

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

PLANNER: Bella Hedtke, Associate Planner

APPLICANT AND PROPERTY OWNER: Lost Bridges, LLC.

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: 75 River Cliff Rd., Mad River (APN: 018-470-04-00)

APPROX. ACREAGE: 2.00

GENERAL PLAN DESIGNATION: Rural Residential (RR)

ZONING DISTRICT: Unclassified (UNC)

STAFF RECOMMENDATION: Approve with Conditions

ADJACENT LAND USE AND ZONING INFORMATION:

Direction	Land Use	Zoning	General Plan Designation
North	Residential	UNC	RR
South	Undeveloped	UNC	RR
East	Residential	UNC	RR
West	Undeveloped	UNC	RR

ATTACHMENTS:

- 1 – Project Location Map
- 2 – Site Map (Provided by Consultant)
- 3 – 350' Setback with Comment Status Map
- 4 – Site Visit Photos
- 5 – Supportive Comment Letter from Neighbor on APN 018-470-29-00
- 6 – Supportive Comment Letter from Neighbor on APN 018-470-21-00

PROJECT BACKGROUND: The applicant has a processing Transfer Small Mixed Light Cultivation License application (CCL 585) in the Trinity County's Commercial Cannabis Program. This license type allows up to 10,000 sq. ft. of cultivation.

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
018-470-29-00	70'	Supportive Comment
018-470-16-00	220'	No Comment
018-470-21-00	290'	Supportive Comment

PUBLIC COMMENTS: As of the date of this staff report, staff has received two public comments: 1) from the neighbor located on APN 018-470-29-00 and 2) from the neighbor located on APN 018-470-21-00 (Attachments 5 and 6).

The letter from the neighbor located on APN 018-470-29-00 lists "issues" that the applicant must agree to prior to gaining the neighbor's support. These issues are outside of the Planning Department's jurisdiction (Attachment 5). The neighbor is aware that these issues are outside of the Planning Department's jurisdiction and that staff is unable to condition this variance with these issues. Staff has confirmed that the neighbor is aware of this and that the neighbor is in support of this variance request over a phone call on June 2, 2020.

The neighbor located on APN 018-470-21-00 also owns APN 018-470-22-00. As a clarifying point, the residential structure that is included in this variance request is located on APN 018-470-21-00, and an accessory structure is located on APN 018-470-22-00 (Attachments 3 and 6).

AGENCY COMMENTS: The Director of the Environmental Health Division provided the following comment:

"I would like to review this site in person with CDFW to verify the setbacks to the river and high river mark."

Staff Response: The site visit findings may require the applicant to move their cultivation site closer to the neighboring residential structures. Given cultivation must maintain a 30-foot setback from the property line, staff estimates that the applicant could possibly be required to move their site approximately 10 to 40 feet closer to the neighboring residential structures. Staff has found no other issues with this variance request and has determined that Condition #6 provides sufficient means necessary to satisfy this variance request and require the cultivation site to meet proper riparian setbacks prior to license issuance.

Condition #6 states the following:

"Post approval of this variance request, and prior to issuance of the commercial Cannabis license, a site visit shall be performed by the Director of the Environmental Health Division and California Department of Fish and Wildlife (CDFW) representatives to determine the location of the high-water mark of Van Duzen River in proximity to the cultivation site. Upon receiving the site visit findings, the Director of the Planning Department shall have the authority to modify the distances notated between the

cultivation site and the neighboring residential structures to accurately reflect any potential site relocation that could occur once the high-water mark of the Van Duzen River is determined. The applicant will be required to submit a new site plan that accurately notates any required site relocation and provide confirmation to a Cannabis Division Site Inspector that the site was properly relocated prior to license issuance.”

No other agencies provided comments on this project.

FINDINGS: The following findings shall apply to the Lost Bridges, LLC. Commercial Cannabis Setback variance (CCV-20-03) for APN 018-470-04-00:

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 Unclassified 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. A comment in support of approving this variance request was received by the neighbors located on APN 018-470-29-00 and APN 018-470-21-00. A comment was not received by the neighbor located on APN 018-470-16-00. In the absence of a comment from this neighbor, staff assumes that approval of this variance request would not be a disservice to this neighbor. Nonetheless, the commercial Cannabis variance process is annual and will allow neighbors a future opportunity to express any possible concerns at the time of renewal.

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-20-03 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8. from 350 feet to 70 feet from the residence located on APN 018-470-29-00, from 350 feet to 220 feet from the residence located on APN 018-470-16-00 and from 350 feet to 290' from the residence located on APN 018-470-21-00, 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 Lost Bridges, LLC. Commercial Cannabis Setback Variance (CCV-20-03) for APN 018-470-04-00:

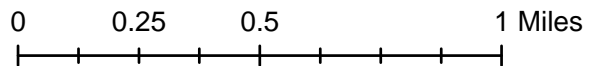
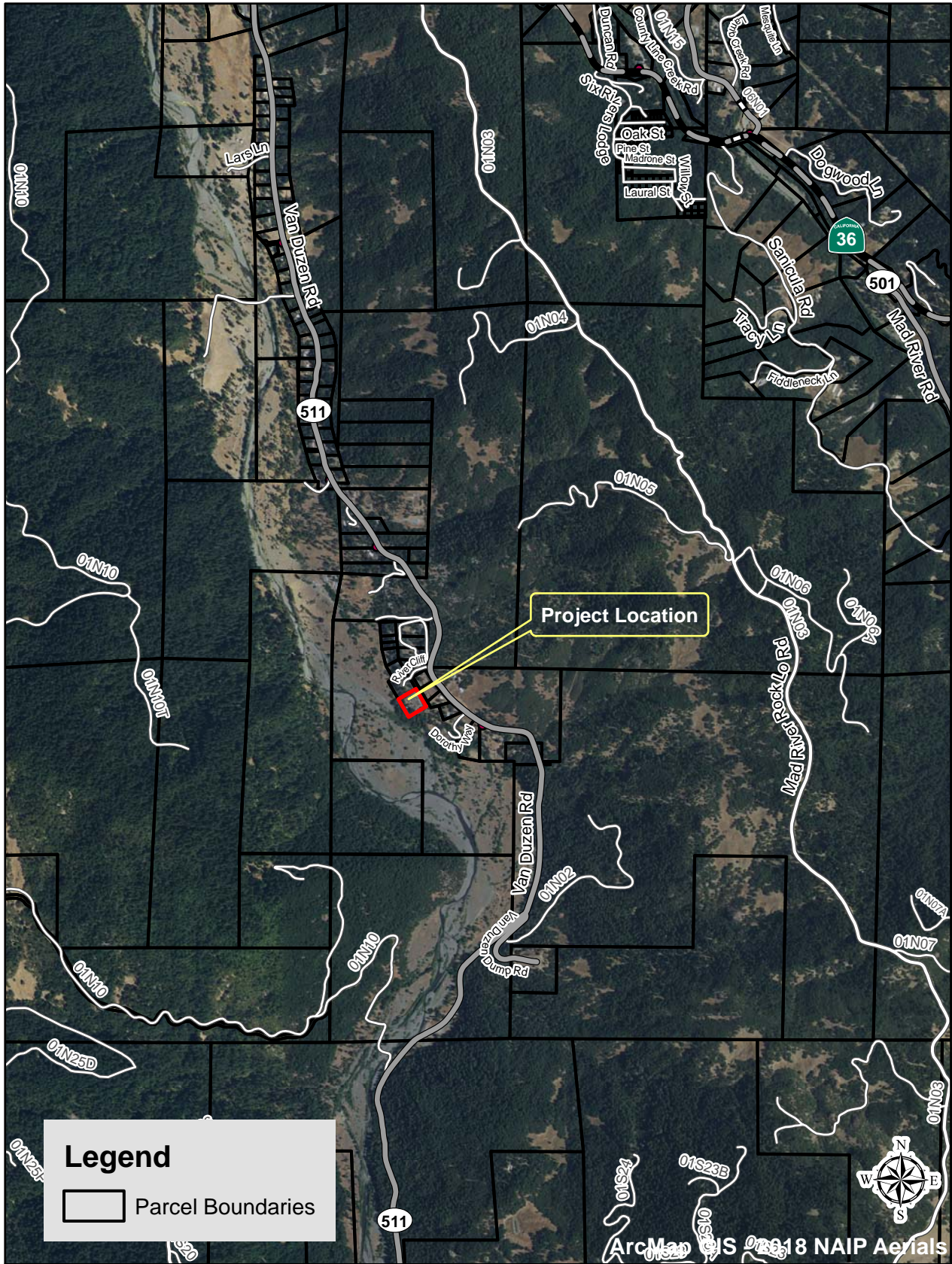
1. The variance is approved for a period of one year and shall expire on the same date as the Commercial Cannabis License that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director's Use Permit application process.
 - a. Application 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.
6. Post approval of this variance request, and prior to issuance of the commercial Cannabis license, a site visit shall be performed by the Director of the Environmental Health Division and California Department of Fish and Wildlife (CDFW) representatives to determine the location of the high-water mark of Van Duzen River in proximity to the cultivation site. Upon receiving the site visit findings, the Director of the Planning Department shall have the authority to modify the distances notated between the cultivation site and the neighboring residential structures to accurately reflect any potential site relocation that could occur once the high-water mark of the Van Duzen River is determined. The applicant will be required to submit a new site plan that accurately notates any required site relocation and provide confirmation to a Cannabis Division Site Inspector that the site was properly relocated prior to license issuance.

END OF CONDITIONS

ATTACHMENT 1

APN 018-470-04-00
CCV-20-03 Lost Bridges, LLC.
Project Location Map



- 1.) 16' x 24' Building - Processing
- 2.) 19' x 37' Building - Harvest Storage, Ag. Chemical/Pesticide Storage
- 3.) 20' x 90' Hoop House
- 4.) 20' x 100' Hoop House
- 5.) 20' x 90' Hoop House
- 6.) 24' x 92' Hoop House
- 7.) 20' x 100' Hoop House
- 8.) 8' x 13' Cannabis Waste Area (Self-Haul)
- 9.) 30' from Parcel Line

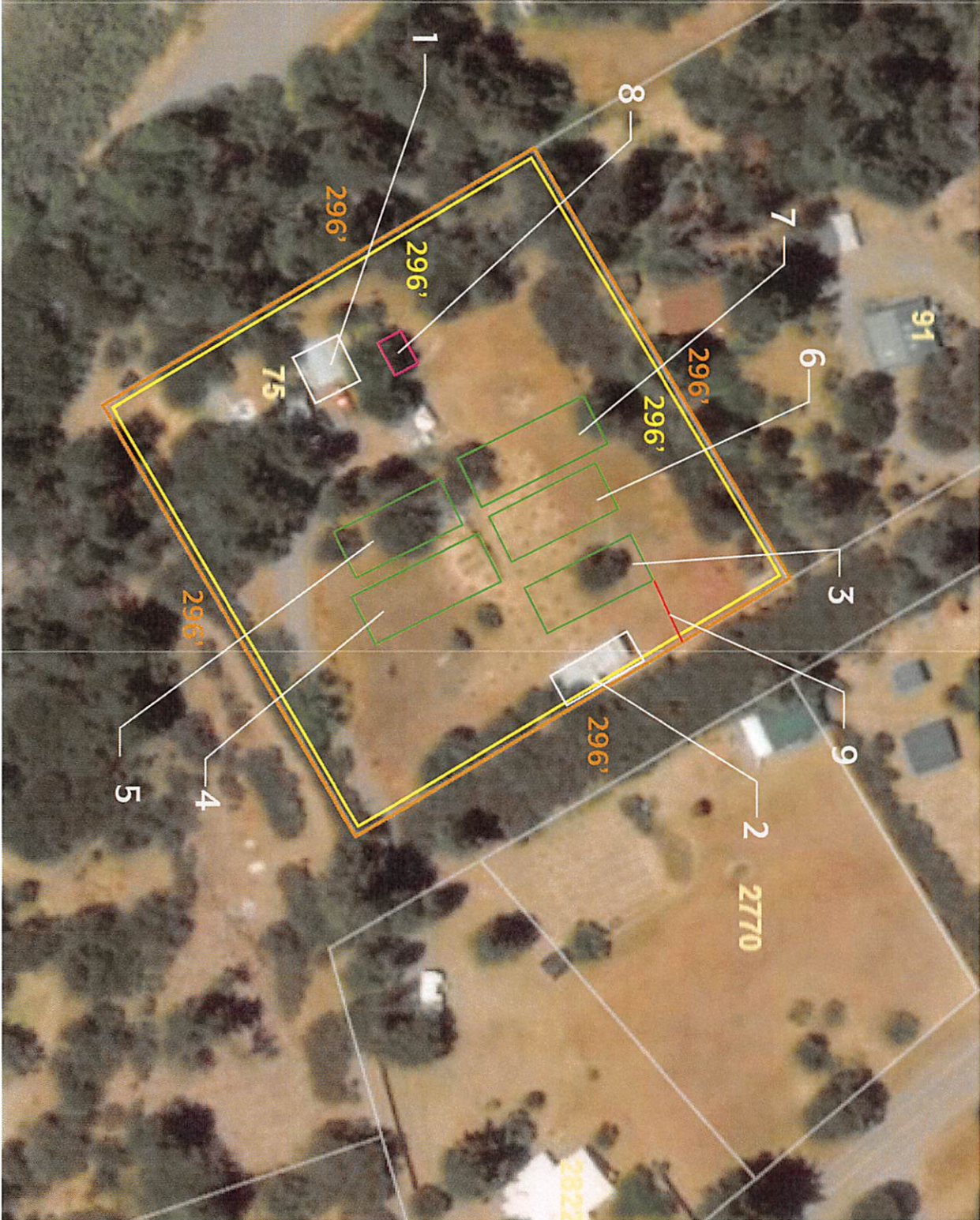
Mature Canopy:
 $20' \times 90' = 1,800' (2) = 3,600' +$
 $20' \times 100' = 2,000' (2) = 4,000' +$
 $24' \times 92' = 2,208'$
Total = 9,808 sq. ft.



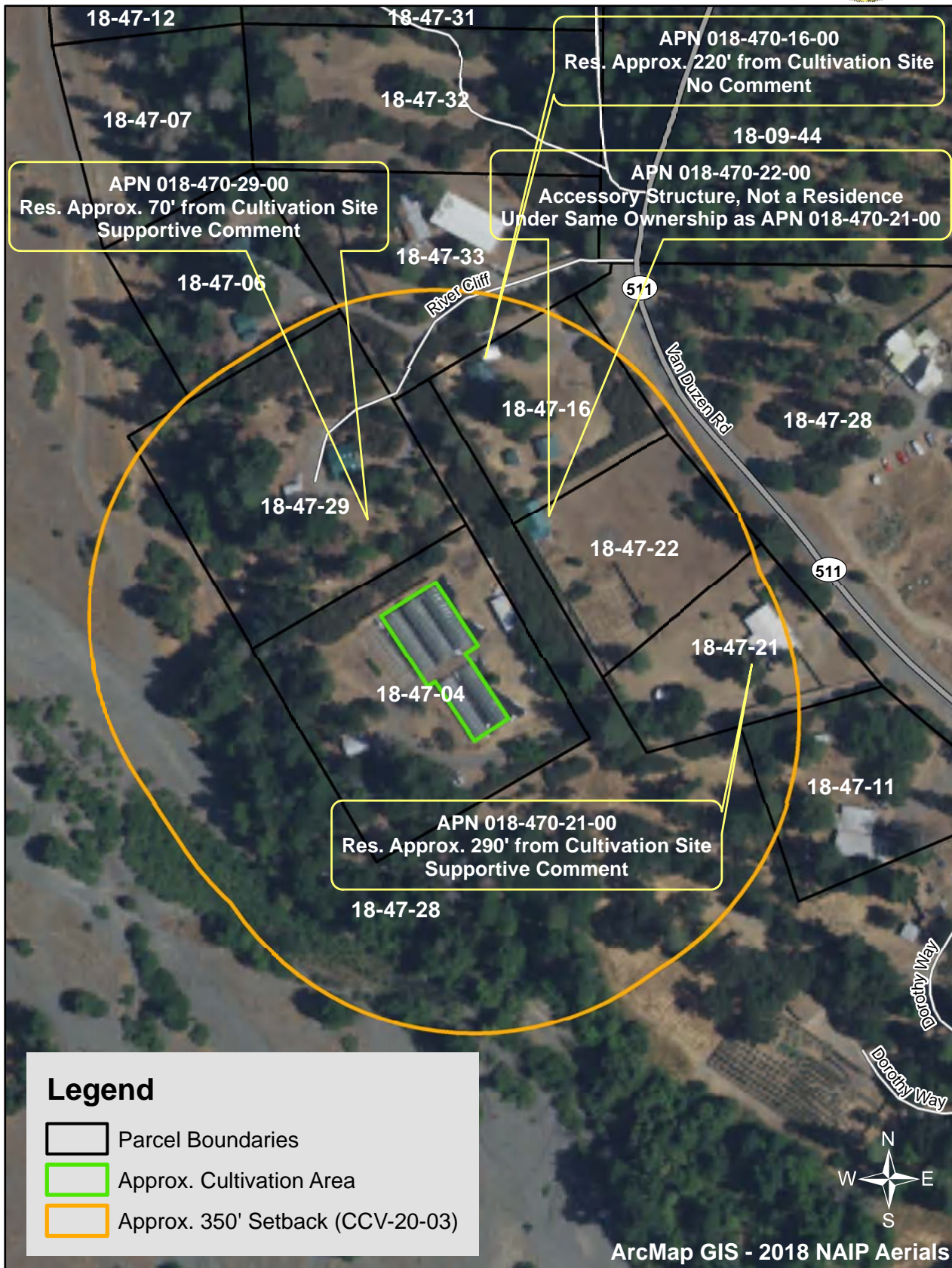
All Hoop Houses are Used for Mature Canopy. Immature Plants are Sourced Off-Site from Permitted Nursery

Premises Area:
 296' x 296'
 = 87,616 sq. ft.

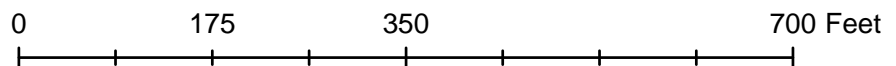
Packaging Occurs Off-Site



ATTACHMENT 3
APN 018-470-04-00
CCV-20-03 | Lost Bridges, LLC.
350' Setback with Comment Status Map



ArcMap GIS - 2018 NAIP Aerials



ATTACHMENT 4
Site Visit Photos



Current Site Conditions



View of Closest Neighboring Dwelling

ATTACHMENT 5
Letter from Neighbor on APN 018-470-29-00

Feb. 10, 2019

Tyler,

Attached are some concerns I had about the County regulations and their responses to them.

The following are issues that are important to me in giving my agreement:

- 1) You will be the owner in residence. ~~Property signed over to brother~~
- 2) You will not lease out the property or business to anyone else.
- 3) All water, noise, lighting or odor issues will be handled according to regulations.
- 4) I will not agree to a license transfer upon your sale of the property.
- 5) Above all, I must at all times feel safe and comfortable on my property.
- 6) I will come to you with any concerns I have before taking any further correctional steps.

~~London~~
~~Franklin~~
TF

1) due to one permit per parcel

4/25/19 JPL FPL

2820 Van Duzen Rd. Mad River, CA
95526

(707) 599-3571

4-29-20 JPL FPL

4.29.2020 Dusan Gordon

Dusan Gordon

ATTACHMENT 6

Letter from Neighbor on APN 018-470-21-00 (residence)
and APN 018-470-22-00 (accessory structure)

To whom it may concern:

I Joe Penrod do not object
to Tyler Franklin (Lost Bridge LLC) pursuing
his cannabis permit at 75 River Cliff Rd.
Mad River, CA.

Joe Penrod
Joe Penrod
4/29/20