; we have no objection to large grows if they are located in appropriate areas. Please reconsider the guidelines you are using to hand out variances and permits.

Thank you,
Kathleen & John Anderson
Hayfork

Sent from my iPad

On Jun 1, 2021, at 10:41 AM, Bella Hedtke <bhedtke@trinitycounty.org> wrote:

Hi Kathleen and John,

As of right now, I have not received any written public comments from you or any of your neighbors. As a courtesy, staff reports are due this Thursday morning. So if you or any of your neighbors wish to have their comments included in the staff report that will go out to the Planning Commission in preparation for the meeting, then I will need them by 5pm tomorrow. Any comments turned in by Monday June 7th by 5pm would be included in a subsequent memo that we email to the Commissioners shortly prior to the public meeting on June 10th at 6pm and/or pass out to the Planning Commissioners at the meeting.

Bella Hedtke

From: Scott Stine [REDACTED]
Sent: Thursday, June 3, 2021 4:10 PM
To: Bella Hedtke
Subject: Re: Variance Comment Received

Hello Bella and the Board of Supervisors.

Bella Hedtke has asked me to write a letter in regards to Grateful Pharms LLC and who will operate the business. My name is Scott Stine and I will be the owner/operator of Grateful Pharms. I'm an Eagle Scout and member of the Order of the Arrow. I have a bachelor's degree in business management from a four year University in Providence, Rhode Island. I've never been arrested. I have lived in Trinity County for the last 15 years. I fell in love with Trinity County the first time I came here, I met my fiance Andrea Reynolds here. Andrea was born and raised in Trinity County attending Hayfork High School and now is a business owner in the community. During my fifteen years of living in Trinity County I have volunteered many of my hours to local community services, such as over 150 hours rehabilitating at the local VFW hall. Not because I am a Vet but because my grandfather and great uncle charged Iwo Jimo in WWII and they were some of the biggest influences in my life. I have also volunteered at the Roderick Community Center and the Hayfork FairGrounds for different events throughout the years. Retired Sheriff Ron Hanover waves to me when we see each other and we have shared a good laugh over a beer in the past. I volunteered time rehabilitating the Cafe on Main in Weaverville for property owner Dwight and local business owner Scott Boone. Grateful Pharms is not just a mixed light cannabis company, we are a part of the community here in Trinity County and will continue to be so once licensed. Recently a neighbor wrote a letter regarding our permit. I would like to share that letter and my response to it.

Here is the letter from the Anderson's:

Thank you for the reminder. We have concerns about the possible issuing of a variance and permit to our neighbor, Scott Stine, (parcel # 014-300-22), not because of his character; he seems a good neighbor. Our issues involve both water use and impact on the neighborhood and the environment in these small neighborhoods. We feel that the Planning Commission and Board of Supervisors have made some serious errors in judgement regarding allowing large grows in small neighborhoods. We are listed as Rural Residential 10, but in reality, almost all of the neighborhood is 2 acre lots. We are dependent upon wells for our water, wells which are now running dry due to both the drought and overuse by growers, both permitted and non permitted. There is barely enough water here for residential use, let alone large agriculture. We understand that growers must prove 3 gallons per minute in order to qualify for a permit. 3 gpm is not adequate. Most growers in this neighborhood have had water trucked in multiple times a week in the past (and there are four different trucks making the rounds) in order to keep their plants alive, and yet, we've been informed that this does not conform to the requirements for a licensed cannabis grow. We have dug a second well, since the first became inadequate for household use and a vegetable garden, and have been picking up water starting at least a month ago once a week to simply keep our fruit trees alive. Why, if trucking in water for grows is out of compliance, are we seeing these trucks constantly in and out of the neighborhood? This has been going on for years. We understand that code enforcement and cannabis compliance personnel are limited, and can do only so much. But this is an ongoing problem, and is literally destroying residential neighborhoods. Housing for families is disappearing through sales of properties to commercial growers, many of whom live elsewhere and house their help in an existing home. Properties without housing are operating as unlicensed grows, with workers camping out in trailers or tents. The water is literally being used up by having agriculture in areas that are inappropriate for such use. We feel that if a variance is needed for a grow, then it is in an inappropriate location. The fact that we have no legal standing to protest same if our house is not within 350' and adjacent to a grow is absurd. This is impacting entire neighborhoods, not just next door neighbors. We have no objection to small cottage grows; we have no objection to people growing their six plants; we have no objection to large grows if they are located in appropriate areas. Please reconsider the guidelines you are using to hand out variances and permits. Thank you, Kathleen & John Anderson Hayfork

Here is my response:

Bella, it's hard to respond to this letter. It sounds like they have a general dislike for cultivation in our neighborhood, even though they grow. I have no issues with the Anderson's in fact, John and I speak on a regular basis. The water issue and having to drill a new well is exactly what they said at other variance hearings for neighbors attempting to get their permits. They complained about the smell in another neighbor's variance request and said they could not go outside without smelling cannabis but they have plants in their yard. A well that produces 3 gpm (mine is 9), produces 4,320 gallons a day and 1,576,800 gallons a year. If that's not enough water I don't know what to say. It also seems like they are perfectly ok bringing in water to water their fruit trees but they feel like it's not ok to do it for cannabis. We all know we are in a drought and should take every step to conserve water. Grateful Pharms has several water saving and storage plans we are ready to implement once we are able to get going. If we could just get going with our farm investors will help purchase sufficient water storage where we don't touch a water source after June 1st. We have water saving irrigation set up and plan to mulch our soil beds to prevent sun evaporation. We also have plans for an extremely controlled greenhouse environment which allows for greater water usage control and odor control. You can blame cannabis cultivation for our water problems but the truth is it just hasn't rained or snowed. I'm sorry they feel like commercial cannabis is ruining our neighborhoods but I think the point of commercialization is to end illegal farms that are definitely ruining our neighborhoods and bring some accountability to those with licensing to create a better neighborhood. I respect and encourage other people's opinions and concerns and we will do everything in our power to address them. Also yes they are not within 350' of my property. I want to thank the Andersons for sharing their thoughts and concerns and would like to encourage a future of open dialog with all of our neighbors. We will continue to listen to and fix any problems our neighbors have with our site to the best of our abilities.

Thank you Scott

In addition to this letter I would like to add we have already complied and removed at the Fish and Games request an illegal seep well that was on our property before we purchased it. I honestly feel bad for the Anderson's; they have had a ruff time at their property. They are surrounded by illegal farms one of which had a murder take place right next to their home. So I do understand the bad taste they have for cannabis cultivation, beide the water usage.

In closing my fiance and myself are valuable members of this community and wish to continue to be such. Unfortunately we have been in the process of trying to obtain a cannabis permit for the last two years and are out of time and money unless the board of supervisors and the county can make some serious decisions about the commercial cannabis permitting. With no timeline from the county and endless delays in the permitting process we have been forced to list our property for sale. When people like us who care deeply for the area are unable to make a living, we are forced to sell our properties to out of the area people, who are here just to make money and could care less about the community and its environment. We would love to stay in Trinity County and hope to unlist our home with the verification of a cannabis permit. I feel like we are people the community should desire to have and we will continue to strive to make a difference here in Trinity if we are able to operate as Grateful Pharms. I hope this gives the BOS a good view of my character and what Grateful Pharms will represent.

Thank you Scott Stine